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IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT

OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF MINIDOKA

A&B IRRIGATION DISTRICT, Petitioner, vs. THE IDAHO DEPARTMENT OF WATER RESOURCES, and MATHEW WEAVER in his capacity as the Director of the Idaho Department of Water Resources, Respondents, and IDAHO GROUND WATER APPROPRIATORS, INC., AMERICAN FALLS-ABERDEEN GROUND WATER DISTRICT, CITY OF BLISS, CITY OF BURLEY, CITY OF CAREY, CITY OF DECLO, CITY OF DIETRICH, CITY OF GOODING, CITY OF HAZELTON, CITY OF HEYBURN, CITY OF JEROME, CITY OF PAUL, CITY OF RICHFIELD, CITY OF RUPERT, CITY OF SHOSHONE, CITY OF WENDELL, Intervenors.	Case No. CV34-26-00462
IN THE MATTER OF DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY AND FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT NO. 2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, NORTHSIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY	

SETTLED AGENCY RECORD ON APPEAL

Judicial Review from the Idaho Department of Water Resources
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BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY OR FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY	**OPINION CONSTITUTING FINDINGS OF FACT, CONCLUSIONS OF LAW AND RECOMMENDATION**

Hearing was held on the Surface Water Coalition call, and the resulting Director's Orders, commencing January 18, 2008, and concluding February 5, 2008. At issue are the rights and obligations of the Idaho Ground Water Association (IGWA), members of the Surface Water Coalition (SWC), the City of Pocatello, and the United States Bureau of Reclamation (BOR). There is some repetition in the findings of fact and conclusions of law set forth in the various Director's orders and this recommendation. This results from an effort to make this recommendation coherent without repeating verbatim the orders entered by the Directors while defining the major facts, principles and conflicts at issue. This litigation is cast against a background of opposing parties that have high ground from which to plead their cases and either win or lose on positions because there must be decisions based on principles of law and determinations of fact, not because of questionable conduct.

The Surface Water Users have contributed immensely to the development of the State at great expense and risk. The financial commitments they have made to the development and operation of reclamation projects and the continuing improvement of delivery systems are immense. They have opened vast expanses of land to productivity and contributed significantly to the benefit of the State and local communities. They have done so under a state of law that

appeared to provide them with protection ("first in time, first in right") from interference with the rights they developed.

Ground water pumpers have invested significantly in the development of costly and beneficial enterprises under State approved policies. They accepted the challenge and the invitation to "make the desert bloom." They are not poachers who sneaked through an unlocked door to take water away from surface water users. They entered under State law in the open and have contributed significantly to the economic development of the State and local communities. In the case of the City of Pocatello it is a community of productive people who count on having water, the lifeblood of Idaho, available for its needs. Its policy makers must look to the welfare of its present residents and work to create a future of promise for those who follow.

The Bureau of Reclamation has partnered with Idaho to promote the State's welfare. It is unlikely that the farm economy of Idaho could have grown and developed without the enormous projects it manages. It has had to transform itself from limited roles to attempts to provide more things to more people who often compete to use the same water – irrigation, flood control, power, protection of fish, endangered species, flow augmentation of what appears to be a growing amount of demand upon the limited amount of water that falls from the sky and becomes subject to management.

The recommendations made in this decision are not based on a faulting party or a more worthy enterprise. All the participants are worthy, and in a perfect world with perfect weather all would win and proceed to do what they do best outside the legal arena.

I

HISTORICAL BACKGROUND

The current dispute arises between surface water users and ground water users. The surface water users draw natural flow water from the Snake River and from storage water held in reservoirs operated by the Bureau of Reclamation. The ground water users rely on water pumped from the Snake River Plain Aquifer. The surface water users hold water rights senior to the ground water users. The surface water users sought administration from the Director of the Department of Water Resources in the belief that their water rights were impinged upon by

ground water users. This case follows a series of decisions made by the Director in response to the request for administration.

1. The Eastern Snake River Aquifer. The Eastern Snake River Plain Aquifer (ESPA) is a source of water underlying the Eastern Snake River Plain that is approximately 170 miles long and 60 miles wide. The ESPA begins at the Teton Range near Ashton in the east and extends in a southwesterly direction following the Snake River downstream to King Hill. The ESPA comprises more than 10,800 square miles. There are estimates that it contains approximately one billion acre feet of water. The aquifer is made up primarily of fractured basalt, sometimes interspersed with river sediment or windblown material. It ranges in depth from thousands of feet to much more shallow levels. It forms a conduit for the flow of water, but that flow is neither consistent in pace nor direction. Unlike a river channel that can be observed and which flows along clearly defined lines and identifiable speeds and volumes, water in the aquifer may move as little as 0.1 feet per day to as much as 100,000 feet per day. The fractured basalt may form barriers that impede the flow of water and change its direction or may form conduits that channel the flow of water, allowing it to move quickly from one point to another. Since the movement is below ground, particular water cannot be traced from one precise point under ground to another precise point where it emerges to the surface.

2. The water in the aquifer and in the Snake River is connected. In the course of its travels water may be either ground water in the aquifer or surface water in the Snake River. It may enter or exit the river in identified locations on the river, referred to as reaches. A reach may either gain or lose water, depending on whether more water emerges from the aquifer or leaves the river to join water in the aquifer. Consequently, surface water irrigation practices and ground water pumping practices have interconnected effects on one another. That is the science that leads to this dispute.

3. The development of irrigation on the Eastern Snake River Plain. The initial development of irrigation in Idaho began in the second half of the 19th century when water was diverted from the Snake River and its tributaries and delivered to crops by channels on the ground – gravity or flood irrigation. There was no practical technology for significant movement of water from the aquifer to the surface for irrigation. Consequently, surface water use acquired

significant priority over subsequent ground water rights that developed when inexpensive electrical power allowed widespread withdrawal of water from the aquifer by pumping.

4. The Bureau of Reclamation manages a series of reservoirs that were developed to retain water for storage, flood control, and generation of electricity incidental to reservoir releases. The development of irrigation from the Snake River was accompanied by uncertainties in supplies and the potential for flooding while uncontrolled. Reservoirs were developed to capture water and retain it in storage for release at a later time when natural flow in the river is inadequate to meet irrigation needs. The legal title and beneficial use rights of the BOR and those who use the water in storage are set forth by the Idaho Supreme Court in *United States v. Pioneer Irrigation District,* 144 Idaho 116, 157 P.3d 610 (2007).

a. The BOR entered into contracts with irrigation districts for the provision of water held in storage until needed for irrigation. The reservoirs relevant to this dispute include Jackson Lake, Ririe Reservoir, Lake Walcott, American Falls Reservoir, and Palisades Reservoir. The BOR holds the following surface water rights as claimed in the SRBA for diversion of water from the Snake River for irrigation, reservoir storage for irrigation, and reservoir releases for irrigation and incidental power generation under some rights: Water Right No. 01-00284 which has been decreed with a priority date of March 30, 1921, for storage volume of 1.7 million acre feet in the American Falls Reservoir; Water Right No. 01-02064, licensed with a priority date of March 30, 1921, for 1.8 million acre feet in the American Falls Reservoir, and Water Right No. 01-02068, licensed with a priority date of June 28, 1939, for 1.4 million acre feet in Palisades Reservoir. Other rights claimed by the BOR are pending in the SRBA: 01-04052, 01-04055, 0104056, 01-04057, 01-10042, 01-10043, 01-10044, 01-10045, and 01-10053.

b. The BOR also has responsibility for some flows past Milner Dam. In addition to contract obligations to holders of storage rights the BOR has some responsibility for flows that pass Milner Dam, including mandated Federal Energy Commission bypass flows, Endangered Species Act needs and flow augmentation obligations that have been negotiated and agreed to as part of the Nez Perce settlement. BOR purchases flow augmentation water from the rental pool in which storage right holders may place water.

c. Management of the reservoir system allows water held under a storage right in one reservoir to be held in another. The various reservoirs are treated as part of a system. Water that is accounted for in one reservoir may be held in another. The reservoirs above Milner Dam fill by priority with consideration given to keeping the water stored as high in the system as possible when considering storage fill and release. Water stored high in the system can be run downstream when needed, whereas the reverse would be problematic.

5. Flood irrigation practices increased the amount of water in the aquifer through incidental recharge. Water that was not consumed by the crops or evaporation entered the ground and joined the water that was in the aquifer. As a consequence, the level of water in the aquifer rose above what the level would be absent the irrigation practices. This trend continued until the middle of the twentieth century at which time there were approximately 1.83 million acres under irrigation. At that time two developments occurred. In the 1950's Idaho Power had abundant inexpensive electrical power for which it needed a market in the summer. Idaho Power and the State of Idaho through its policy makers encouraged ground water development and the expansion of water use by pumping from the aquifer. This made practical irrigation of areas that were impractical for gravity flow irrigation from the river. It was, as the promotional literature of the day stated, the way to make the desert bloom. That is what happened. Over 50,000 ground water rights for agricultural and municipal use were developed, and vast quantities of water began to be withdrawn from the aquifer for those purposes.

6. The changes in irrigation practices. Coordinate with the development of ground water pumping was a change in irrigation practices by many surface water users who moved away from flooding the ground to use of sprinkler irrigation. Flooding or gravity irrigation often used more water than was necessary for crop growth. Additionally, gravity flow often meant crops at the beginning of the diversion received more water than crops further down the line and that it was impractical to deliver water to some property that could otherwise produce crops. A collateral effect of this change was a reduction of the incidental recharge to the aquifer that had occurred with flooding practices.

7. Consumptive use from ground water pumping has resulted in a net reduction in aquifer recharge ranging from approximately 1.6 to 3.0 million acre feet per year,

averaging in the area of 2 to 2.2 million acre feet per year. Large scale ground water pumping has contributed to a decline in ground water levels ranging between five and 60 feet throughout the ESPA. (Koreny Direct, p. 7).

8. The variability and unpredictability of weather creates risks which must be allocated between surface and ground water users. Long term weather forecasting has limited reliability, and the so-called average year is unusual, reflecting the average of high and low water years rather than a customary amount of precipitation that can be predicted with a high degree of certainty. The problem has accentuated over the past approximate twenty years when it appears that wet years are wetter and dry years drier. For example, 1997 was apparently an exceptionally wet year that created problems of managing more water than the reservoir system could accommodate. A period of years beginning in 2000 brought long term dry years which adversely affected the amount of natural flow water and the ability to fill reservoirs adequately to meet all needs. In 2007 the BOR made a judgment to release reservoir water based on the information it had. Unfortunately, the summer of 2007 turned into a historically hot and dry period, sometimes classified as a 200 year event. There was no way to recapture the water that was released, creating stress on natural flow and storage. Weather dictates water management to a large degree.

a. The reservoir system was developed to create a buffer against the uncertainty of weather. Water can be stored to be released when needed. If curtailment or replacement water is ordered to assure a greater amount of water in storage, ground water users are damaged, and there is the risk that the curtailed or replaced water will not be needed. If on the other hand curtailment or replacement by the ground water users is not ordered, the senior surface water users have the risk of running short of water or acquiring water through rental or lease, casting a significant risk and expense on them.

b. To date the system has not run out of water, and it appears there will be water available somewhere to meet irrigators' needs. During the last prolonged drought period there was water available somewhere at a price. Acquisition of that water may be very expensive and difficult, however. Conjunctive management means that risks must be allocated as to timing and expense, based on water forecasts which, using the best available science, may be wrong. At some point in the irrigation season it is clear

what the needs and the availability of water are, but that may come well into the season when everybody is scrambling to find a source for water and the price when found is high.

9. The need for conjunctive management of surface and ground water arose when it became apparent that the actions of one group had an effect upon the other. Ground water pumping increased, incidental recharge diminished, and additional water rights were licensed. No doubt many people understood the connection between the water on the surface in the Snake River and its tributaries and the water below the ground in the aquifer. Nonetheless, for a significant period of time the connection was ignored as the administration of surface water and ground water progressed independent of one another. Ultimately the connection was acknowledged and the need for conjunctive management became apparent. A series of drought years brought the problem to a head, and the Surface Water Coalition requested administration by the Director of the Idaho Department of Water Resources.

II

THE SURFACE WATER COALITION AND THE WATER RIGHTS OF ITS MEMBERS

1. The Surface Water Coalition consists of seven irrigation districts and canal companies below American Falls Reservoir that divert natural flow water from the Snake River and who hold storage water rights in various BOR reservoirs, providing irrigation water to nearly 700,000 acres. The SWC diverts reach gains emanating from the Eastern Snake Plain Aquifer (ESPA) and any tributaries below Blackfoot and reach gains and runoff that is not diverted by other upstream senior priority surface users that flows through Blackfoot into the American Falls reach. Water that would otherwise be natural flow that would pass the use of SWC members is captured to fill the SWC reservoir storage space in the Upper Snake Basin storage system for use when needed.

The members of SWC are the A & B Irrigation District (A & B), American Falls Reservoir District #2 (AFRD #2), Burley Irrigation District (BID), Milner Irrigation District (Milner), Minidoka Irrigation District (MID), North Side Canal Company (NSCC), and the Twin Falls Canal Company (TFCC). The members of the SWC share common interests in many

respects, but there are variations in the priority of their rights in both natural flow water and water from storage and the degree to which each is dependent upon either natural flow or storage. The natural flow rights of SWC accumulate to approximately 14,000 cubic feet per second (cfs) with priority dates ranging from 1900 to 1968, as recommended by the Director of the Department of Water Resources (IDWR). The members of SWC have storage contracts with the BOR for space in reservoirs which combine for approximately 2.3 million acre- feet (af) of water. The priority dates for the storage water rights range from 1906 to 1939.

2. The A & B Irrigation District. A & B holds natural flow right number 01-00014 for 267 cfs with a priority date of April 1, 1939, and storage water rights in American Falls Reservoir for 46,826 acre feet with a priority date of March 30, 1921, and 90,800 acre feet in Palisades Reservoir with a priority date of July 28, 1939, for combined storage rights of 137,626 acre feet.

3. The American Falls Reservoir District # 2. AFRD #2 holds natural flow right number 01-006 for 1,700 cfs with a priority date of March 30, 1921, and storage water rights in American Falls Reservoir for 393,550 with a priority date of March 30, 1921.

4. The Burley Irrigation District. BID holds natural flow right number 01-00211B for 655.88 cfs with a priority date of March 26, 1903, and natural flow right number 01-00214B for 380 cfs with a priority date of August 6, 1908, and natural flow right number 01-00008 for 163.4 cfs with a priority date of April 1, 1939. BID also has a storage rights in Lake Walcott for 31,892 acre feet with a priority date of December 14, 1909, 2,672 acre feet in Palisades Reservoir with a priority date of March 29, 1921, 155,395 acre feet in American Falls Reservoir with a priority date of March 30, 1921, 36,528 acre feet in Palisades Reservoir with a priority date of July 28, 1939, for combined storage rights of 226,487 acre feet.

5. The Milner Irrigation District. Milner holds natural flow right number 01-00017 for 135 cfs with a priority date of November 14, 1916, and natural flow right 01-00009 for 121 cfs with a priority date of April 1, 1939, and natural flow right number 01-02050 for 37 cfs with a priority date of July 11, 1968. Milner has storage rights of 44,951 acre feet in American Falls Reservoir with a priority date of March 30, 1921, and 45,640 acre feet in Palisades Reservoir with a priority date of July 28, 1939, for combined storage rights of 90,591 acre feet.

6. The Minidoka Irrigation District. MID holds natural flow rights number 01-00211A for 1,070 cfs with a priority date of March 26, 1903, right number 01-00214A for 620 cfs with a priority date of August 6, 1908, and right number 01-00008 for 266.6 acre feet with a priority date of April 1, 1939. MID has storage rights of 127,040 acre feet in Jackson Lake with a priority date of August 23, 1906, 58,990 acre feet in Jackson Lake with a priority date of August 18, 1910, 63,308 acre feet in Lake Walcott with a priority date of December 14, 1909, 5,328 acre feet in Palisades Reservoir with a priority date of March 29, 1921, 82,216 acre feet in American Falls Reservoir with a priority date of March 30, 1921, and 29,672, acre feet in Palisades Reservoir with a priority date of July 28, 1939, for combined storage rights of 336,554 acre feet.

7. The North Side Canal Company. NSCC holds natural flow rights 01-00210 for 400 cfs with a priority date of October 11, 1900, right number 01-00212 for 2,250 cfs with a priority date of October 7, 1905, right number 01-00213 for 890 cfs with a priority date of June 16, 1908, right number 01-00005 for 300 cfs with a priority date of December 23, 1915, and right number 01-00016 for 1,260 cfs with a priority date of August 6, 1920. NSCC has storage rights for 312,007 acre feet in Jackson Lake with a priority date of May 24, 1913, 9,248 acre feet in American Falls Reservoir with a priority date of March 29, 1921, 116,600 acre feet in Palisades Reservoir with a priority date of March 29, 1921, and 422,043 acre feet in American Falls Reservoir with a priority date of March 30, 1921.

8. The Twin Falls Canal Company. TFCC holds natural flow rights 01-00209 for 3,000 cfs with a priority date of October 11, 1900, right number 01-00004 for 600 cfs with a priority date of December 22, 1915, and right 01-00010 for 180 cfs with a priority date of April 1, 1939. TFCC has storage rights of 97,183 acre feet in Jackson Lake with a priority date of May 24, 1913, and 147,582 acre feet in American Falls Reservoir with a priority date of March 29, 1921, for combined storage rights of 244,765 acre feet. Twin Falls Canal Company has filed for irrigation to 196,162 acres, the amount IDWA has recommended. TFCC delivers water to 202,690 shares.

9. The members of SWC differ in their reliance on natural flow water and storage water.

a. MID, BID, A&B, AFRD #2 and Milner rely primarily on water from their storage contracts with the BOR. Their natural flow rights are relatively junior and commonly only provide water during the runoff period between April and June in years of moderate to good snowpack and runoff. When there is a low snowpack, such as the period from 2001 through 2004, the natural flow rights produce very little water. During the runoff period when there is water passing Blackfoot, these entities are able to divert natural flow water. When senior users upstream from Blackfoot divert the water that would otherwise pass Blackfoot, the senior natural flow rights of TFCC and NSCC command the inflow to the river downstream of Blackfoot, leaving little or no water for the natural flow rights of other canals in the Blackfoot to Milner reach.

b. NSCC has a natural flow right of 400 cfs with a priority date of 1900. This, along with TFCC which has a much larger natural flow right of the same date, commonly takes all of the natural flow downstream of Blackfoot. However, because of its limited amount of the natural flow right NSCC relies primarily on its extensive storage rights, cumulating to approximately 860,000 acre feet.

c. TFCC has a natural flow right of 3,000 cfs with a priority date of 1900. However, TFCC has a much smaller storage right, some 245,000 acre feet. While NSCC is primarily dependent upon its storage rights to meet its needs, TFCC is primarily dependent upon its natural flow rights to meet its needs.

10. The SWC members rely upon Snake River reach gains in the Near Blackfoot to Milner reach of the Snake River. There has been a declining trend in reach gains for the irrigation season. The SWC members attribute a substantial amount of the declines to ground water pumping and seek curtailment or an effective form of mitigation to remediate the condition they allege. If natural flow declines early in the irrigation season, there is a greater need to use storage water.

11. An undetermined number of individual irrigators within SWC may hold supplemental ground water rights which the former Director found to be minimal in effect. It would seem that any such ground water rights would be junior to the surface irrigation rights and subject to curtailment.

12. The Surface Water Coalition members may use water from both natural flow and storage with an accounting at the end of the irrigation season. The Coalition members divert what water they need as long as they have water available in storage. At the end of the year there is application of an accounting model to determine what portion of the water they consumed during the year was considered to be natural flow and what portion was considered to be storage. As long as the Coalition members have a positive number in their storage account they divert what they need during the season and there are not day to day adjustments or shutdowns by the watermasters. If they exceed their storage rights an accounting is done and reimbursement for the overage is required.

III

THE IDAHO GROUND WATER APPROPRIATORS, INC. AND THE WATER RIGHTS OF ITS MEMBERS

1. IGWA is a non-profit corporation incorporated in 1994 to protect and represent the interests of farmers, municipalities, businesses, and other users who depend upon ground water pumped from the Eastern Snake Plain Aquifer. Exhibit 4500 sets for a list of current members, and exhibit 4503 is a map reflecting the location of the ground water districts. Farmers and ranchers who are members of the districts irrigate in excess of 737,000 acres with more than 3,000 wells pumping from the ESPA. Their rights evolved from the late 1940's to 1992 when a moratorium was declared on the licensing of ground water pumping.

2. IGWA holds no storage rights in the reservoirs managed by the Bureau of Reclamation. Consequently at the present time there is no dedicated body of water IGWA can use for mitigation. It must contract with those holding rights to obtain replacement water in lieu of curtailment.

a. It would be very desirable to have a mechanism for IGWA to have an independent right to storage water which it could apply as replacement water as an alternative to curtailment and perhaps mitigate its own losses when the water is not necessary for replacement by selling the use for flow augmentation or other needs. Whether this is possible within the existing system is not clear. However, the example of the City of Pocatello holding a storage right for 50,000 acre-feet for water it cannot

access at the present time but which it can use for mitigation or sale may indicate this is an avenue that might be pursued if there is either uncontracted water held by BOR or the storage capacity of the system is expanded.

3. Nearly all ground water rights are junior to water rights held by the Surface Water Coalition. The extended development of ground water pumping began in the 1950's when Idaho Power had abundant electricity to market at low rates in the summer to operate the pumps necessary to lift water from the aquifer. Because of the late development of ground water pumping, nearly all of the ground water rights are junior to the water rights held by the Surface Water Coalition members.

4. Approximately 90% of the total steady state depletions due to ground water pumping have manifested themselves in the Snake River. Because of the erratic patterns of basalt with some other soil interspersed in the aquifer the rate of flow and route of water in the aquifer is different from surface water flow. There may be a significant period of time, extending to decades, from taking water from the aquifer to seeing the depletion in the Snake River.

5. The moratorium on ground water pumping in 1992 did not immediately result in what is described as a steady state condition, and dynamic equilibrium has not been fully attained. Steady state will be the point when the full effect of ground water pumping is realized and any declines in river flow may be attributed to something other than ground water pumping. That point has not yet been reached. This is the reverse side of the process whereby curtailment does not result immediately in increases to the Snake River flow equal to curtailment. The moratorium in 1992 has caused a leveling off of the effects of ground water pumping on the Snake River, but there are continuing depletions. As of the time the May 2, 2005, Order was entered there was approximately 10% more effect to be felt in the future from the ground water pumping that had already occurred. While 10% sounds small, when applied to an approximate average of two million acre- feet withdrawn annually from the aquifer, it means that somewhere in the area of 200,000 acre-feet of impact from ground water pumping is yet to be felt before steady state conditions are reached, a condition that will occur in increments that might take 100 years to complete.

6. For many years the Eastern Snake River Plain Aquifer was treated as a separate source from the Snake River and its tributaries with little regard for the effect that ground water pumping might have on surface water users. There may have been local concerns and concerns within the scientific community as to the long term effect of ground water pumping on the Snake River. But those concerns were not a part of State policy for many years as pumping flourished and the aquifer was treated as a vast reservoir unlimited in its capacity to supply water as long as it could be reached.

IV

THE CITY OF POCATELLO

The City of Pocatello is participating in this case based on concerns over its existing water supply and the possibility that new supplies it acquires may be junior to SWC's rights, and, consequently, subject to curtailment in the future. The City expects significant growth, as reflected in its Comprehensive Plan. The availability of a reliable water supply is critical to such growth.

The original water supply for Pocatello came from surface water diversions from Mink Creek and Gibson Jack Creek which are tributaries of the Portneuf River southwest of the City. These rights developed between 1869 and 1917 and are unrelated to the ESPA. The City also has a number of water rights that derive from the Lower Portneuf Valley Aquifer that date from 1905 (1924 according to the recommendation of IDWR) to 1992. The City's rights that derive from the ESPA date from 1939 to 1984, according to Exhibit 3005. Additionally Pocatello has a 50,000 acre-feet storage account in Palisades Reservoir on the Snake River. At the present time there a no means of diversion to deliver the storage water to Pocatello, but the stored water is available to be used as a mitigation alternative to curtailment or sale to others to meet replacement water requirements.

V

THE UNITED STATES BUREAU OF RECLAMATION

1. The United States Bureau of Reclamation operates the series of reservoirs that hold storage water for irrigation and has contracts with members of the Surface Water

Coalition and the City of Pocatello for water held in storage at the various reservoirs. The Bureau of Reclamation is a water resource agency that was created in 1902 to help settle the west by building irrigation projects so farming could develop. As part of the reservoir projects the Bureau of Reclamation entered into contracts with irrigation districts for the provision of water in storage. The reservoir facilities in the Upper Snake River region, starting at the upper end of the region, include Jackson Lake Dam which was built in the early 1900's with 847,000 acre-feet of active capacity. Palisdades Dam was built in 1956, with active storage capacity of about 1.2 million acre-feet. There is water that physically cannot be released and some inactive space for water referred to as the power head which is required to start a turbine. There is a dam at Island Park on Henry's Fork which holds about 135,000 acre-feet which was built in 1935 to provide supplemental water for the Fremont Madison Irrigation District. SWC has no interest in the Island Park Reservoir, except that water may be stored anywhere in the system. The same is true for a small reservoir called Grassy Lake Dam in Wyoming that also provides supplemental water to Fremont Madison Irrigation District. In 1976 the Corps of Engineers built Ririe Dam and Reservoir on Willow Creek, which is a tributary to the Snake River. Ririe was built primarily for flood control but has an irrigation component. Operation and maintenance of the Ririe facility was transferred to BOR in 1976. American Falls Dam and Reservoir was built in 1927 at the lower end of the system. It has 1.7 million acre-feet of active capacity and has a FERC licensed Idaho Power Plant. The last BOR reservoir on the system is Minidoka Dam or Lake Walcott which is a storage facility and diversion dam, plus a power plant. Though not a part of the BOR system, Milner Dam and Reservoir is important in that it is the point of diversion for water to Twin Falls Canal Company and North Side Canal Company.

2. There was a prolonged drought in the 1930's which demonstrated that the existing reservoir system was inadequate to meet irrigation needs in a long drought, leading eventually to the construction of Palisades to provide more storage. There is debate over whether the extended drought in the 1930's was less or more severe than the extended drought in the first half of this decade, sometimes described as a five hundred year event. Regardless, the reservoir system at that time was not adequate to meet the needs of irrigators in an extended drought period. The attempt to rectify that situation led to the construction of Palisades Dam and Reservoir, primarily as a storage facility for irrigation but combining multiple purposes including power and flood control which reduced the cost to irrigators. Part of the consideration for the

construction was irrigators entering into a winter water savings program whereby they gave up the practice of running natural flow water year round, not diverting for 150 consecutive days. In exchange for giving up the practice of running water in the winter to allow Palisades to fill they acquired priority rights to storage in the reservoir. A collateral effect of the winter savings program was a reduction of the incidental recharge to the aquifer.

3. There was an expectation when the reservoirs were built that they would fill approximately two-thirds of the time, and historically they have filled roughly two-thirds of the time. The significance of this relates to the questions of whether ground water pumping has defeated the expectations of storage in the reservoir system and whether the water that would accrue to the Snake River from the curtailment of ground water pumping would have anyplace to be stored in the reservoir system or whether it would flow in Snake River, potentially passing SWC members to go to another State.

a. The answer to the first question is that the reservoir system has not been defeated by ground water pumping, but it has been affected. It is desirable to fill the reservoirs, and they could be filled earlier and more often if there were curtailment. This result would assist BOR in its compound functions. The relevant function in this case is the ability to deliver water to irrigation space holders in the amounts contracted.

b. The answer to the second question is that there is capacity in the reservoir system to accommodate the influx of additional water from curtailment in a number of years. Secondary to this result is that natural flow rights would be supplied longer and allow storage water to be held longer. There are years in which water going into the Snake River as a result of ground water curtailment would pass the reservoir system and go beyond Milner Dam, potentially benefitting others who are not parties to this proceeding, including Idaho Power, those concerned with the Endangered Species Act, the Nez Perce settlement and any other flow augmentation interests, and the State of Oregon. It is not the purpose of this litigation to meet those other interests. The purpose is to define the legal rights and obligations of the parties to this proceeding and how those rights are consistent with or contrary to State policy. Collateral consequences to other interests are for another forum.

4. Space holder contracts are agreements between BOR and Irrigation Districts whereby the Districts have the right to storage space for water in the reservoirs which they may use when there is water in the space.

5. The irrigation districts are obligated for repayment of construction costs and costs of operation and maintenance of the reservoir system. The reservoir system was not a gift from the federal government to Idaho. The irrigation districts that have rights to water in the reservoirs have obligations for repayment of construction costs and for contributions to operation and maintenance of the system.

6. In addition to the storage of water for irrigation the BOR has responsibility for flood control, some production of electrical power incident to the release of water from storage, the management of water to meet requirements of the Federal Energy Commission, the Endangered Species Act and the Nez Perce Settlement. Life was simpler when the primary purpose of reclamation projects was to open the West to development so men and women with strong minds and backs could raise healthy crops and children. The reservoir system had this development as its principle purpose. There is now a need to parse water among many competing interests. Below Jackson Lake there is concern for a cutthroat trout fishery. Below American Falls and Walcott Idaho there are four species of snails that are protected under the Endangered Species Act. There are energy needs and settlement rights. The Nez Perce Agreement between the United States, the State, and the Nez Perce in which irrigation districts participated established flow augmentation rights dependent upon water conditions, defined by the so-called Rainbow Chart. The total flow augmentation due, if available, is 487,000 acre feet, 60,000 of which is attributable to the Nez Perce Agreement. Of the 487,000 acre feet, 185,000 comes from the Upper Snake Reservoir system. To fulfill its obligations under the Nez Perce Agreement, BOR sometimes leases water from different water banks, including the upper Snake which encompasses SWC members. Sometimes water is available from the rental pool, when there has been a good water year. Other times flow augmentation is not available from the rental pool, such as 2007 when the parameters of the rainbow chart associated with the Nez Perce Agreement were not met.

Beyond these obligations there is a need to manage the system to avoid flooding, which at times is inconsistent with holding water for irrigation.

7. The Bureau of Reclamation is a proper party to these proceedings. The nature of the relationship between the BOR and the irrigation districts with which it has contracts is described in *United States v. Pioneer Irrigation District,* 144 Idaho 106, 157 P. 3d 610 (2007). Additionally, it has interests that can be impacted by decisions concerning the allocation of water. Whether a party or not the BOR has responsibilities and practices which are essential to understand to evaluate the claims of the competing water users. The same evidence would have been needed even if BOR had not remained in the case

VI

CREATION AND OPERATION OF WATER DISTRICTS

1. On November 19, 2001, the State of Idaho sought authorization from the Snake River Basin Adjudication (SRBA) District Court for the interim administration of water rights by the Director in all parts of the Department's Administrative Basins 35 and 41 overlying the ESPA in the American Falls area and all or parts of Basins 36 and 43 overlying the ESPA in the Thousand Springs area. The District Court granted the motion on January 8, 2002, finding that the water supply in basins 35, 36, 41, and 43 was not adequate at that time and was projected to be inadequate at times in the future to satisfy all water rights, concluding that interim administration in accordance with the Director's reports and partial decrees was "reasonably necessary to protect senior water rights in accordance with the prior appropriation doctrine as established by Idaho law." After notice and hearing, the Director issued two orders on February 19, 2002, creating Water District No. 120 and Water District No. 130 pursuant to the provisions of Idaho Code section 43-604. Subsequently the boundaries of Water District 120 and 130 have been expanded and the Director has issued orders creating additional water districts, including 100, 110 and 140.

2. The Water Districts were created to provide for the administration of water rights to protect prior surface and ground water rights. Watermasters in Districts 120 and 130, acting under the direction and supervision of the Director have the duties to curtail illegal diversions, measure and report the diversions under water rights, enforce the provisions of any

stipulated agreement, and curtail out-of-priority diversions which the Director determined to be causing injury to senior surface and ground water rights, unless the out-of-priority diversions were covered by a stipulated agreement or mitigation plan approved by the Director.

VII

THE CALLS AND THE DIRECTOR'S ORDERS

1. On January 14, 2005, the Surface Water Coalition delivered a letter to the Director of the Idaho Department of Water Resources headed "Request for Water Right Administration in Water District 120 (portion of the Eastern Snake Plain Aquifer)/ Request for Delivery of Water to Senior Surface Water Rights." The letter noted that there were "negotiations with groundwater users to find a long term agreement that will restore their water supplies and stabilize the declining spring flows and aquifer levels." However, the letter requested conjunctive administration of water rights, asserting that both natural flow and storage water rights have been reduced by depletions to the aquifer caused by junior ground water pumping which has caused material injury to the Surface Water Coalition: "Curtailment of junior ground water rights must therefore occur over a period of time unless substantial aquifer recovery occurs as a result of artificial or natural recharge in excess of the present rate of groundwater depletions."

2. An order for the administration of water rights was issued by the former Director on May 2, 2005. In response to the request for administration the former Director entered an Order February 14, 2005, requesting information from each member of the Coalition, including water diversion data, irrigated acreage, and crop data for the irrigation seasons from 1990 through 2004. Thereafter the former Director entered an Amended Order dated May 2, 2005, which superseded an April 19, 2005, Order. The Order predicted material injury to SWC members in 2005 of 133,400 acre-feet, consisting of shortages, plus carryover shortfalls. The Order established a 27,700 acre-feet replacement water obligation on IGWA, predicting that to be the material injury to the Surface Water Coalition. This figure was adjusted down to 27,006 acre-feet in the third supplemental order dated June 29, 2006, after a final accounting of the water determined to be due in 2005, resulting in the mitigation water for 2005 being supplied in

2006. There was no new obligation for replacement water in 2006 because the reservoirs filled. The May 2, 2005 Amended Order, together with subsequent orders, is at issue in this proceeding.

3. The May 2, 2005 Order outlined the procedural background, the applicable science, the water rights of the parties, and made findings of fact and conclusions of law determining among other things:

a. Junior water pumping caused material injury to senior surface water irrigators affecting natural flow and storage rights.

b. IGWA was directed to provide replacement water or face curtailment.

c. The Order utilized a "minimum full supply" standard in predicting material injury, applying the amount of water SWC members used in 1995 as the anticipated minimum amount they should have available in 2005 to meet crop needs, subject to adjustment.

d. The Order utilized the unregulated flow at the Heise Gage to predict the water supply.

e. The effects of curtailment from different dates were simulated using the Eastern Snake Aquifer Model.

f. The Order predicted material injury to members of SWC and concluded that there must either be curtailment or replacement water provided by IGWA.

4. The Supplemental Order Amending Replacement Water Requirements dated July 22, 2005, followed the protocol outlined in the May 2, 2005 Order by monitoring weather conditions affecting the water supply and making additional findings. The Director recapitulated the process outlined in the May 2, 2005, Order as follows:

For each member of the Surface Water Coalition, the Director (1) averaged the 2002 and 2004 natural flow diversions; (2) estimated the 2005 storage allocation based on the average of the volume of water stored after April 1, 2002, and after April 1, 2004, added to the water actually in storage on April 1, 2005, less estimated 2005 evaporation; and (3) summed the average natural flow diversions and estimated 2005 storage allocations. The sum of natural flow diversions averaged for 2002 and 2004 and the estimated 2005 storage allocations based on the

actual storage as of April 1, 2005, and the storage after April 1, averaged for 2002 and 2004 was deemed the predicted 2005 water supply for each Surface Water Coalition member.

The 2005 water supply was subtracted from the water supply in 1995 which had been determined to reflect a "minimum full supply." If the difference was greater than zero the difference was the "Predicted Shortage in 2005." The Director noted that there were changes in water supplies available for the remainder of 2005 from those predicted, finding that there was higher precipitation and lower temperatures than anticipated and that the unregulated flow at the Heise Gage was between the levels of 2002 and 2004. The Director revised findings in the prior Order to reflect that "only American Falls Reservoir District #2 has any remaining reasonably likely predicted shortages in 2005 (13,200 acre-feet)." Further, "The predicted shortage in the water supply available in 2005 to the American Falls Reservoir District #2 is 13,200 acre-feet, and the predicted material injuries to the American Falls Reservoir District #2 and the Twin Falls Canal Company are 64,400 acre-feet and 5,400 acre feet respectively." However, the Supplemental Order did not reduce the minimum amount of replacement water (27,700 acre-feet) provided by IGWA. This replacement water was to be allocated by the Director "among the members of the Surface Water Coalition to offset actual shortages in the water supplies available to the individual members of the Coalition, as necessary, or to offset shortages in carry-over storage held by individual members of the Coalition at the end of 2005, as determined by the Director to be reasonably needed."

5. The Second Supplemental Order Amending Replacement Water Requirements was entered December 27, 2005, in response to IGWA's Petition for Reconsideration of July 22, Supplemental Order and Twin Falls Canal Company's Request for End of Year Accounting. The Second Supplemental Order reflected that only the Minidoka Irrigation District exceeded the assigned minimum full supply, and the Order modified the minimum full supply for the Burley and Minidoka Irrigation Districts. The Director observed that the use of less than the minimum full supply by the other districts could either indicate that the districts did not need that much water or they conserved out of concerns for future shortages. The Director determined that only the Twin Falls Canal Company had shortages and suffered material injury. This was based on findings that the unprecedented precipitation in May and June which benefited storage had less beneficial impact on TFCC because of its relatively small amount of storage, relying primarily on natural flow. The reach gains providing its natural flow rights

between Near Blackfoot and Neeley Gage "declined dramatically beginning in about the second week of July, recovering in August to levels similar to those observed in August of prior years...."

In Finding 22 the Director set forth the results of simulated curtailment scenarios of junior priority ground water rights, summarizing the result of full curtailment: "Curtailing all ground water diversions in Water Districts No. 120 and No. 130 for one year would, over time, increase reach gains in the Snake River between the Near Blackfoot Gage and the Minidoka Gage by a total amount of 621,300 acre-feet, which is more than four times the material injury preliminarily determined to have occurred in 2005 to the water rights held by or for the benefit of the Surface Water Coalition members." Other scenarios reflecting the results of curtailment of ground water pumping were outlined. Curtailment back to July 23, 1977, was utilized in determining the amount of replacement water due. The Order found that there were only incremental increases in reach gains resulting from the lease and non-use of water rights held by FMC Idaho, LLC, the non-irrigation of leased lands, and mitigation actions implemented in Water District No. 130. The Order set forth the actions necessary by IGWA to avoid curtailment.

6. On June 29, 2006, the Director entered the Third Supplemental Order Amending Replacement Water Requirements Final, 2005 & Estimated 2006. The Order reviewed the history of actions by the parties and the Department, including entry of an Order Staying proceedings and Amended Scheduling Order on February 10, 2006, staying proceedings for 60 days. The Director concluded that only Twin Falls Canal Company suffered material injury in 2005. The remainder of the replacement water that IGWA was to supply in 2005 was to be supplied to the Twin Falls Canal Company at the beginning of the irrigation season rather than as reservoir carryover storage in 2005 in the event the reservoir storage space held by the Twin Falls Canal Company would fill in 2006 with the additional carryover of 27,006 acre-feet. The Director concluded that while "there is no reasonably likely material injury to any member of the Surface Water Coalition predicted during the 2006 season, the Director should continue to monitor water supply and climatic conditions in 2006 and require additional replacement water or curtailment in the event material injury occurs." The Director predicted material injury based on a regression analysis of the years 1990 through 2005, estimating the material injury to be one standard deviation below the best-fit trendlines. This is a difficult analysis to grasp for the non-

scientist, but apparently the effect is to conservatively estimate the natural flow that would be available to members of the Surface Water Coalition, causing an increase in the computed amount of predicted shortfall.

7. On July 17, 2006, the Director entered a Fourth Supplemental Order on Replacement Water Requirements for 2005. This Order recounts a complex trail of steps to determine the amount of replacement water provided, finding among other things that the replacement water credited to IGWA improperly excluded a credit of 1,133 acre-feet from a lease by IGWA of ground water used by TFCC that was held and not used by FMC Idaho. Further steps were outlined for compliance with replacement requirements.

8. On May 23, 2007, the Director entered the Fifth Supplemental Order Amending Replacement Water Requirements Final 2006 & Estimated 2007. The Director determined that none of the SWC members had shortages or material injury, except the appearance of a 39,916 acre-foot shortage for the Twin Falls Canal Company. However, since TFCC diverted 80,078 acre-feet less than its minimum full supply of 1,075,900 and carried over 40,162 acre-feet more than its reasonable carryover storage supply of 38,400 acre-feet, the Director determined that it was not materially injured in 2006.

Finding 22 provided that "If crop evapotranspiration is greater in 2007, or precipitation during the irrigation season is less than in 1995, the amounts of water diverted in 1995 may be less than what is needed for a full supply in 2007. If crop evapotranspiration is less in 2007, or precipitation during the irrigation season is greater than in 1995, the amounts of water diverted in 1995 may be more than what is needed for a full supply in 2007." Twin Falls Canal Company was the only member of the Surface Water Coalition predicted to have a material injury during the 2007 irrigation season – 58,914 acre-feet. The Order concluded that IGWA would be able to acquire sufficient storage water to mitigate for material injury to TFCC and that, "The calculated water debt resulting from Twin Falls Canal Company's irrigation season diversions will be replaced by the Ground Water Districts during or **at the end of the irrigation season from storage water procured by the Ground Water Districts which will be credited to the storage water account of Twin Falls Canal Company."** (emphasis added). However, the Order also provided that "The replacement water will be delivered to Twin Falls Canal Company as it is

needed during the irrigation season...," quoting from IGWA's 2007 Replacement Water Plan. Conclusion of Law 4. That was not done.

The Order concluded that involuntary curtailment should not be required to meet the obligation and provided that, "Mitigation debits and credits resulting from year-to-year mitigation will continue to accrue and carry forward until such time as the storage space held by the members of the Surface Water Coalition under contract with the USBR fills. At that time, any remaining debits and credits will cancel." Conclusion of Law 5.

9. The Sixth Supplemental Order Amending Replacement Water Requirements and Order Approving IGWA's 2007 Replacement Water Plan entered July 11, 2007, approved IGWA's Amended Joint Replacement Water Plan (exhibit 4502A) for 2007, giving the ground water districts the option of providing water to meet the mitigation plan or, if the water was not available, to pay Twin Falls Canal Company at the rental pool rate. The Sixth Supplemental Order approved IGWA's replacement water plan in which IGWA would underwrite or guarantee Twin Falls Canal Company had a full minimum supply of 1,075,000 acre-feet. Other matters of consequence developed in the process.

a. Flood control releases were greater than anticipated. Consequently, the earlier expectation that the reservoir would fill did not occur, resulting in 264,546.9 acre-feet of storage less than expected.

b. By July 8, 2007, only Twin Falls Canal Company and North Side Canal Company were diverting from natural flow. All other SWC members were dependent upon their storage water.

c. The Director properly departed from the earlier practice of utilizing only the Heise Gage to predict natural flow for the irrigation season. Up until this Order the Director had used data collected at the Heise Gage in the early season to provide information with which to make predictions as to natural flow supplies for the irrigation season. However, the Director concluded in Finding 11 that, "In order to predict natural flow supplies for TFCC for the remainder of the irrigation season, it is no longer appropriate to use data from the Heise Gage, as virtually all reach gains to the Snake River that are available to TFCC are a result of return flows and not flow into the system

from springtime runoff." This change was appropriate, since the Heise Gage would provide no useful information at that stage of the irrigation season. The Heise Gage is a sufficiently reliable predictor of spring runoff to utilize early in the process, but once weather conditions and the state of storage are known the process should be expanded to incorporate whatever sources will provide the most current information.

d. The Order provided that the Director would make a final determination of the amounts of mitigation required and actually provided after the final accounting for surface water diversions for 2007 was complete. The Order provided:

"To the extent less mitigation is provided than was actually required, a mitigation obligation will carry forward to 2008 and be added to any new mitigation determined to be required for 2008. To the extent more mitigation is provided than was actually required, a mitigation credit will carry forward to 2008 and be subtracted from any new mitigation determined to be required for 2008."

10. The Seventh Supplemental Order entered December 20, 2007, determined that Twin Falls Canal Company used less than the minimum full supply established in the May 2, 2005 Order, resulting in a reduction of the replacement water required to 17,345 acre feet. This adjustment required IGWA to acquire 14,345 acre feet of the water it was short to transfer to the Director for the use of Twin Falls Canal Company. A final accounting was to take place in 2008. The transfer from the Director to the Twin Falls Canal Company was completed during the course of this hearing. Following the pattern from 2005, rather than the water being provided in the year it was determined to be due, it was provided in the subsequent year. Issues presented by the Seventh Supplemental Order are addressed separately in this recommendation.

11. The former Director properly included Water District 130 in the orders for administration. The Surface Water Coalition did not request administration in District 130. However, the former Director determined ground water depletions in Water District 130, as well as District 120, were impacting members of the Surface Water Coalition and that the Coalition could not selectively seek administration. Consequently, District 130 was included in the orders that have been entered.

12. Unless modified explicitly or by necessity from the recommendations in this opinion, the findings and conclusions of the Director's in the various Orders are accepted.

VIII

THE EFFECT OF THE AMOUNT LICENSED OR DECREED AND THE BURDENS OF PROOF

1. There is a presumption that a senior water user is entitled to the amount of water set forth in a license or decree. *American Falls Reservoir District No. 2 v. Idaho Department of Water Resources,* 143 Idaho 862, 878, 154 P. 3d 433, 449 (2007), addressed the threshold burden in a water adjudication in discussing the Conjunctive Management Rules when there is a decree. The logic applies to the rights claimed in this case unless they are subsequently altered by decree in the Snake River Basin Adjudication.

> The Rules should not be read as containing a burden-shifting provision to make the petitioner re-prove or re-adjudicate the right which he already has. We note that in the Initial Order entered in this case, the Director requested extensive information from American Falls for the prior fifteen irrigation seasons, to which American Falls objected in part. While there is no question that some information is relevant and necessary to the Director's determination of how best to respond to a delivery call, the burden is not on a senior water rights holder to reprove an adjudicated right. The presumption under Idaho law is that the senior is entitled to his decree water right, but there certainly may be some post-adjudication facts which are relevant to the determination of how much water is actually needed. The Rules may not be applied in such a way as to force the senior to demonstrate an entitlement to the water in the first place; that is presumed by the filing of a petition containing information about the decreed right.

2. The senior water right holder must allege material injury under oath setting for the basis of that belief.

The Rules require the petitioner, that is the senior water rights holder, to file a petition alleging that by reason of diversion of water by junior priority ground water rights holders, the petition is suffering material injury. That is consistent with the statutory provision which requires a surface priority water right holder claiming injury by junior water right holders pumping from an aquifer to file a "written statement under oath" setting forth "the facts upon which [he] founds his belief that the use of his right is being adversely affected" by the pumping. I. C. sec. 42-237b. The Rules further provide that the petitioner file a description of his water rights, including the decree, license, permit or claim for such right, the water diversion and delivery system he is using and the beneficial use being made. The Rules then provide three additional types of information which must be provided by the petition; however, the Rules are clear in saying that the additional information should be provided only *if available* to the petitioner.

Id. 878.

SWC made the threshold showing that is required.

3. The licensed or decreed amount of a water right is a maximum amount to which the right holder is entitled. The right holder is presumed entitled to that amount, and the burden is upon a junior right holder to show a defense to a call for the amount of water licensed or decreed. *AFRD #2, at 878,879.*

4. "Once the initial determination is made that material injury is occurring or will occur, the junior then bears the burden of proving that the call would be futile or to challenge, in some other constitutionally permissible way, the senior's call." *AFRD #2, at 879.*

5. The Surface Water Coalition made the showing that its members had licensed or decreed water rights and that material injury was occurring. There was evidence submitted indicating that ground water reduces reach gains upon which SWC members are dependent and that there have been crop losses resulting from water shortages.

6. The process utilized in this case deviated from that anticipated by the Supreme Court. The former Director did not have the benefit of *AFRD #2* when SWC made its request for administration in this case. The Court anticipated that once the initial showing of material injury was made by a senior water user the burden would shift to the junior ground water users to show a defense to the senior's call. In this case the former Director explained his thinking, responding to questions concerning the use of 1995 to establish a base number for a minimum full supply:

> Q. Was the year 1995 cast in stone, Mr. Dreher?
>
> A. No. It was a starting point. It – under this whole conflict that had developed, my view was that it was the State's responsibility – the department's responsibility to initially take the burden of determining the extent of injury and the appropriate recourse. Some might say, well, that burden should be put on the juniors. They ought to have to prove the negative. They ought to come in and prove that they're not causing injury.
>
> Well, the reason I disagree with that is because it's the State that authorized those junior-priority diversions. It's the State that issued the licenses. And the junior rightholders, even though they're junior and even though they are subject to all prior rights, their rights are real too. They had just been decreed in the SRBA, and I didn't think it was appropriate to say, okay, prove that you're not causing any injury; we – the State has

issued these water rights, we've issued these decrees, now you prove that you're not causing injury. I didn't think that was the appropriate way to do this.

Similarly, it certainly was inappropriate to, at least in my view, put the burden on the seniors. Okay. You allege you're being injured. Now, prove it. I didn't think that was appropriate.

And so in developing this May 2nd Order, I tried to develop a process under which the State would take the initial burden of making these determinations, and then there would be a hearing – I didn't anticipate that I wouldn't be the hearing officer, but I did anticipate that there would be a hearing – under which the factual issues and the legal issues were resolved.

And during that hearing process either side of this, either the ground water side or the surface water side, could have and probably would have brought forward information about why 1995 was or wasn't a good year to use for the minimum full supply. Again, not the amount that was needed for 2005, but what would be the minimum amount that would be needed. And certainly, in that process I would have been open to considering other methodologies, other criteria. But I thought it was important that the State take the first step to try to bring some resolution to this. The idea was that doing it this way might bring the two sides closer together. I guess it didn't work.

Tr. Vol. I, pp. 50-52.

7. The methodology adopted by the former Director makes sense and is consistent with the construction of the Conjunctive Management Rules but does not acknowledge the burdens anticipated by the Supreme Court in AFRD #2 which was decided after the May 2, 2005, Order. The senior surface water users have the initial burden of establishing their water rights and material injury to those rights. After the senior has made that initial showing, the burden shifts to the junior right holders to show a defense to the senior's call. The methodology applied by the former Director is consistent with the structure of the Conjunctive Management Rules. In applying that methodology the Supreme Court anticipated that the Director would approach the resolution of the call applying the presumption favoring the senior right holder, once the threshold showing of material injury has been met by the senior right holder. It is not clear that the Director applied the burdens. Those burdens remain in this proceeding.

8. The Director has the authority and the responsibility to investigate claims when a call is made that may result in curtailment. Whether the Director approached the case applying the legal burdens established in AFRD #2 or not, the Director had the authority and the responsibility to develop the facts upon which a well-informed decision could be made and to

make a decision from the best information developed. To do otherwise would be irresponsible to the public interest and often unduly expensive to the parties.

9. IGWA and Pocatello have the burden of establishing defenses to SWC's claims.

10. The parties may rely on facts developed by the Director and in the absence of more persuasive contrary evidence the Director's findings are accepted.

IX

MATERIAL INJURY

1. CM Rule 10.14 defines material injury, as "Hindrance to or impact upon the exercise of a water right caused by the use water by another person as determined in accordance with Idaho Law, as set forth in Rule 42." CM Rule 10.14. CM Rule 42 provides:

DETERMINING MATERIAL INJURY AND REASONABLENESS OF WATER DIVERSIONS (RULE 42).

Factors. Factors the Director may consider in determining whether the holders of water rights are suffering material injury and using water efficiently and without waste include, but are not limited to, the following:

a. The amount of water available in the source from which the water right is diverted.

b. The effort or expense of the holder of the water right to divert water from the source.

c. Whether the exercise of junior-priority ground water rights individually or collectively affects the quantity and timing of when water is available to, and the cost of exercising, a senior-priority surface or ground water right. This may include the seasonal as well as the multi-year and cumulative impacts of all ground water withdrawals from the area having a common ground water supply.

d. If for irrigation, the rate of diversion compared to the acreage of land served, the annual volume of water diverted, the system diversion and conveyance efficiency, and the method of irrigation water application.

e. The amount of water being diverted and used compared to the water rights.

f. The existence of water measuring and recording devices.

g. The extent to which the requirements of the holder of a senior-priority water right could be met with the user's existing facilities and water supplies by employing reasonable diversion and conveyance efficiency and conservation practices; provided, however, **the holder of a surface water storage right shall be entitled to maintain a reasonable amount of carry-over storage to assure water supplies for future dry years. In determining a reasonable amount of carry-over storage water, the Director shall consider the average annual rate of fill of storage reservoirs and the average annual carry-over for prior comparable water conditions and the projected water supply for the system.** (emphasis added).

h. The extent to which the requirements of the senior-priority surface water right could be met using alternate reasonable means of diversion or alternate points of diversion, including the construction of wells or the use of existing wells to divert and use water from the area having a common ground water supply under the petitioner's surface water right priority.

2. A hindrance to reasonable carry-over storage constitutes material injury. The argument has been made that storage is not a beneficial use of water. The logic of this position is that beneficial use is the measure of a water right, and until there is insufficient water to serve crop needs there is no impingement on beneficial use and no material injury to a water right. The logic has sense to it, but fails. CM Rule 10.14 is broad enough to encompass a storage right, and CM Rule 42.01.g. sets forth the right to carryover storage in enumerating factors that may be considered in determining if there is material injury. Storage water is held to meet crop needs as requirements arise, and that right is protected.

3. Ground water pumping has hindered SWC members in the use of their water rights by diverting water that would otherwise go to fulfill natural flow or storage rights. Once it is established that the Snake River and the Eastern Snake Plain Aquifer are connected the conclusion is inevitable that withdrawal of water from the aquifer reduces flow in the Snake River. At any given time there is a finite amount of water. If it goes one place and is consumed in the growing of crops, it cannot go to another. That does not mean that all water withdrawn from pumping has an adverse effect on surface water users dependent upon the Snake River. Sometimes there is enough water entering the system to fill all needs. In such circumstances conjunctive management is unnecessary or minimal. Times of shortage call the CM Rules into play. The evidence in this case establishes that during recent periods of water shortage ground water pumping has affected the quantity and timing of water available to SWC members. Natural flow rights have been exhausted earlier and storage has been used earlier and more

extensively, limiting the application of water during the irrigation season and diminishing the amount of carryover storage to which the surface water users are entitled.

4. The members of the Surface Water Coalition suffered material injury from ground water pumping in 2004, and it was reasonable to predict material injury in 2005. In determining predicted material injury for 2005 the former Director observed in Finding 109 that none of the members of SWC had "identified lands that are entitled to receive surface water but have not been irrigated or where crops could not be harvested because of shortages in surface water supplies available to members of the Coalition under the members' various rights. The Coalition simply alleges that material injury is occurring because in recent years members of the Coalition have been unable to divert natural flow at the diversion rates authorized under the members' rights for as long a period of time as the members otherwise could, but for depletions caused by diversions of ground water under junior priority rights." However, IDWR staff contacted University of Idaho Agricultural Extension Agents and U.S. Department of Agriculture Farm Service County Directors in Lincoln, Gooding, Jerome, and Twin Falls counties and determined that there were estimated losses of 35% because of shortages in surface water supplies, though not primarily the result of shortages from the Snake River. Findings 110, 111. Reports indicated that "North Side Canal Company has carefully managed water diverted to minimize waste, shareholders have reduced nozzle sizes on sprinkler systems, and that estimated losses in crop production because of shortages in surface water supplies were about 5 percent in 2004." Finding 112. The FSA Director reported a ten day shut off at the end of May in 2004 for corn growers served by American Falls Reservoir District #2 that had substantial impact on some growers, stressing crops, but yields were near normal. However, the fourth cutting of hay was foregone so that available water could be used to finish corn crops. Estimated crop production losses were to be 15% in 2004. Id. In Jerome County the FSA Director reported that shortages caused only slight declines in crop production. Finding 113. Lands served by the Twin Falls Canal Company had some loss in crop production, the last cutting of hay reduced, and corn crops reduced, though largely because of delayed harvest, not water shortages. Finding 114. What this all adds up to is that water shortages adversely impacted crops and influenced crop decisions, e.g. foregoing a cutting of hay to supply water to corn crops.

5. After the senior-water users show a licensed or adjudicated right and a hindrance to that right, the factors set forth in CM Rule 42.01 are in the nature of defenses to the claim of material injury. At some point a determination has been made that a licensed or adjudicated water right holder has an entitlement in priority to a certain amount of water if that water can be applied to a beneficial use. That right is not absolute. Nature may change the course of a river. Water may not be available through no cause related to junior users. However, to the extent water is available within the amount of the water right but is diminished by junior users, the presumption favors the senior users' rights to the water. That right may be limited or lost by consideration of the factors in 42.01.

X

THE ESPA MODEL AND ITS APPLICATION

1. Conjunctive management of surface and ground water required the development of a model to understand the interaction of the two. Conjunctive management of surface and ground water rights depends upon an understanding of the hydrology of surface and ground water and the relationship between the two. Unlike the history of surface water administration in which a watermaster could monitor water he or she could see and understand the immediate effect of curtailment, the relationship between surface water and ground water rights is much more complex. The same water may be surface water at one point and ground water at another. When it is surface water it may be tracked with some certainty as to amount, direction, and speed or flow. When it is ground water its course is hidden. Water that enters the aquifer at the eastern end may take a century to exit at the western end. There have been numerous studies of the geology of the aquifer and ground water resources of the Eastern Snake River Plain dating from 1902 (Russell). See S. P. Garabedian, *Hydrology and Digital Simulation of the Regional Aquifer System, Eastern Snake River Plain, Idaho.* Pp. 10, 11. None of the studies provided an adequate basis for actual administration of water rights between ground and surface water. Consequently, IDWR contracted with the University of Idaho Water Resources Institute to develop a new and enhanced model. The model was developed with broad based representation, including a substantial number of the witnesses who testified for competing interests in this litigation and the prior Thousand Springs case. The model was calibrated to a 22 year data set from 1980 through 2002. The model divides the Eastern Snake River Plain into square mile cells which are

assumed to be homogenous in their composition. It is described as "a numerical ground-water model of the Eastern Snake River Plain which is calibrated to a sufficient time period to represent a wide range of aquifer stresses."

2. The ESPAM was used to determine a curtailment date that would supply the amount of water in the Near Blackfoot to Minidoka reach that the former Director had determined to be material injury. After the Director made a determination of the amount of material injury to the surface water users caused by ground water pumping, the ESPAM was used to determine the priority date for curtailment that would remediate the material injury.

3. There are two versions of the ESPAM, Version 1.0 and Version 1.1. Version 1.0 was the initial model and was used in formulation of the May 2, 2005, Order. Subsequently, it was discovered that there were some calibration errors in the model and it was revised to correct those errors. The errors were the result of including water that spilled from the end of a ditch and returned to the river. This showed up in the river as gains for accounting purposes, but it did not represent an interaction between the river and the aquifer. According to Dr. Wylie who performed the model runs, the results between the two models would have been in the area of 435 acre feet one way or the other. This is a small amount in considering the volume of water to be replaced. The former Director began using the Version 1.1 as soon as it became available.

4. There are limitations in the use of the model. The aquifer is not uniform in its geology. It is composed of fractured basalt that may lie in random patterns, sometimes interspersed with soil of a different composition. There may be variations within the model cells, contrary to the assumption of homogeneity. Hydrologists describe a cone that is created when water is pumped. Water from connected areas then flows to the cone. The assumption for model purposes is that the cone is uniform, but it may not be, since the aquifer is not uniform in structure. The scientists know these things and developed the model to account for them.

5. The model cannot predict the effect of a particular well on a particular spring. Conclusions must be drawn on a regional basis. Withdrawal of water from wells in certain cells will have an effect on spring flows within a particular reach or reaches, not that a particular well will have a certain effect upon a particular spring in a reach. The closer the well is to a spring source the more likely there is to be an immediate effect.

6. The model is calibrated with a six month stress period; consequently, there is a greater degree of uncertainty in attempting to reflect reach gains in a period of time less than six months. Less water is needed in the spring when weather is cooler, soil retention of water higher, and precipitation more likely than in the summer when temperatures rise and precipitation usually drops. These patterns occur within less than the six month calibration period. Ideally the changes in reach gains from curtailment could be focused more precisely as to timing so there would be an understanding of whether curtailment delivered water when most needed. That, however, is not the state of science at this time.

7. The former Director utilized a 10% margin of error that is appropriate until a more scientifically based margin is established. Development of a more scientifically, peer reviewed, margin should be a priority. Development of the model has not proceeded to the point of establishing a margin of error. Those involved in the development of the model agree that it is not 100% accurate and that it is desirable to determine an error factor. The calls that have been made have necessitated decisions before the next stage in model development. The former Director recognized that there had to be a margin of error in the application of the model and assigned a 10% error factor. This conclusion was based on the fact that the gauges used in water measurement have a plus or minus error factor of 10%. The former Director concluded that the model could be no better than the measuring gauges used and used the 10% margin absent a better figure developed through further testing of the model. No party offered credible evidence of a better margin of error.

8. The former Director used the 10% margin of error as a trim line, excluding ground water users from curtailment who were in that margin. The purpose of the trim line or clip was to avoid curtailing ground water users who might have no effect on enhancing reach gains. Application of the trim line was proper to avoid a significant probability that curtailment would extend to ground water users who would suffer significantly without contributing water where necessary to remediate the material injury to the surface water users.

9. It was appropriate to use the ESPAM in making the conjunctive management decisions in this case. The ESPAM versions used by the former Director were the best science available. Decisions had to be made and will have to be made. The limitations of the model are

identifiable and important, but they do not preclude reliance upon it. It has an acceptable level of reliability based on peer reviewed science.

10. As improvements are made that lead to a more reliable model those results should be utilized. Doubtless the science of the relationship between the Snake River and the aquifer has not been exhausted. If study and application of the model leads to refinements or revelations, those improvements should be applied as they occur.

XI

THE SYSTEM OF WATER STORAGE

1. The rental pool is a pool of water, primarily among other storage users, which may be used as a means to move storage water from one entity within the water district to another entity without subjecting that storage space to forfeiture. There are rental pool procedures that set forth the manner in which the rental pool is to be operated. The procedures are within the authority of the Water Resource Board that designates what is called the Committee of Nine in Water District 1 as the elected representatives of interests within the district. The Committee of Nine is in charge of the local rental pool. The watermaster is the manager of the rental pool. If an entity holding a storage right with water in the rental pool rents water to another entity an accounting is done deducting the amount rented from the storage right holder's account and transferring it to the entity renting the water.

a. The primary purpose of the rental pool is to provide additional irrigation water to space holders within the water district. Only after the primary purpose has been satisfied is additional water available for use by non-space holders.

b. When a final accounting is done for the water year the amount that a lessee has rented is the first water deducted from the lessee's account. The water that one entity rents from another entity is treated as the first storage water used by the entity receiving the water. If the entity that leases the water from another does not use it during the irrigation season, that entity runs the risk of losing the water unless it has storage space to hold it.

c. If an entity overdraws its storage account it is billed for the excess storage used or has to make rentals or private leases to make up for the excess.

2. According to Rental Pool Procedures Rule 2.25 for Water District 1, useable reservoir system capacity for the reservoirs delivering water to the Water District 1 area was been determined to be 4,172,708 acre feet.

3. There is a hierarchy for the rental of water from the rental pool in times of scarcity.

4. The price for water in the rental pool varies on a supply-demand basis, beginning at $5.00 per acre-foot, plus 10% to the Water Resource Board, plus 80 cents administrative fee, for a cost per acre foot of $6.80, going up to $18.00 per acre-foot, plus 10%, plus 80 cents, for a total of $20.60 per acre-foot.

5. Private leases are another form of obtaining water from a space holder. A private lease is a private agreement between a willing buyer and a willing seller that the water district is not involved in except to account for where the water comes from and where it goes. The water district charges an administrative fee for the accounting but does not set the rate that is negotiated. For purposes of refilling in subsequent years the space that has been used for a private lease becomes the most junior space in the reservoir system.

6. Flow augmentation is water released to the river from storage to meet Endangered Species Act concerns and the requirements of the Nez Perce Settlement Agreement. Flow augmentation benefits salmon, steelhead, snails, and whatever other creatures are dependent upon water and are protected.

7. The Director of the Department of Water Resources does not hold space in the reservoirs, but the Director does have the authority under Title 42, Chapter 6, to supervise the distribution of water. The Director instituted a system of assignment whereby IGWA acquires the required replacement water by private lease and then transfers the water to the Director to then direct it to the entity entitled to receive it. This has created conceptual difficulties because the Director has no storage space, and the system of accounting for water requires that the water be assigned to a storage account. If the Director has not assigned or

allocated the water by the final accounting in late February or March the water reverts back to the lessor. The conceptual difficulty should not defeat the practical result of getting water from IGWA to the entity that is entitled to it.

a. In the absence of a mechanism for the Director to hold storage space, the water should be accounted for in the storage holder's account subject to IGWA's contractual right, which is in turn subject to the Director's right to order distribution of the water to the proper entity, at which time it is accounted for in that entity's account. If the assignment has not been completed by the final accounting, the water should remain in the lessor's storage account, subject to the Director's right to direct assignment of the water, provided there is space available in the lessor's account. The problem arises if the lessor's storage space fills with water not impounded by the Director in which case there apparently is no existing system to allocate the water to any account. This is an accounting problem, not one of science. It should be solved by amendment of the accounting system or, if necessary by legislation establishing a system. Regardless of the method utilized, once a replacement water plan has been approved the water should be available to the entity entitled to use it. This can be accomplished by a direct transfer from the account of the spaceholder supplying the water to the account of the entity entitled to receive it. If there is a need to have an assignment to the Director, it is not apparent. This has become a flashpoint of unnecessary controversy, evident in the recent hearing when IGWA had obtained the right to water to be transferred to the Twin Falls Canal Company but TFCC did not see the water in its account. When the Director approves a replacement water plan, that plan should identify where the replacement water will go and set a time frame. When IGWA contracts for the replacement water there seems to be no reason to pass the water through the Director. His directions for transfer are sufficient.

XII

THE ROLE OF PUBLIC INTEREST IN CONSIDERING CURTAILMENT

1. The public interest is a proper interest to be considered in responding to a request for the administration of water rights. The concept of "first in time, first in right" is a

fundamental principle in Idaho water law. Idaho Code section 42-106 provides, "As between appropriators, the first in time is first in right." Case law has enforced this rule for generations. However, this principle is not without limitation. In *American Falls Reservoir District No. 2 v. Idaho Department of Water Resources,* 143 Idaho 862, 878, 154 P. 3d 433, 449 (2007), the Supreme Court cited *Schodde v. Twin Falls Land and Water Co.* 224 U.S. 107, 32 S. Ct. 470, 56 L. Ed. 686 (1912), noting that "evaluation of whether a diversion is reasonable in the administrative context should not be deemed a re-adjudication." In *Schodde* the U. S. Supreme Court was interpreting Idaho law. The Idaho Supreme Court would not be bound by the interpretation, but the Idaho Court has cited it favorably, and the Legislature has had nearly one hundred years to address issues presented by *Schodde* and act otherwise. It has not done so. The facts of *Schodde* have limited application to this case but the case reflects that the public interest is a factor to be considered in water rights litigation that impacts the public.

Article XV, Section 5 of the Idaho Constitution acknowledges the priority in time of water rights but passed to the Legislature the authority to subject that priority to "such reasonable limitations as to the quantity of water used and times of use as the legislature, having due regard both to such priority of right and the necessities of those subsequent in time of settlement or improvement, may by law prescribe." The Legislature responded in Idaho Code section 42-106: "As between appropriators, the first in time is first in right." This provision must be read in the context of Idaho Code section 42-101:

> Water being essential to the industrial prosperity of the state, and all agricultural development throughout the greater portion of the state depending upon its just apportionment to, and economical use by, those making a beneficial application of the same, its control shall be in the state, which, in providing for its use shall equally guard all the various interests involved. All the waters of the state, when flowing in their natural channels, including the waters of all natural springs and lakes within the boundaries of the state are declared to be the property of the state, whose duty it shall be to supervise their appropriation and allotment to those diverting the same therefrom for any beneficial purpose is recognized and confirmed; and the right to the use of any of the public waters which have heretofore been or may hereafter be allotted or beneficially applied, shall not be considered as being a property right in itself, but such right shall become the complement of, or one of the appurtenances of, the land or other thing which, through necessity, said water is being applied; and the right to continue the use of any such water shall never be denied or prevented from any cause than the failure on the part of the user thereof to pay the ordinary charges or assessments which may be made to cover the expenses for delivery of such water.

Idaho Code section 42-602 vests supervision of the distribution and control of water in the Director of the Department of Water Resources, this authority to be accomplished by watermasters. Section 42-602 provides that, "The director of the department of water resources shall distribute water in water districts in accordance with the prior appropriation doctrine." This provision raises the question of whether the Director may consider the public interest in making a determination that there should or should not be curtailment or other mitigation or is to look solely at the timing of the water right and the amount stated in the license or decree. It is clear that the Legislature did not intend to grant the Director broad powers to do whatever the Director might think right. However, it is clear also that the Legislature did not intend to sum up water law in a single sentence of the Director's authority. The appropriation must be for "some useful or beneficial purpose." Idaho Code section 42-104. A water user cannot waste water. These principles remain. Similarly, the constrictions of Idaho Code section 42-101 that water is the property of the state "which, in providing for its use shall equally guard all the various interests involved."

AFRD #2 recognized a presumption that the senior water right holder is entitled to the licensed or decreed water right. However, "Once the initial determination is made that material injury is occurring or will occur, the junior then bears the burden of proving that the call would be futile or to challenge in some constitutionally permissible way, the senior's call." The Rules for Conjunctive Management of Surface and Ground Water Resources (CM Rules), Rule 20.01, acknowledge the prior appropriation doctrine: "These rules acknowledge all elements of the prior appropriation doctrine as established by Idaho law." However, Rule 20.03 acknowledges other elements:

> **Reasonable Use of Surface and Ground Water.** These rules integrate the administration and use of surface and ground water in a manner consistent with the traditional policy of reasonable use of both surface and ground water. The policy of reasonable use includes the concepts of priority in time and superiority in right being subject to conditions of reasonable use as the legislature may by law prescribe as provided in Article XV, Section 5, Idaho Constitution, optimum development of water resources in the public interest prescribed in Article XV, Section 7, Idaho Constitution, and full economic development as defined by Idaho law. An appropriator is not entitled to command the entirety of large volumes of water in a surface or ground water source to support his appropriation contrary to the public policy of reasonable use of water as described in this rule.

In *AFRD #2* the Supreme Court determined that the Conjunctive Management Rules are not facially unconstitutional. Rule 20.03 is at the heart of the rules and how they will be applied. Had any Rule been subject to a facial challenge, 20.03 was one. It was adopted October 7, 1994, and has remained untouched by the Legislature or the Supreme Court. It incorporates the law as it has developed. "First in time, first in right" is fundamental to water administration whether considering surface to surface or conjunctive management of ground water and surface water, but the principle is subject to consideration of the public interest. The Director is not limited to counting the number of acre-feet in a storage account and the number of cubic feet per second in the license or decree and comparing the priority date to other priority dates and then ordering curtailment to achieve whatever result that action will obtain regardless of actual need for the water and the consequences to the State, its communities and citizens. Application of the water to a beneficial use must be present, not simply a desire to use the maximum right in the license or decree because that simplifies management of the water right.

These conclusions have significance in considering several issues in this case. They affect the Director's use of the so-called "trim line," a point of departure beyond which curtailment will not be considered. It affects the Director's consideration of alternatives to curtailment. The public interest affects determination of whether there will be curtailment or other mitigation to provide for carryover storage water, drawing a line between what is reasonable and what is hording. It affects consideration of issues of farm efficiency as opposed to achievable farm efficiency. Consideration of the public interest gives relevance to evidence of the economic impact of curtailment upon the State and local communities.

XIII

USE OF THE MINIMUM FULL SUPPLY ANALYSIS

1. The concept of a minimum full supply addresses issues in Conjunctive Management Rule 42 concerning (a) material injury and (b) the reasonableness of SWC member water diversions. Rule 42 sets forth factors the Director may consider in determining material injury and the reasonableness of diversions, but the rule does not set forth an analytical framework for application of those and other factors that may be relevant. The former Director

was called upon to develop a protocol in uncharted administration. Central to the process utilized by the former Director is the concept of a minimum full supply.

2. As developed in the May 2, 2005 Order a minimum full supply is an attempt to predict the minimum amount of water the surface water users need to meet their crop requirements, below which curtailment is necessary if the minimum is not met as a consequence of junior ground water depletions. The minimum full supply as initially determined was to be subject to change according to conditions. According to the former Director, the sum of shortages to the minimum full supply and to reasonable carryover constituted the material injury entitling the members of the Surface Water Coalition to curtailment or other remediation. Tr. Vol. I p. 97. The former Director described the minimum full supply as a base amount, not fixed, that could be adjusted during the year as weather conditions, cropping decisions, and the availability of water could be determined more precisely. A final accounting of need would be made as the year developed when all factors of need could be seen.

3. The amount determined to be a minimum full supply affects the determination of whether there is material injury from ground water pumping and the extent of mitigation if there is material injury. If the minimum full supply is set high, the likelihood of finding material injury resulting from ground water pumping is greater. If the minimum full supply is set at a lower level the likelihood of finding material injury decreases, because in theory the needs of the surface water irrigators are satisfied with the lesser amount.

4. The minimum full supply is not linked to the licensed or decreed water right or to the storage space to which an irrigator is entitled. The licensed or decreed right and the amount of storage for which there is a contract with BOR set maximums. If an irrigator needed more water than those rights, the irrigator could not obtain curtailment of junior water rights. The irrigator would have to obtain water at his or her own expense. The minimum full supply is intended to establish the amount necessary to meet water needs independent of the licensed, decreed or contracted rights.

5. Application of the concept of a minimum full supply has been difficult to understand. Unfortunately, a problem in this case is reflected in a comment made by the former

Director in response to a question by counsel for IGWA concerning carryover storage: "Well, apparently I've made this process so confusing that now you're confusing me." Tr., Vol. II, p. 340. Part of this hearing objective is to clarify the process applied and identify how that either fits or conflicts with established law.

The process followed by the former Director is best described in answer to questions propounded on behalf of BOR:

> Q. So the first thing you did when you did your analysis is you reviewed the licenses or decrees to determine what amount of water constituted the maximum full supply of the calling entity's natural flow; is that correct?
>
> A. Well, the maximum amount of water that they were entitled to divert. It didn't have to do with the supply. But you're right, the first thing I did was looked at the licenses and decrees to determine what the maximum amounts that could be diverted or diverted to storage in the case of the Bureau of Reclamation.
>
> Q. Okay. The second thing is you utilized the forecasted runoff of flows at Heise as of April 1st; is that correct?
>
> A. Correct.
>
> Q. Third, from that forecast you projected the natural flow and storage for each calling and surface entity?
>
> A. Projected the natural flow anticipated to be available and the storage anticipated to be available for each of the entities that were making a call; yes.
>
> Q. Fourth, you determined the need of the surface water users by looking at 15 years of deliveries from 1990 to 2004 and determined that 1995 was a year that represented the minimum full supply for each of the entities?
>
> A. 1995 was the most recent year, except for the Twin Falls Canal Company, when a full supply was delivered. And it became the floor of what represented the minimum full supply that would be needed.
>
> Q. And so the 1995 deliveries were the deliveries you thought the calling entity should receive of both natural flow of storage subject to possibly changing climatic conditions during the irrigation season?
>
> A. Correct.
>
> Q. And that was for their minimum full supply?
>
> A. Correct.
>
> Tr. Vol. II, pp. 302-304.

The former Director projected the carryover the surface entities should have for 2006 by taking the water deliveries for 2002 and 2004 and averaging the two together, assuming that the natural flow available in the storage accruals in 2006 were the same as the average of those two years.

The former Director looked to the year 1995 to determine a measure for a minimum full supply. At trial the following colloquy took place:

> Q. But you used the year 1995, did you not? Because that was the year in that 15 year period of record that used the least water to deliver five-eighths and three-quarters of an inch at the headgate?
>
> A. That's correct.
>
> Vol. I, Tr. pp. 147, 148.

The concept was that, "You know, what I think I said in my deposition is that I went through determination of how much was needed on an annual basis to make sure that we were, on the one hand, providing the minimum supply on an annual basis that would be needed, providing a means to adjust that for climatic variations in the growing season and at the same time providing for maximum utilization of the resource." Vol. I, Tr. p. 148. The former Director gave further explanation of the concept of a minimum fully supply:

> The – we started with what we termed the minimum full supply, which was based upon the amount needed in 1995. And the intent was then to make adjustments – that was the floor. The intent was to make adjustment either above or potentially below, but more likely above, if the climatic conditions varied substantially from what was substantially overall the – the irrigation season from what occurred in 1995. Tr., Vol. II, p.282.

To finish the process the former Director took the projected natural flow and the projected storage that would be available in 2005. He added those amounts together to develop the predicted 2005 supply in Finding 116. He then subtracted the predicted 2005 supply from the minimum full supply needed to determine whether there would be overall shortages or surpluses. The conclusion was that there would be shortages that would result in material injury. The former Director then used the ESPA Model and the boundaries of the water districts and the ground water districts to allocate how much of the shortage was attributable to each water district and each ground water district.

5. The practicalities of hydrology justify a departure in ground water administration from surface to surface water administration in the interest of irrigators and the public. In surface to surface water administration the watermasters are able to observe the conditions of crops and know the immediate effect of curtailing a junior surface water user to deliver water to another surface water user. Curtailment may be partial or complete for a brief period during which the junior user's crop may survive until curtailment ends. In ground water to surface water administration there is not the immediacy of response in the delivery of water to a senior user. Curtailment of the ground water users may well not put water into the field of the senior surface water user in time to remediate the damage caused by a shortage, whereas the curtailment is devastating to the ground water user and damaging to the public interest which benefits from a prosperous farm economy. Consequently, the former Director sought to determine the likelihood of shortages in advance in order to takes steps to have the ground water users prepared to provide timely replacement water in the season of need to avoid curtailment. The ground water users do not have storage water rights. Consequently, the aim was to have a decision in place to alert them as to the amount of water they would need to secure by contract to supply replacement water in the irrigation season and avoid curtailment. The concept of a minimum full supply was a step in this process to predict the likelihood of a shortage and the amount and allocation of replacement water in the event of shortage.

6. Use of the process of establishing a minimum full supply departs from the practice of recognizing a call at the level of the licenses or decrees, understanding that if less water is needed less will be delivered. The history of surface to surface water administration has been that if a senior water user made a call within the licensed or decreed right the watermaster shut down delivery of water to a junior water user if necessary to deliver the licensed or decreed amount to the senior. Historically the senior user gets the licensed or decreed amount of water without analyzing a minimum full supply and through that process limiting delivery of the water. SWC maintains the same process should be applicable in the ground water to surface water management. The logic of SWC in objecting to the Director's use of a minimum full supply is difficult to avoid. The irrigation districts have water rights at a certain level. The senior users are presumed to have the full extent of their rights if they can apply the water to the beneficial use for which it was appropriated. If a portion of the water is not available as a result of junior ground water pumping, there should be curtailment of the

junior rights in the absence of a mitigation agreement. Starting with this protocol the ground water users would know at the beginning of the water season that they would have to stand ready to provide mitigation up to the full extent of SWC's rights or face curtailment when a shortage attributable to them occurred. The surface water users would have maximum protection to their rights. The detriment is that the ground water users might well incur the expense of leasing water that is not needed. If they did not have lease agreements in place the acquisition of water might be exceptionally expensive or they might not be able to obtain replacement water and be curtailed. That would ruin them for the season and possibly fail to get water to the surface users in time of need. Additionally, it would not eliminate mid-season disputes when the surface water users claim they need every acre-foot of their rights and the ground water users maintain that there is no such need so the water would not be applied to a beneficial use.

7. Use of the minimum full supply analysis starts at a different point from recognizing the right of a senior right holder to receive the full amount of the licensed or decreed right, attempting to make an advance judgment of need. Inherent in the application of the minimum full supply is the assumption that, if it accurately defines need, use of water above that amount would not be applied to a beneficial use and would constitute waste. This strains against the assumption that the senior users are entitled to the full extent of their rights licensed or decreed rights which at some point has been determined to be an amount they could beneficially use. The hedge built into the concept of a minimum full supply as initially outlined in the May 2, 2005 Order is that the minimum full supply is a base that can be raised if more is needed to satisfy crop and storage requirements. Inherent in the prospect of using a baseline approach in ground water to surface water use is the possibility that it might translate back to the surface to surface administration and change the historical practice.

8. The attempt to project the amount of water that is necessary for the members of SWC to fully meet crop needs within the licensed or decreed amounts is an acceptable approach to conjunctive management, but there have been applications of the concept of a minimum full supply that should be modified if the use of the protocol is to be retained. Whether one starts at the full amount of the licensed or decreed right and works down when the full amount is not needed or starts at a base and works up according to need, the end result should be the same. However, there should be adjustments if the process of establishing a base

different from the licensed amount is to be utilized in future administration. These might well have been addressed but for the interruption of the process by challenges to the validity of the Conjunctive Management Rules and the consequent uncertainty in the process.

a. 1995 was a wetter than average year, diminishing the validity of use of that year to establish the base for a minimum full supply and underestimating the material injury likely to occur in 2005 and subsequent years. According to the Snake River Heise Natural Flow information from 1911-2004 (exhibit 1000) 1995 was in the top third of wet years. Overall it was a wetter than average year. This warps the determination of a base supply downward. If precipitation saturates the soil and relieves the need for the use of irrigation either from natural flow or storage the amount necessary from natural flow and storage declines. Basing the minimum full supply on a wet year makes it likely that material injury was underestimated in 2005 and subsequent years, unless an adjustment is made at the outset to account for the effects of a greater than average amount of precipitation through the year.

b. The process adopted in the Director's minimum full supply has been objected to as focusing on supply in establishing the base rather than the amount of water that is necessary to fully satisfy the irrigator's needs under the water rights. The fact that the 1995 water year provided full headgate deliveries does not by itself tell whether all that water was applied to a beneficial use or whether there was more water than could be applied to a beneficial use.

c. Use of the protocol of a minimum full supply is not an avenue to modify licensed or decreed rights. A challenge to the validity of a licensed or decreed amount of water must come through another avenue than application of the minimum full supply. The use of the concept of a minimum full supply tempts administration that requires the senior surface water users to alter their practices or show why they have not while permitting the junior users to continue pumping the full amount of their rights out of priority.

d. When conditions changed in 2007 the minimum full supply was not adjusted. The year 2007 created a vexing problem. The snowpack runoff that occurred

in April, May, and June was below the long term average for the district, resulting in less natural flow in the river. This led to a greater demand on storage water. The summer turned into a hot, dry period for humans, beasts, and particularly crops. The increased temperature and lower precipitation also led to greater demand on storage water. 2007 was either the first or second highest storage use year since Palisades Reservoir was built according to Lyle Swank, the watermaster for District 1. It was the type of situation envisioned in establishing the minimum full supply that would call for adjustments. However, as appealing as the concept of flexibility is, implementation is more difficult than the principle. Procedures for adjustment were not in place. Steve Burrell, who is responsible for monitoring river flows, diversion data, and maintaining a database of diversions and river flows throughout the state, testified that the minimum full supply became a hard and fast number, absent explicit instructions on how to adjust the baseline:

Q. Okay. So you were using the 1995 minimum full supply baseline as a hard-and-fast number?

A . That is – yes. We were using the same methodology as was used in the May 2005 order.

****

Q. So I guess at this point in time it's your position – or I shouldn't say yours – the Department's position that no matter what, the baseline for 1995 applied? That was the minimum full supply, period; correct?

A. Correct.

Tr., Vol. II, pp. 648, 649.

e. There must be adjustments as conditions develop if any baseline supply concept is to be used. The reality of the risk in use of the minimum full supply appeared in the Seventh Supplemental Order illustrated by the treatment of American Falls Reservoir District which was entitled to reasonable carryover of 51,200 acre-feet but had only 3,495 acre-feet to carry over. It would appear that they were injured by the shortage in the amount of 47,705 acre-feet. However, this amount was discounted and adjusted downward because American Falls Reservoir District diverted water in excess of the

minimum full supply – the diversion was 433,414 acre-feet whereas the minimum full supply defined from use of the year 1995 was 405,600 acre-feet. Steve Burrell was questioned on this point:

> Q. So it's now the director's position that if any entity diverts more than their minimum full supply, it will count against the reasonable carryover that they're entitled to have at the end of the year for purposes of a call?
>
> A. I guess, yes, in the absence of any information or any instructions on how to proceed with modifying the minimum full supply, that is the approach being taken.
>
> Tr., Vol. II, p. 669.

The same process was applied to North Side Canal Company. The Director had determined that North Side had reasonable carryover of 83,300 acre-feet. It had only 61,004 acre-feet to carry over. Instead of finding that North Side had injury of 22,296 acre-feet, the Director determined that it had no injury. This process of reducing the injury to carryover storage was unique to 2007, based upon the observation that some members of the Surface Water Coalition used only their full minimum supply or less. Consequently, the conclusion was reached that those who exceeded the full minimum supply may not have needed it which precluded mitigation or replacement water to cover the excess used. This conclusion was based on looking at the Surface Water Coalition as a whole and the total diversions in relation to 1995.

American Falls and North Side both used water within their water rights, not in excess of their licensed or adjudicated rights. The record does not show if there were or were not special circumstances that distinguished American Falls and North Side from the other members of the Surface Water Coalition, nor does there appear to be evidence showing the water was not applied to a beneficial use. The fact that other members of SWC lived within their minimum full supplies is evidence tending to show that American Falls and North Side could have done so, but it is not conclusive. The others may have conserved in fear of a follow up year as bad as 2007, or they may have managed better. There does not appear to have been an examination of the irrigation practices of the entities that exceeded the minimum fully supply and no finding that the entities were wasting water. According to Steve Burrell the approach of treating the minimum full supply as a fixed amount was employed because of a lack of explicit instructions on how to evaluate the minimum full supply in the prior orders. Tr., Vol. II, p.674. The process utilized

runs contrary to the presumptive right of a senior water user noted in *AFRD # 2* and contrary to the expectations under which the water users were operating since the May 2, 2005, Order.

f. Affidavits that had been submitted by the canal company managers should have been considered. Affidavits were submitted by canal company managers in June concerning water needs and demands for 2007. Those affidavits should have been considered, along with an opportunity for IGWA to respond.

g. Using the minimum full supply as a fixed amount in effect readjudicates a water right outside the processes of the SRBA. Treating the minimum full supply as a cap reducing the right to mitigation in carryover storage has profound consequences. In practical effect it adjudicates a new amount of the water right outside the SRBA without a determination of specific factors warranting a reduction. Additionally, predictability is a strong value in water administration. The 1995 minimum full supply established in the May 2, 2005, Order as a minimum base that could be moved up if conditions warranted was treated as a maximum carrying adverse consequences if exceeded. Logic would indicate that a supply adequate in a wet year would not be adequate in an extremely hot and dry year. Using the minimum supply as the fixed supply departs from the original concept. As long as the minimum full supply was subject to adjustment as conditions changed, it was only a starting point and had limited significance even though based on a questionable year. When treated as a fixed amount in 2007 it had great significance beyond its intended purpose.

XIV

THE DEVELOPMENT OF AN AVERAGE YEARLY IRRIGATION SUPPLY FOR SURFACE WATER COALITION MEMBERS

1. The licensed or decreed amount of a water right is a maximum which if used to establish yearly need would often over predict material injury. Using the maximum amount in determining a level of water that will be needed would in instances be higher than the amount necessary. Although it could be adjusted down, it would require commitments to be made for the acquisition of water that at times would not be needed. It would not encourage reasonable conservation as required in CM Rule 42.01.

2. Predictions of need should be based on an average year of need, subject to adjustment up or down depending upon the particular water conditions for the irrigation season. This is the initial concept behind the minimum full supply. The development of an acceptable baseline subject to adjustment for changing conditions retains the value of having senior rights while providing some level of protection against unnecessary curtailment. The concept is good, but the minimum full supply identified by the Director has no defenders from the parties. A brief summary of objections to the Director's minimum full supply can be stated:

a. It is based on a wet year. To get to an average moisture year an adjustment would be necessary to determine how much greater the minimum full supply would be if the weather equated to an average year when an adequate amount of water was delivered.

b. It is based on a decade old year that does not reflect current efficiencies such as the increased use of sprinkler irrigation and computer monitoring or changes in the amount of land irrigated.

c. It has an emphasis on supply rather than need. That is the amount of water that provided full headgate deliveries. Those may or may not have been needed in that wet year.

3. The parties have attempted to establish water budgets that reflect the needs of SWC members using sophisticated analytical techniques, but the parties' analyses are too far apart to reconcile. There are scientific approaches well beyond what water was taken and used that the parties have utilized in order to establish the amount of water SWC members actually need to meet full crop years over time. They have considered soil composition using different approaches, the losses in conveyance, evaporation, and crop needs. It is enlightening science. The irony in this case is that surface water and ground water expert testimony used much of the same information and in some respects the same approaches and came up with a difference of 869,000 acre-feet for an average diversion budget analysis of SWC districts for the period from 1990 through 2006. Sullivan Rebuttal Report, November 7, 2007, page 17. The total under the SWC analysis is 3,274,948 acre-feet as compared to the Pocatello analysis of the ground water users' analysis of 2,405,861. The Director's minimum full supply amount of 3,105,000 falls between the two, though much closer to the SWC analysis. The process does not

promote much faith in the science of water budget analysis. From the mass of material submitted in this case conclusions must be drawn, and while one might expect the "Who's Who" of experts testifying to lead the lay person to an area of reconcilable conclusion, that has not occurred.

The ground water users' analysis differs dramatically from the SWC calculations and the Director's minimum fully supply in the conclusions concerning North Side Canal Company and Twin Falls Canal Company. For North Side there is a 473,217 acre-foot difference between the SWC analysis and the ground water users' analysis and a 354,558 acre-foot difference with the Director's minimum full supply. Evidence submitted concerning North Side's terrain and length of system make it highly unlikely that North Side could raise crops to full maturity with the number of cuttings otherwise possible with the smaller amount of water calculated by the ground water users. Only unusual weather conditions would provide enough water. The same is true for Twin Falls Canal Company where the difference is in excess of 310,000 acre-feet. Subtracting that much water from irrigation in a year would not meet crop needs utilizing the systems and practices in place.

4. The recommendation is that the ground water users' average diversion budget analysis for the period from 1990-2006 not be accepted in determining a baseline supply to predict needs. There is much impressive work and much analysis that can be utilized in the reports and testimony. However, the end result would not lead to an acceptable baseline.

5. The conclusions in SWC's expert testimony are closer to being acceptable, but there are problems in areas of analysis that preclude outright acceptance of the conclusions. Again, there is useful analysis, but the conclusions are more likely to lead to yearly controversy than resolution, which unfortunately may be the fate of any baseline. The conveyance loss values do not appear reliable and the element of soil moisture does not appear to be adequately addressed.

6. The minimum full supply established in the May 2, 2005, Order is inadequate to predict the water needs of SWC on an annual basis. There are too many unaccounted variables in the minimum fully supply analysis to be continued in use as the baseline for predicting the likelihood of material injury.

7. In the absence of acceptable average budget analysis amounts from either party, the Department must modify the minimum full supply analysis as a method of establishing a baseline of predicted water need for projecting material injury. The use of the term "minimum full supply" has become a lightning rod of discontent for all parties. SWC focuses on "minimum," reading it to restrict their rights below the licensed or decreed amount. There is danger it may be applied in that fashion when it should not. The ground water experts focus on the term "supply," reading it to imply that the measure was based on how much water was available to SWC members regardless of whether needed or not. That too is a danger if misapplied. The approach adopted in the May 2, 2005, Order was a response to a call for curtailment which required a response. It was never intended as a final word. Within this context it is time for the Department to move to further analysis to meet the goal of the minimum full supply but with the benefit of the extended information and analysis offered by the parties and available to its own staff. It would be desirable to recommend the results of one or the other studies conducted by the parties. As indicated, that recommendation cannot be made. The analysis of each does, however, speak to the factors to be considered.

Properly applied the minimum full supply approach is an attempt to measure, for purposes of determining if there should be curtailment, the amount of water senior surface users need to raise crops of their choosing to maturity with the number of cuttings weather conditions will allow. Within this context there are issues of the reasonableness of diversion and conveyance practices, and the conservation efforts of the water users. Those are addressed separately in this recommendation. The concept of a baseline is that it is adjustable as weather conditions or practices change, and that those adjustments will occur in an orderly, understood protocol.

It is appropriate to use historical information when crops were adequately irrigated and to test that information to determine if the usage involved waste. The Director chose 1995 because it reflected a time when full headgate deliveries occurred and crops were apparently adequately irrigated. If 1995 could be considered an average irrigation year in all the factors to be considered in establishing a baseline average it would be acceptable in the absence of compelling reasons to accept either the ground water users' conclusions or SWC's conclusions. The isolation of a year when there are known facts as to the supply and use may be reasonable if it is subjected

to the type of analysis applied by both the surface and ground water users. However, focusing on a single year can only be a starting point, not sufficient without material adjustments. Those adjustments are reflected in the analyses of the ground water users and the surface water users in attempting to establish annual diversion requirements.

a. To the extent 1995 is utilized it should be adjusted to determine how much the need for irrigation water was depressed by the well-above average precipitation and how much less loss from evaporation there would have been from depressed temperatures compared to a normal temperature year. This would result in an increase in the baseline utilized by the Director. The objection that arriving at a baseline by using the amount delivered in a specific year emphasized supply rather than need is worthy of consideration. However, the evidence does not establish waste in the use of water in 1995. Absent evidence of waste it is appropriate to assume that the water was applied to a beneficial use.

b. If there have been significant cropping changes resulting in either greater or less need for water, those should be factored. This is an area of caution. Cropping decisions are matters for the irrigators acting within their water rights. Those decisions should be driven by the market. The fact that a particular crop may take less water does not dictate that it be planted.

c. Changes in facilities, diversion, conveyance, and irrigation practices from earlier years should be considered, e.g. the extent to which conversions to sprinklers have affected water use over time. This again must be considered with caution to avoid rewriting a water right through the process of determining a baseline water need for predictions of material injury. There may be legitimate reasons to revert to gravity flow in the future or change other practices.

d. Analysis of soil conditions to determine how water is retained or lost is a factor. Soil may hold water to be used by crops in the future. The fact that water may be applied to the ground when there are no plants growing does not mean the water is wasted. That depends on the nature of the soil and the amount of soil. Some soil retains water well, other does not. This affects the timing and extent of water delivery.

e. Non-irrigated acres should not be considered in determining the irrigation supply necessary for SWC members. IGWA has established that at least 6,600 acres claimed by TFCC in its district are not irrigated. Similar information was submitted concerning the Minidoka Irrigation District, indicating that the claimed acreage of 75,152 includes 5,008 acres not irrigated and Burley Irrigation District has some 2,907 acres of the 47,622 acres claimed not irrigated. These amounts may, of course, change as acreage is removed from irrigation or possibly added back.

f. Calculation of a water budget should be based on acres, not shares. The allocation of water within a district is a matter of internal management, but the calculation of a water budget in determining if there will be curtailment should be based on acres not shares.

g. Full headgate delivery for Twin Falls Canal Company should be calculated at 5/8 inch instead of 3/4 inch. The former Director accepted Twin Falls Canal Company's response that 3/4 inch constituted full headgate deliver, and TFCC continued to assert that position at hearing. This is contradicted by the internal memoranda and information given to the shareholders in the irrigation district. It is contrary to a prior judicial determination. It is inconsistent with some of the structural facilities and exceeds similar SWC members with no defined reason. Any conclusions based on full headgate delivery should utilize 5/8 inch.

8. The sources of information for reevaluating the water conditions should be expanded, as occurred in the sixth supplemental order when the Heise Gage was no longer a valid measure of natural flow. Initial use of the Heise Gage unregulated flow is reasonable as a starting point in predicting the water supply, but as the year progresses and adjustments become necessary other sources utilized by the irrigation districts to monitor and predict their water supplies should be included.

XV

THE REASONABLENESS OF THE SURFACE WATER COALITION'S DIVERSION SYSTEMS AND CONVEYANCE PRACTICES

An issue presented in this case is the efficiency of the various members of the Surface Water Coalition. This relates to considerations in CM Rule 42 which the Director may take into account in determining if there is material injury and the reasonableness of the amount of water diversions. The two ideas are related.

1. CM Rule 42.01g provides that in considering whether there is material injury to a senior water user and use of water by the senior without waste the Director may consider, "The extent to which the requirements of the holder of a senior-priority water right could be met with the user's existing facilities and water supplies by employing reasonable diversion and conveyance efficiency and conservation practices..." It is relevant to consider how much water is necessary to irrigate crops to maturity.

2. If the means of diversion utilizing existing facilities, the methods of conveyance, or the conservation practices are not reasonable the water wasted does not constitute material injury attributable to the junior ground water pumpers, even if the diversion is within the amount of the water right. Curtailment will not be invoked to make up for water lost through the use of unreasonable diversion or conveyance practices or unreasonable use of the water.

3. The existing facilities utilized by the Surface Water Coalition members are reasonable. The evidence does not show substandard facilities for diversion or conveyance. The members of the Surface Water Coalition have improved their conveyance practices since the time the water rights were licensed or decreed. All of the members have changed significant portions of their irrigation practices from gravity flow to sprinkler systems which generally deliver water to the crop more efficiently. Sprinkler practice is not perfect. Evidence from the Twin Falls Canal Company indicates that water from gravity flow that exceeds the need of the initial crop is captured and applied to other portions of the district by water paths that develop. The same process does not occur with sprinkler systems. Also, there are limitations with sprinklers on applying water into corner portions of property. Overall, however, the use of sprinklers is more efficient than gravity flow, and sprinklers are increasingly used by the

members of SWC. Additionally, at least Twin Falls Canal Company and North Side Canal Company have gone extensively to the use of computer monitoring of water use to assure its proper application.

There are various factors that might be considered that cause difference in the efficiency of diversion and conveyance within the irrigation districts. For example, the North Side Canal Company is very long, requiring more time for water to move from the initial diversion to the end of the system. There will be differences in the amount of evaporation and potentially of conveyance losses. Additionally, if the delivery of water at the beginning of the system is shut off, when the water is again turned on it takes considerable time for water to reach the far end of the system. Damage to the crops may occur during the delay. This simply says that there is no precise formula that can be applied from one SWC member to another. Differences exist. This does not mean that one district is using reasonable facilities and practices and another not. There is no evidence of decayed or damaged systems that are allowed to continue or practices that cause water to be wasted in transit. The evidence in this case indicates that each of the SWC members is operating with reasonable diversion and conveyance efficiency.

4. Full headgate delivery for Twin Falls Canal Company should be calculated at 5/8 inch instead of 3/4 inch. The former Director accepted Twin Falls Canal Company's response that 3/4 inch constituted full headgate deliver, and TFCC continued to assert that position at hearing. This is contradicted by the internal memoranda and information given to the shareholders in the irrigation district. It is contrary to a prior judicial determination. It is inconsistent with some of the structural facilities and exceeds similar SWC members with no defined reason. Any conclusions based on full headgate delivery should utilize 5/8 inch.

XVI

THE CONCEPT OF ACHIEVABLE FARM EFFICIENCY

Once it is determined that the systems of diversion and conveyance of the SWC members are reasonable, the question becomes whether that system is being operated reasonably. Are the practices in place reasonable in conserving water or are the SWC members claiming and using more water than is necessary to develop healthy crops to full maturity utilizing the systems and practices in place.

1. The concept of achievable farm efficiency. Pocatello offered the testimony of C. Eugene Franzoy, an expert in water management, who testified that "achievable farm efficiency is a measure of what the irrigation system is capable of achieving given the existing physical conditions." Mr. Franzoy differentiated between "farm efficiency" which refers to the actual efficiency of the farm operation as opposed to the "achievable farm efficiency" that he maintains can be achieved with existing physical conditions with a high level of management.

2. Reasonableness, not achievable farm efficiency, is the standard in determining whether irrigators are wasting water. CM Rule 42.01.g. provides that "in determining whether water rights holders are suffering material injury and using water efficiently and without waste" the Director may consider "[t]he extent to which the requirements of the holder of a senior-priority water right could be met with the user's existing facilities and water supplies by **employing reasonable diversion and conveyance efficiency and conservation practices... .**" (emphasis added). Achievable farm efficiency through a highly managed system is certainly desirable if the process of getting there is reasonable, but there are considerations other than the hypothetical most efficient use of water that limits that result. There are likely labor costs or associated management difficulties that must be considered in whether an irrigator can get the maximum benefit of water without on occasions exceeding that amount. The amount of those costs has not been identified but almost certainly exists. The irrigation districts have a limited scope of operation. They deliver water to the actual irrigators. There are a large number of irrigators. It would be speculation to determine the cost and the reasonableness of extending the districts' management into the realm of each irrigator.

The closer farm efficiency gets to achievable farm efficiency the better, but the fact that there is a difference does not mean the irrigation districts' practices are unreasonable. The lessons learned from analysis of achievable farm efficiency may be very valuable to irrigators, but the standard for determining whether water is being applied to a beneficial use without waste is whether the district is reasonable in the use of the water with existing diversion and conveyance facilities, consistent with reasonable conservation practices.

3. The members of the Surface Water Coalition are employing reasonable conservation practices. There is evidence the members of SWC monitor the use of water closely. It is very clear that during the drought period they did not apply the full extent of their

water rights throughout the irrigation season. They withheld water and rationed it according to conditions. Had they not used the water reasonably they likely would have suffered catastrophic losses.

4. If the Director identifies reasonable conservation practices that are not being utilized, the Director may consider that fact in future determination of need. This is not a static system, and as improvements either in technology or management practices that fall within reasonable costs are identified the Director may consider whether they have been implemented in making the decision of whether ground water pumpers should be curtailed.

XVII

THE RIGHT TO CARRYOVER STORAGE

1. The development of carryover storage was a response to the uncertainty when the flow of the Snake River was unregulated. The unregulated flow of the Snake River did not provide a reliable source of water for irrigators represented by SWC and other water users. Early runoff might well exceed the needs of irrigators and pass unused while later runoff was insufficient to meet crop needs. Reservoirs were developed to contain the water at times when it was not needed for irrigation, primarily the winter and early spring, and release it when most needed, principally July and August.

2. Some members are primarily dependent upon water held in storage, and their crop needs would seldom be met if they were dependent upon their natural flow rights. The Twin Falls Canal Company has a very early and large natural flow right which commands much of the natural flow of the Snake River. The North Side Canal Company has the same early priority to natural flow, but its early priority right is much smaller than that of the Twin Falls Canal Company. NSCC relies upon a very large storage right, as do other members of the Surface Water Coalition. All members of SWC hold storage water rights that are prior in time to the ground water rights held by IGWA.

3. Storage water rights are entitled to protection but are subject to defenses, as are the natural flow rights. Idaho Code section 42-607 does not classify storage water differently from natural flow. But for the reservoir system it would all be natural flow. Conjunctive

Management Rule 10.25 defines a water right as, "The legal right to divert and use or to protect in place the public waters of the state of Idaho where such right is evidenced by a decree, a permit or license issued by the Department, a beneficial or constitutional use right or a right based on federal law." In *American Falls Reservoir District No. 2 v. Idaho Department of Water Resources,* 143 Idaho 862, 880, 881, 154 P. 3d 433, 451,452 (2007), the Supreme Court stated the law:

> The district court's decision is based on the assumption that storage rights are property rights entitled to legal protection. *Washington County Irrigation Dist. v. Talboy,* 55 Idaho 382, 385, 43 P.2d 943, 945 (1935). In *Talboy*, this Court held that when water is stored, it becomes "the property of the appropriators ... impressed with the public trust to apply it to a beneficial use." *Id.* Importantly, *Talboy* did not address the issue of carryover. The Court has also held that if one appropriates water for a beneficial use, he has a valuable right entitled to protection. *Murray v. Public Utilities Comm'n,* 27 Idaho 603, 619, 150 P. 47, 50 (1915); *Bennett v. Twin Falls North Side Land & Water Co.* 27 Idaho 643, 651, 150 P. 336,339 (1915). Nevertheless, that property right is still subject to other requirements of the prior appropriation doctrine.

The former Director's description of storage water being supplemental in finding 72 of the May 2, 2005, Order can be misleading in appearing to minimize the significance of the storage rights. However, his explanation in testimony clarifies that this description relates to the order of use of natural flow and storage rights. That is, natural flow rights must be exercised before a call by a senior user can be made. The storage water rights are considered after the natural flow rights have been utilized. The storage water rights are protected and subject to defenses.

4. SWC members are entitled to carry over the entire amount of their contracted storage rights when there is sufficient water and curtailment is not sought. There has been some confusion caused by the Director's perceived limitation on carryover storage. The Director did not rewrite the contracts the irrigation districts have with BOR or interfere with the right to carryover storage water when available. The limitation only applies to an amount to be obtained from curtailment or mitigation water from the ground water users. If the irrigation district's needs for carryover can be met without curtailment, there will be zero carryover storage provided by curtailment or replacement. There is still a right to as much carryover as water supplies will provide within the limits of the contract. The perception that the Director determined some irrigation districts were not entitled to carryover storage is in error.

5. There is a right to reasonable carryover of storage water and there may be curtailment or a requirement of mitigation to meet that amount. IGWA and Pocatello have presented expert testimony and argument that there is no basis for curtailment when a surface water user has unused water in storage in the reservoirs. It is not an unreasonable argument and, if adopted, would simplify analysis in this case in light of the fact that in 2005, 2006, and 2007 the Coalition members had some positive balance in their storage accounts, though Twin Falls Canal Company's positive balance in the last year results from the rental of 40,000 acre-feet. The logic of the ground water users' position is that it is a question of timing and that it places the issue of curtailment or mitigation in the actual year of shortage, not in a prospective analysis that might never develop if there is sufficient water in storage to meet irrigation needs. However, the position advocated by IGWA and Pocatello runs contrary to the Conjunctive Management Rules, the decision of the Idaho Supreme Court, and the history defining the purposes of the elaborate BOR reservoir system. Conjunctive Management Rule 42.01.g. provides the following:

DETERMINING MATERIAL INJURY AND REASONABLENESS OF WATER DIVERSIONS (RULE 42).

Factors. Factors the Director may consider in determining whether the holders of water rights are suffering material injury and using water efficiently and without waste include, but are not limited to, the following:

> **g.** The extent to which the requirements of the holder of a senior-priority water right could be met with the user's existing facilities and water supplies by employing reasonable diversion and conveyance efficiency and conservation practices; provided, however, **the holder of a surface water storage right shall be entitled to maintain a reasonable amount of carry-over storage to assure water supplies for future dry years. In determining a reasonable amount of carry-over storage water, the Director shall consider the average annual rate of fill of storage reservoirs and the average annual carry-over for prior comparable water conditions and the projected water supply for the system.** (emphasis added).

The Supreme Court reviewed the law relative to carryover in *AFRD #2, p. 881,* distinguishing *Glavin v. Salmon River Canal Co.,* 44 Idaho 583, 258 P. 532 (1927), which "invalidated a rule adopted by a canal company that allowed an individual shareholder of the company to hold-over his allotted share of stored water free from limitations, which reduced the allocated amount of other shareholders." The Supreme Court noted that *Rayl v. Salmon River Canal Co.,* 66 Idaho 199, 157 P.2d 76 (1945), limited *Glavin* to the facts in that case. The Court

in *AFRD #2* stated a "recognition that it is permissible for the canal company to hold water over from one year to the next absent abuse." However that right has limitations:

> Concurrent with the right to use water in Idaho "first in time," is the obligation to put that water to beneficial use. To permit excessive carryover of stored water without regard to the need for it, would be in itself unconstitutional. The CM Rules are not facially unconstitutional in permitting some discretion in the Director to determine whether the carryover water is reasonably necessary for future needs. *Id.*

6. When calling for curtailment of junior ground water users there are limitations on the rights to carryover storage water from curtailment. AFRD # 2 establishes that there is a balance between the right to carryover storage water and limitations upon that right:

> At oral argument, one of the irrigation district attorneys candidly admitted that their position was that they should be permitted to fill their entire storage water right, regardless of whether there was any indication that it was necessary to fulfill current or future needs and even though the irrigation districts routinely sell or lease the water for uses unrelated to the original rights. This is simply not the law of Idaho. While the prior appropriation doctrine certainly gives pre-eminent rights to those who put water to beneficial use first in time, this is not an absolute rule without exception. As previously discussed, the Idaho Constitution and statutes do not permit waste and require water to be put to beneficial use or be lost. Somewhere between the absolute right to use a decreed water right and an obligation not to waste it and to protect the public's interest in this valuable commodity, lies an area for the exercise of discretion by the Director. This is certainly not unfettered discretion, nor is it discretion to be exercised without any oversight. That oversight is provided by the courts, and upon a properly developed record, this Court can determine whether that exercise of discretion is being properly carried out. For the purposes of this appeal, however, the CM Rules are not facially defective in providing some discretion in the Director to carry out this difficult and contentious task. This Court upholds the reasonable carryover provisions in the CM Rules. *AFRD # 2, p. 882*

7. The history of the development of the reservoir system, most recently Palisades, makes it clear that storage of water was a primary purpose to prevent disaster during periods of shortage as have been experienced in the recent past. The reservoir system tamed the river and contained runoff for a particular year so water could be used when needed. Irrigators could invest substantially in the development and improvement of delivery systems and crop planning knowing that water would be available.

8. The ground water pumping at issue in this case developed subsequent to the storage rights under consideration. Ground water users developed their rights against the

background of an existing system that was designed with storage as a primary purpose in coordination with the development of substantial surface irrigation systems dependent upon the storage water. The contractual rights to the storage water were in place when ground water pumpers entered the arena.

9. The amount of carryover storage is limited by the elusive concept of reasonableness, restricting curtailment to fulfilling the licensed or adjudicated purpose of the storage. In *AFRD # 2* the Supreme Court made it clear that there are standards of reasonableness that may limit the absolute right to fill storage rights completely if curtailment is required to do so. The Court specifically noted that some irrigation districts sell or lease storage water rights for purposes unrelated to the original right. *Id.* 882. The thrust of the Court's comment is that curtailment cannot be utilized to make up storage water that is disposed of in that process. Consequently, in determining the amount of carryover storage to which the irrigation districts are entitled when curtailment is ordered, the amount of water sold or leased for purposes outside the licensed or adjudicated right must not be considered in calculating a shortage. The ground water users have no obligation to make up for water that will not be applied to its licensed or adjudicated purpose, e.g. the sale of water for flow augmentation. If the water is sold to another irrigator who has a priority over the ground water users and is applied to a beneficial purpose within the licensed or adjudicated right, the ground water users would be liable for remediation to one surface water holder or the other if the necessity for rental arose out of ground water depletions. Also, a different question as to the requirement of the ground water users to provide flow augmentation would be presented if the requirement for augmentation were to arise from a mandate without compensation to the surface water users. Were that the case the ground water users would be subject to a contribution for their depletion of the river.

10. According to the May 2, 2005, Order the initial determination of carryover storage was to be made at the beginning of the irrigation season to project if there would be a shortage to be addressed by replacement water. The approach utilized by the former Director was that early in the irrigation year a determination would be made as to the amount of carryover storage to which the various surface water districts were entitled. The ground water users were obliged to contract to provide replacement water during the irrigation season or face curtailment in the event of shortages. The amount of replacement water was due in the current

irrigation season. Thereafter there would be adjustments depending on whether too much or too little storage water had been provided through the contractual agreements made by the ground water users. If the amount provided was insufficient the obligation would be carried over to the next year. The process of year end accounting would continue until a time when there was fill of the reservoirs which would erase the debits and credits. Tr., Vol. II, pp. 353-355.

11. Curtailment or mitigation to provide sufficient carryover storage for one year is reasonable. The multiple functions of BOR and the desire of SWC for long term insurance against adverse weather conditions are legitimate and consistent with the language of CM Rule 42.01.g. which refers to dry **years.** Nonetheless, attempting to curtail or to require replacement water sufficient to insure storage for periods of years rather than the forthcoming year presents too many problems and too great a likelihood for the waste of water to be acceptable. Curtailing to hold water for longer than a year runs a serious risk of being classified as hording, warned against by the Supreme Court in *AFRD #2.*

The climate is sometimes generous and sometimes stingy with precipitation, neither of which under the current state of science is predictable for anything more than relatively short terms. Anticipating more than the next season of need is closer to faith than science. Ordering curtailment to meet storage needs beyond the next year is almost certain to require ground water pumpers to give up valuable property rights or incur substantial financial obligations when no need would develop enough times to warrant such action.

12. There is no precise amount of reasonable carryover storage, but the amount should be sufficient to assure that if the following year is a year of water shortage there will be sufficient water in storage in addition to whatever natural flow rights exist to fully meet crop needs. When the reservoir system was developed long term planning anticipated a system that would provide insurance against water shortage for a period of years. As indicated,

requiring curtailment to reach beyond the next irrigation season involves too many variables and too great a likelihood of irrigation water being lost to irrigation use to be acceptable within the standards implied in *AFRD #2.* However, the element of storage as insurance against severely dry weather conditions remains a legitimate objective. SWC members have invested in major facilities to deliver water to irrigators based on an expectation that the storage system would achieve its purpose of providing water when needed when weather conditions are unkind.

13. The amount of carryover to be provided by curtailment or replacement has fallen short in instances of meeting the standard of reasonable carryover. In 2007 Twin Falls Canal Company would have ended with a negative balance in its carryover except for its prophylactic action of renting 40,000 acre-feet of water at a cost close to $850,000. Considering the much greater dependence of other members of SWC on storage water, cutting the margin close threatens the ability to meet crop needs. It also shifts the risk from junior water users to senior users. A conclusion of this recommendation is that the use of the year 1995 to establish the minimum full supply of water underestimated the amount of water necessary to meet the needs of SWC members within their water rights. This had the collateral effect of underestimating the amount of carryover storage that is reasonable to meet future crop needs.

14. Conjunctive Management Rule 42.01.g. sets some guidelines for determining "a reasonable amount of carry-over storage to assure water supplies for future dry years. In determining a reasonable amount of carry-over storage water, the Director shall consider the average annual rate of fill of storage reservoirs and the average annual carry-over for prior comparable water conditions and the projected water supply for the system." The steps this appears to anticipate is to first determine the average annual rate of fill of the storage reservoirs. This establishes the standard for carryover. The next step is to examine current water

conditions against prior comparable water conditions and project the water supply for the system. If that projection falls below the average annual rate, it would follow that the shortage attributable to ground water depletion should be made up by curtailment or replacement water. If the projection indicates the amount of fill will exceed the average annual rate, there would be no right to curtailment, even if that average annual rate falls below fill of the system.

The average rate of fill should be determined over a sufficient number of years to encompass wet and dry years. It would seem that this calculation should begin with the year in which Palisades was first fully operational. That would encompass the entire reservoir system as it now exists and include years when the effect of ground water pumping was minimal.

CM Rule 42.01.g. envisions evaluating the system as a whole to determine rates of fill and storage. This should establish a basis for the determination of reasonable carryover for the system. Within that system each SWC member has a right to reasonable carryover storage which must be allocated. Depending on priorities, some spaceholders will suffer no material injury from ground water pumping because their senior storage rights will fill and meet their needs, whereas others may suffer material injury because of their lesser priority. As noted earlier, the right to secure reasonable carryover storage through curtailment does not extend to make up for water that is sold or leased "for uses unrelated to the original rights." *AFRD #2, p. 882.*

XVIII

THE RIGHT TO ORDER REPLACEMENT WATER INSTEAD OF CURTAILMENT

1. **A replacement water plan should go through the procedural steps for approval of a mitigation plan.** The former Director has approved replacement water plans, allowing the ground water users to avoid curtailment. Conjunctive Management Rule 40.01.a. provides that the Director, acting through the watermaster may:

> Regulate the diversion and use of water in accordance with the priorities of rights of the various surface or ground water users whose rights are included within the district, provided that regulation of junior priority ground water diversion and use where the material injury is delayed or long range may, by order of the Director, be phased-in over not more than a five-year (5) period to lessen the economic impact of immediate and complete curtailment.

The process of phased in curtailment extends to a mitigation plan approved by the Director pursuant to CM Rule 40.01.b.

CM Rule 43 sets forth the process for consideration of a mitigation plan which allows out of priority pumping and avoids curtailment. The Rule requires notice and hearing for consideration of a mitigation plan:

> "Upon receipt of a proposed mitigation plan the Director will provide notice, hold a hearing as determined necessary, and consider the plan under the procedural provisions of Section 42-222, Idaho Code, in the same manner as applications to transfer water rights."

The replacement water plan approved by the former Director in the May 5, 2005, Order and Supplemental Orders is in effect a mitigation plan. However, it does not appear that the procedural steps for approving a mitigation plan were followed. The initial Order was entered in an emergency situation in which there was a call for administration in times of stress on the water supply. It was anticipated that there would be a protocol for the presentation of objections, but litigation over the validity of the Conjunctive Management Rules apparently sidetracked development of that process. At this stage of the proceedings there will be ongoing administration, and the procedural steps for a mitigation plan should be developed. In the absence of a pre-approved mitigation plan, after the Director has made a determination of material injury which would warrant curtailment, a mitigation plan for replacement water or other forms of mitigation may be considered in accordance with the procedural steps of CM Rule 43. If no plan is approved and there is a finding of material injury, curtailment must follow.

2. Replacement water has not been provided in the season of need. When a determination is made that surface water users are suffering material injury from ground water pumping, they are entitled to curtailment or replacement water in the season of material injury. The theory underlying predicting material injury and allowing replacement water as mitigation

instead of requiring curtailment is that the replacement water will be provided in time and in place in stages comparable to what would occur if curtailment were ordered.

3. Replacement water in season may occur either by IGWA obtaining lease water before the beginning of irrigation season and transferring the right to the water to the SWC members or underwriting the affected SWC members in their acquisition of the water as needed with a year end accounting. Either protocol supplies the water in season. Whichever process is adopted, it should be in place at the beginning of the time irrigation water will be applied to the fields so the effect will be the same as would result from curtailment. Notice of the process should be given to the affected parties in advance so objections may be heard and the procedural steps of CM Rule 43 applied.

XIX

THE CONCEPTS OF A "TOTAL WATER SUPPLY' AND "FULL HEADGATE DELIVERY"

1. Two elements to the Surface Water Coalition water rights must be considered – natural flow and storage rights. SWC challenges the Director's use of a "total water supply" analysis, combining natural flow rights and storage rights to determine if there was injury and a need for curtailment. SWC maintains that the Director compounded the error by analyzing the question of injury by use of the "full headgate delivery" analysis to reach the conclusion that if the combination of natural flow and storage water provided a full headgate of water there was no injury. According to SWC natural flow rights and storage should be addressed separately. The natural flow right may suffer injury from junior out of priority diversion, and the storage right may also suffer injury by the out of priority diversion. SWC argues that requiring the senior right holder to use storage water to make up the shortage of natural flow amounts to self-mitigation that damages the storage right. SWC is correct in the position that each element of their rights must be analyzed. However, if the damage to the "total water supply" is properly recognized, the harshness identified by SWC is ameliorated.

2. All SWC members rely upon a combination of natural flow and storage water to meet their needs. That is their total water supply. There is an accounting process that takes place in the management of the water assigning portions to natural flow and storage. Water

comes and is used. It may be from natural flow, as all water would be if there were not reservoirs, or it may be storage. The source of the water is not significant to the crop. It is significant to accounting and allocating rights.

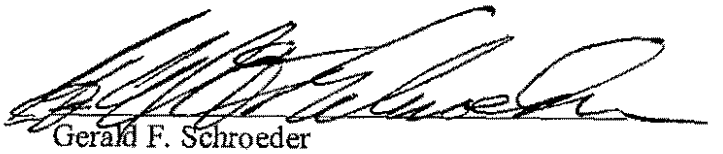
3. In analyzing a total water supply to determine if there is material injury each element of the water rights should be considered and proper recognition is given to the right to carryover storage – there may be material injury to the right of reasonable carryover storage if the provision of full headgate delivery exhausts what would otherwise be the reasonable carryover storage amount. The first step in deciding if there is material injury should be to determine how much a surface water user's natural flow right has been diminished by junior ground water pumping. Evidence indicates that there has been a long term trend of declining natural flow water, causing the members of SWC to begin the use of storage water earlier and to a greater extent. The diminution of natural flow results in a reduction of the storage water right by the amount of water withdrawn from storage to meet the need that could not be met by the natural flow right as a consequence of ground water pumping. All SWC members are entitled to reasonable carryover storage. If depletion of the storage right to make up the loss of natural flow reduces the amount of carryover storage below the level of reasonable carryover there is **material** injury and that amount must be made up through curtailment or replacement, or another form of mitigation.

4. If crop needs are met by the combined use of natural flow and storage water and there is sufficient water for reasonable carryover, there is no material injury. This assumes that crop needs are fully met. Curtailment, however, only extends to providing the amount of water necessary to replace ground water depletions to reasonable carryover storage.

CONCLUSION

This opinion constitutes the findings of fact and conclusions of law and recommendations resulting from the hearing on the Surface Water Coalition call and the objections that have been made by the parties to the Orders that have been entered in the aftermath of that call. The format is intended for the ease of tracking the issues discussed. The context of the sections should make it clear what determinations are findings of fact and which are conclusions of law.

Dated 29, April, 2008.



Gerald F. Schroeder
Hearing Officer

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 21st day of April, 2008, the above and foregoing, was served by the method indicated below, and addressed to the following:

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Idaho Department of Water Resources

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Attorneys for A&B Irrigation District

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF THE MITIGATION PLAN FILED BY A&B IRRIGATION DISTRICT FOR THE DISTRIBUTION OF WATER TO WATER RIGHTS HELD BY THE SURFACE WATER COALITION	)	**CM-MP-2015-_____**
	)	**A&B IRRIGATION DISTRICT'S AMENDED RULE 43 MITIGATION PLAN**

COMES NOW, A&B IRRIGATION DISTRICT ("A&B" or "District"), by and through its counsel of record, BARKER ROSHOLT & SIMPSON LLP, and hereby submits this Mitigation Plan ("Plan") pursuant to Rule 43 of the Department's Conjunctive Management Rules (37.03.11.43) in the above-captioned matter for A&B's ground water rights: 36-2080, 36-15192, 36-16749, 36-15127A, 36-15193A, 36-15194A, 36-15195A, 36-15196A, 36-15127B, 36-15193B, 36-15194B, 36-15195B, and 36-15196B.

As detailed below, diversion of ground water under A&B's water rights subject to any future curtailment orders issued by the Director in response to the Surface Water Coalition delivery call can be fully mitigated with various actions undertaken by the District.

MITIGATION PLAN

I. Name and Address:

A&B Irrigation District
P.O. Box 675
Rupert, Idaho 83350-0675
(208) 436-3152

II. Water Rights to be Mitigated By Plan:

36-2080
36-16192
36-16749
36-15127A
36-15193A
36-15194A
36-15195A
36-15196A
36-15127B
36-15193B
36-15194B
36-15195B
36-15196B

III. Description of Plan:

A&B originally filed a mitigation plan for this delivery call on May 12, 2005. At that time, the Idaho Ground Water Appropriators moved to consolidate proceedings on its mitigation plan with other plans, including A&B's. The former Director denied IGWA's request and further indicated that he would take action on A&B's plan "as soon as practicable after it is submitted." *See Order Granting Extension of Time to File Mitigation Plan* at 2 (May 6, 2005); *see also, Order Regarding Protests and Motions to Dismiss Mitigation Plan et al.* at 22 (September 13, 2005). After consultation with Department counsel Garrick Baxter it appears that notice of A&B's mitigation plan was never published, and no order was ever issued approving the plan. Accordingly, A&B is filing this amended plan to follow the required

procedures. Further, since A&B has undertaken additional actions since 2005, the District is filing this amended plan for consideration.

First, A&B has curtailed the diversion of groundwater under its senior priority water right (36-2080) for the irrigation of 1,377.8 acres within the Unit B portion of the irrigation district. *See* Ex. A. A&B has converted the 1,378 acres (Ex. A) from groundwater to a surface water supply, consisting of stored water in American Falls and Palisades Reservoirs (water right nos.1-2064, 1-2068). In addition, landowners within A&B have enrolled 121 acres in the federal CREP program (Ex. B). The District's curtailment of groundwater pursuant to these actions has previously been found to mitigate for depletions caused by certain junior ground water rights used within the District. *See e.g.*, *Final Order Approving Mitigation Plans (Blue Lakes Delivery Call)* (May 7, 2010); *Final Order Approving Mitigation Plan (Rangen Delivery Call)* (April 28, 2014).

Second, A&B is in the process of developing a second pumping plant and pipeline project to deliver available surface water to lands served by senior ground water right 36-2080. The District will provide available surface water to these "soft conversions." For example, the District recently obtained water right permit 1-10633 for the use of available natural flow in the Snake River for the irrigation of 1,478 acres currently irrigated with ground water (Ex. C).

Finally, A&B holds rights to storage water in American Falls Reservoir (46,826 af) and Palisades Reservoir (90,800 af) and has the ability to participate in Water District 01's Rental Pool. Available storage, if necessary, can be rented and delivered to injured Coalition members to mitigate for any shortfalls caused by the District's junior priority ground water that are subject to curtailment. This action would only be necessary if the benefits of the above conversions and CREP action did not satisfy the injury caused by A&B's ground water rights that are found to be

subject to curtailment.

Although the Director has not yet issued a curtailment order this year, certain junior priority ground water rights (i.e. junior to 1982[1]) may be subject to future orders. As detailed above, it is anticipated that A&B's actions will completely mitigate for the depletions resulting from the use of any ground water rights subject to curtailment. The Mitigation Plan provides replacement water "at the time and place required by the senior-priority water right, sufficient to offset the depletive effect of ground water withdrawal on the water available in the surface or ground water source at such time and place as necessary to satisfy" injured senior surface water rights held by the Coalition, including A&B. *See* CMR 43.03.b.

A&B reserves the right to develop approved procedures with IDWR to identify and determine the respective percentage obligation of its junior priority rights subject to curtailment and the required mitigation.

REQUEST FOR RELIEF

A&B hereby requests IDWR to process this plan as soon as possible. A&B further requests the Director to approve this plan in conformance with the procedures and criteria set forth in CMR 43.

DATED this 21st day of May, 2015.

BARKER ROSHOLT & SIMPSON LLP

Travis L. Thompson
Paul L. Arrington

Attorneys for A&B Irrigation District

[1] This date has been presented as a potential curtailment date in response to the injury order of 89,000 acre-feet. *See Final Order Regarding April Forecast Supply (Methodology Steps 1 – 3)* (April 16, 2015).

CERTIFICATE OF SERVICE

I hereby certify that on this 26th day of May, 2015, the above and foregoing **A&B IRRIGATION DISTRICT'S AMENDED MITIGATION PLAN** was sent to the following by the method indicated:

Gary Spackman, Director
Garrick Baxter
Idaho Department of Water Resources
322 E. Front Street
P.O. Box 83720
Boise, Idaho 83720-0098
deborah.gibson@idwr.idaho.gov
garrick.baxter@idwr.idaho.gov

✓ U.S. Mail, postage prepaid
___ Facsimile
✓ E-Mail
___ Hand Delivery

Travis L. Thompson

Exhibit
A

Path: F:\Projects\Surface Water Coalition\Arcview 9\Rangen mitigation plan A&B conversion.mxd

Legend

- A&B Wells
- 2014 Conversion Land
- A&B Irrigation District

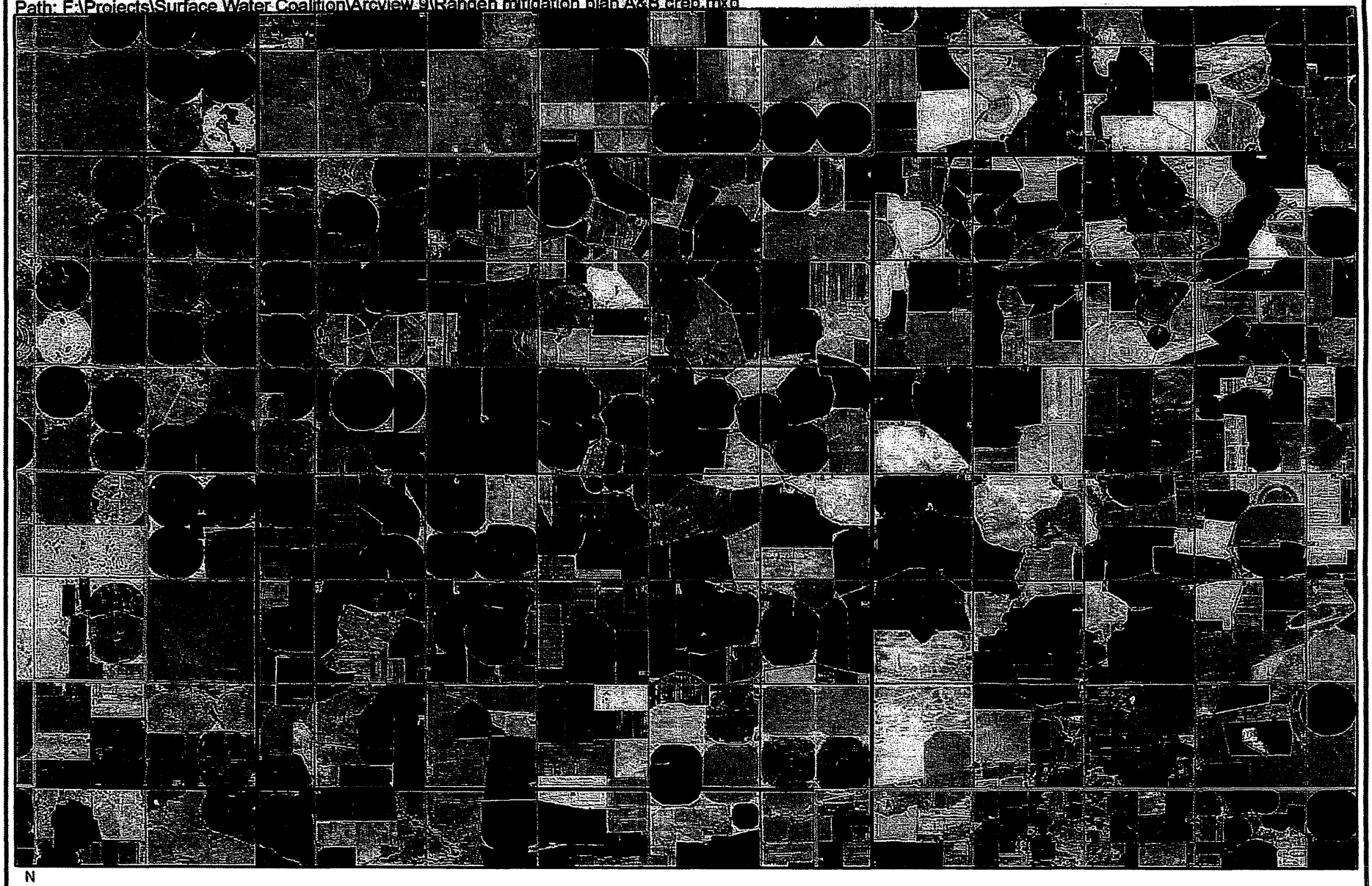
N

BROCKWAY ENGINEERING, PLLC
GEP - MARCH 6, 2014

A&B IRRIGATION DISTRICT CONVERSION ACRES
RANGEN CALL MITIGATION PLAN FOR A&B IRRIGATION DISTRICT
NAIP 2013 AERIAL PHOTOGRAPH

Exhibit B

Path: F:\Projects\Surface Water Coalition\Arcview 9\Rangen mitigation plan A&B crep.mxd



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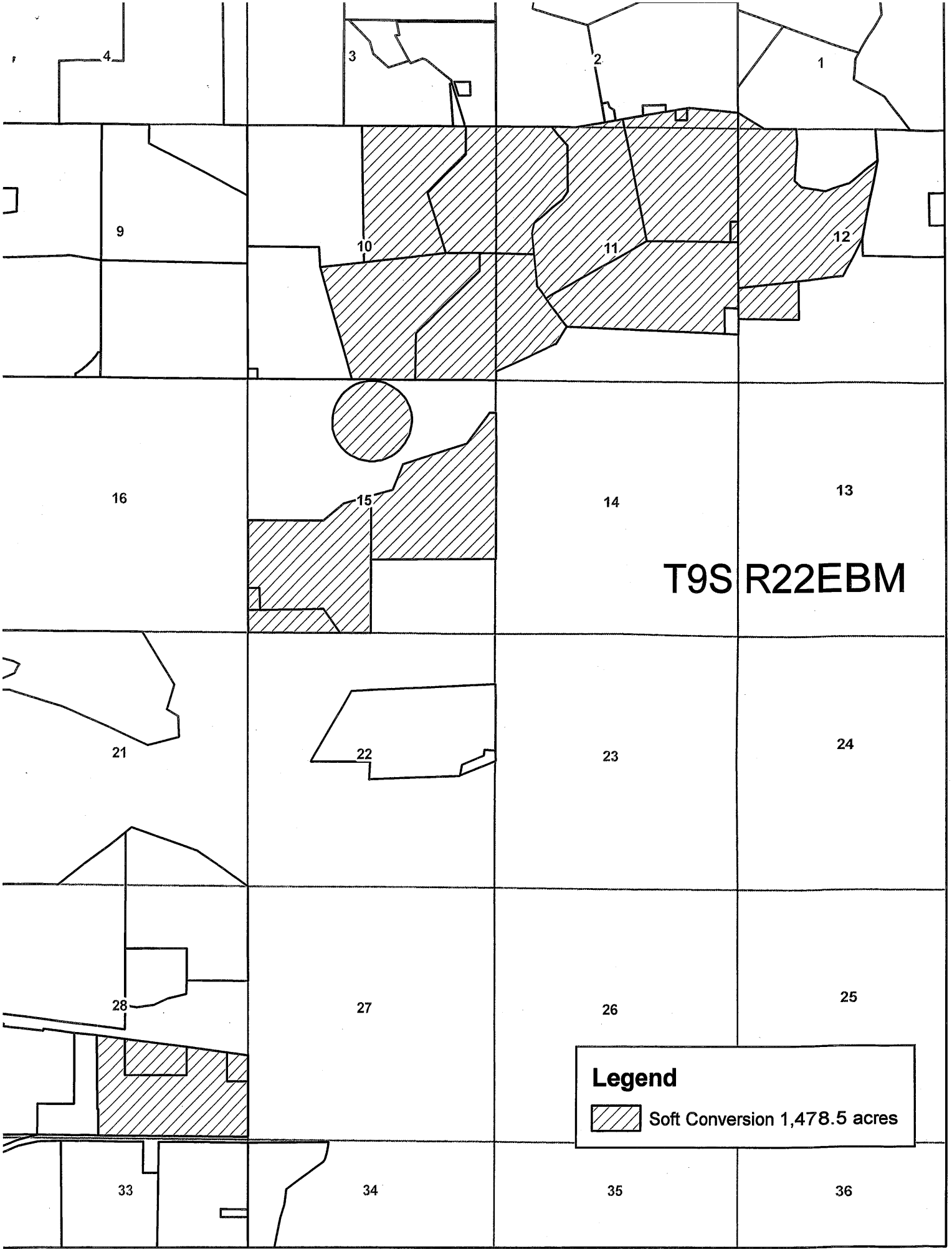
BROCKWAY ENGINEERING, PLLC
GEP - MARCH 6, 2014

A&B IRRIGATION DISTRICT CREP ACRES
RANGEN CALL MITIGATION PLAN FOR A&B IRRIGATION DISTRICT
NAIP 2013 AERIAL PHOTOGRAPH

Legend

- A&B CREP
- A&B Irrigation District

Exhibit C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T9S R22EBM
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28
27
26
25
33
34
35
36
Legend
Soft Conversion 1,478.5 acres

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF THE MITIGATION PLAN FILED BY A&B IRRIGATION DISTRICT FOR THE DISTRIBUTION OF WATER TO WATER RIGHTS HELD BY THE SURFACE WATER COALITION	Docket No. CM-MP-2015-003 **FINAL ORDER APPROVING MITIGATION PLAN**

The Director ("Director") of the Idaho Department of Water Resources ("Department") finds, concludes and orders as follows:

FINDINGS OF FACT

1. On May 12, 2005, the Department received A&B Irrigation District's ("A&B") *Request for Approval of Mitigation Plan of A&B Irrigation District* filed in the Surface Water Coalition ("SWC") delivery call case. This mitigation plan was not published by the Department and no order was issued approving the plan.

2. On May 21, 2015, the Department received *A&B Irrigation District's Amended Rule 43 Mitigation Plan* ("Amended Mitigation Plan"). The Amended Mitigation Plan was submitted pursuant to Rule 43 of the Department's Rules for Conjunctive Management of Surface and Ground Water Resources ("CM Rules"). IDAPA 37.03.11.043.

3. The Amended Mitigation Plan has four components. The first component seeks mitigation approval for conversions from ground water irrigation to surface water irrigation. A&B converted 1,378 acres from ground water to surface water supplies and A&B seeks mitigation approval for the conversions. *Amended Mitigation Plan* at 3.

4. The second component seeks mitigation approval for acres enrolled in the federal Conservation Reserve Enhancement Program ("CREP"). *Id.* A&B sought and received mitigation approval for its existing ground water to surface water conversion project and its CREP acres in the Rangen delivery call case. *See Final Order Approving Mitigation* Plan, In the Matter of the Mitigation Plan Filed by A&B Irrigation District for the Distribution of Water to Water Right Nos. 36-02552 & 36-07694 in the Name of Rangen, Inc., (April 28, 2014).

5. The third component seeks mitigation approval for a future ground water to surface water conversion project. A&B is "in the process of developing a second pumping plant

and pipeline project to deliver available surface water to lands served by senior ground water right 36-2080" and seeks mitigation approval for the future conversion project. *Id.*

6. The fourth component seeks to mitigate using A&B's storage water in American Falls Reservoir and Palisades Reservoir, or to rent storage water through Water District 01's Rental Pool. *Id.*

7. Notice of the Amended Mitigation Plan was published in the Idaho Mountain Express and the Mountain Home News, beginning June 3, 2015, and ending on June 10, 2015. The notice was also published in the Times News beginning on June 4, 2015, and ending on June 11, 2015. No protests were received.

CONCLUSIONS OF LAW

1. Idaho Code § 42-602, addressing the authority of the Director over the supervision of water distribution within water districts, provides:

> The director of the department of water resources shall have direction and control of the distribution of water from all natural water sources within a water district to the canals, ditches, pumps and other facilities diverting therefrom. Distribution of water within water districts created pursuant to section 42-604, Idaho Code, shall be accomplished by watermasters as provided in this chapter and supervised by the director. The director of the department of water resources shall distribute water in water districts in accordance with the prior appropriation doctrine. The provisions of chapter 6, title 42, Idaho Code, shall apply only to distribution of water within a water district.

2. In addition, Idaho Code § 42-1805(8) authorizes the Director to "promulgate, adopt, modify, repeal and enforce rules implementing or effectuating the powers and duties of the department."

3. Idaho Code § 42-603 grants the Director authority to adopt rules governing water distribution. In accordance with chapter 52, title 67, Idaho Code, the Department adopted rules regarding the conjunctive management of surface and ground water effective October 7, 1994. CM Rule 0. The CM Rules prescribe procedures for responding to a delivery call made by the holder of a senior-priority surface or ground water right against junior-priority ground water rights in an area having a common ground water supply. CM Rule 1.

4. CM Rule 42.02 states: "The holder of a senior-priority surface or ground water right will be prevented from making a delivery call for curtailment of pumping of any well used by the holder of a junior-priority ground water right where use of water under the junior-priority right is covered by an approved and effectively operating mitigation plan."

5. CM Rule 43.01 (a-d) sets forth the criteria for submission of a mitigation plan to the Director.

6. CM Rule 43.03 establishes the factors that may be considered by the Director in determining whether a proposed mitigation plan will prevent injury to senior rights. A factor that may be considered by the Director includes "whether the mitigation plan will provide replacement water, at the time and place required by the senior-priority water right … ."

7. In the SWC delivery call, the mitigation obligation owed by ground water users varies from year to year. Only after a curtailment order is issued can the Department determine whether A&B's mitigation activities fully mitigate for the depletions caused by A&B's junior-priority ground water diversions. However, the mitigation activities proposed by A&B are the type of activities that can provide replacement water at the time and place required by the senior-priority water rights. The plan should be approved but conditioned upon confirmation that A&B's mitigation activities fully mitigate for depletions caused by A&B's junior-priority ground water diversions in each year that a curtailment order is issued.

ORDER

Based upon and consistent with the foregoing, IT IS HEREBY ORDERED as follow:

The Amended Mitigation Plan submitted by A&B is APPROVED conditioned upon confirmation that A&B's mitigation activities fully mitigate for depletions caused by A&B's junior-priority ground water diversions in each year that a curtailment order is issued. Upon issuance of a curtailment order in the SWC delivery call case, A&B shall submit documentation of mitigation activities to the Department for the Director to determine whether the Amended Mitigation Plan fully mitigates for A&B's junior-priority ground water diversions.

DATED this 16th day of December, 2015.

Gary Spackman
Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 16th day of December, 2015, the above and foregoing was served on the following by the method(s) indicated below:

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- ☐ Facsimile
- ☒ Email

Deborah J. Gibson

Deborah Gibson
Admin. Assistant for the Director

EXPLANATORY INFORMATION TO ACCOMPANY A FINAL ORDER

(To be used in connection with actions when a hearing was **not** held)

(Required by Rule of Procedure 740.02)

The accompanying order is a "**Final Order**" issued by the department pursuant to section 67-5246, 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 67-5246(4), Idaho Code.

REQUEST FOR HEARING

Unless the right to a hearing before the director or the water resource board is otherwise provided by statute, any person who is aggrieved by the action of the director, and who has not previously been afforded an opportunity for a hearing on the matter shall be entitled to a hearing before the director to contest the action. The person shall file with the director, within fifteen (15) days after receipt of written notice of the action issued by the director, or receipt of actual notice, a written petition stating the grounds for contesting the action by the director and requesting a hearing. See section 42-1701A(3), Idaho Code. **Note: The request must be received by the Department within this fifteen (15) day period.**

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 of: a) the service date of the final order, b) the service date 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.

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY OR FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY	Docket No. CM-DC-2010-001 **FINAL ORDER REGARDING APRIL 2016 FORECAST SUPPLY** **(METHODOLOGY STEPS 1 – 3)**

FINDINGS OF FACT

1. On April 15, 2016, the Director ("Director") of the Idaho Department of Water Resources ("Department") issued his *Fourth Amended Final Order Regarding Methodology for Determining Material Injury to Reasonable In-Season Demand and Reasonable Carryover* ("Methodology Order"). The Methodology Order established nine steps for determining material injury to members of the Surface Water Coalition ("SWC"). This order applies steps 1, 2, and 3 of the Methodology Order.

A. Step 1

2. Step 1 requires members of the SWC to submit electronic shape files delineating the total irrigated acres to the Department by April 1, "or confirm in writing that the existing electronic shape file submitted by SWC has not varied by more than five percent." *Methodology Order* at 35.

3. On February 10, 2016, Minidoka Irrigation District ("Minidoka") submitted its electronic shape files delineating its total irrigated acres to the Department.

4. On February 10, 2016, the Department received a letter from American Falls Reservoir District #2 ("AFRD2"), stating that its total number of irrigated acres has not varied by more than five percent.

5. On March 7, 2016, the Department received a letter from A&B Irrigation District ("A&B"), Burley Irrigation District ("BID"), Milner Irrigation District ("Milner"), North Side Canal Company ("NSCC") and Twin Falls Canal Company ("TFCC"), stating that their total

number of irrigated acres for 2016 will not vary by more than five percent from the electronic shape files submitted in prior years.

6. Based on the information submitted by the SWC, the Department will use the following total irrigated acres:

	Total Irrigated Acres	Data Source
A&B	15,924	SRBA Partial Decree
AFRD2	62,361	SRBA Partial Decree
BID	46,035	2013 shapefile submitted by BID, reduced by Department for overlapping acres and acres outside of service area.
Milner	13,335	SRBA Partial Decree
Minidoka	74,692	2016 shapefile submitted by Minidoka, reduced by Department for overlapping acres and acres outside of service area.
NSCC	154,067	SRBA Partial Decree
TFCC	194,732	2013 shapefile submitted by TFCC, reduced by Department for overlapping acres and acres outside of service area.

B. Step 2

7. Step 2 states that, within fourteen days of the issuance of the joint forecast ("Joint Forecast") prepared by the United States Bureau of Reclamation and the United States Army Corp of Engineers, the Director "will issue a final order predicting the April [Forecast Supply] for the water year for each SWC entity. The Director will compare the April [Forecast Supply] for each SWC entity to the [Baseline Demand] for each SWC entity to determine if a demand shortfall ("DS") is anticipated for the upcoming irrigation season." *Methodology Order* at 36.

8. On April 5, 2016, the Joint Forecast was announced, predicting an unregulated inflow of 3,200,000 acre-feet at the Snake River near Heise gage for the period of April through July. The Joint Forecast "is generally as accurate a forecast as is possible using current data gathering and forecasting techniques." *Methodology Order* at 17. The forecasted flow volume equates to 99% percent of average.[1]

9. The Heise natural flow data from years 1990 – 2015 were data inputs for development of regression equations for A&B and Milner to predict the natural flow supply.[2]

[1] The average is based on years 1981-2010.

[2] Attached hereto are the regression analyses for each SWC entity used to predict natural flow supply.

Data greater or less than two standard deviations from average were excluded from the regression development.

10. The April-July Heise natural flow data from the years 1990 – 2015 and Box Canyon November-March total discharge data for the period 1989 –2015, were data inputs for development of multiple linear regression equations to predict the natural flow supplies for AFRD2, BID, Minidoka, NSCC, and TFCC. *Methodology Order* at 17-18. The U.S. Geological Survey measures and monitors the flow at the Box Canyon stream flow measurement gage. The Box Canyon November-March total discharge used in the regression models by the Director for 2016 totaled 94,500 acre-feet.

11. The storage allocations were predicted for each SWC member. As of the April 1, 2016, preliminary water right accounting, the reservoir rights were 1,050,200 acre-feet from being satisfied. The water rights for Lake Walcott, Palisade Winter Water Savings, and American Falls Winter Water Savings space have been satisfied. Based on a comparison of the current Heise natural flow forecast to other analogous years (1991, 1993, 2006, 2012 and 2015), the Director anticipates the remaining reservoir water rights will be satisfied and the SWC will receive a full allocation. The storage allocations are based on the anticipated full allocation minus evaporation charges.

12. Based on the above, the Director predicts as follows:

	Predicted Natural Flow Supply	Predicted Storage Allocation	Minidoka Credit Adjustment	Total Supply	BLY 06/08/12	Shortfall
A&B	9,948	134,185		144,133	59,993	-
AFRD2	81,396	383,711	1,000	466,108	427,672	-
BID	96,748	220,825	5,130	322,703	251,531	-
Milner	13,845	87,215		101,060	47,135	-
Minidoka	135,991	352,320	8,370	496,681	369,492	-
NSCC	411,223	838,401	(7,750)	1,241,874	978,888	-
TFCC	782,816	239,782	(6,750)	1,015,848	1,060,011	44,200
				Total Predicted Demand Shortfall (AF)		44,200

C. Step 3

13. Step 3 requires the following:

> Step 3: By May 1, or within fourteen (14) days from issuance of the final order predicting the April FS, whichever is later in time, junior ground water users with approved mitigation plans for delivery of water must secure, to the satisfaction of the Director, a volume of water equal to their proportionate share of the April DS unless the April DS is revised as explained below in paragraph 6. If junior ground water users secured water for a reasonable carryover shortfall to an individual SWC member in the previous year, the current-year mitigation obligation to the individual SWC member will be reduced by the quantity of water secured for the reasonable carryover shortfall. The secured water will not be required to be delivered to the injured members of the SWC until the Time of Need.

Methodology Order at 36.

14. The April predicted DS for TFCC is 44,200 acre-feet and the total predicted DS is 44,200 acre-feet.

CONCLUSIONS OF LAW

1. The Fifth Judicial District Court, in and for the County of Minidoka, held that the evidentiary standard of proof to apply in conjunctive administration of hydraulically connected water rights is clear and convincing. *Memorandum Decision and Order on Petitions for Judicial Review*, CV-2009-000647 (Fifth Jud. Dist., May 4, 2010); *Memorandum Decision and Order on Petitions for Rehearing*, CV-2009-000647 (Fifth Jud. Dist., Nov. 2, 2010).

2. "Clear and convincing evidence refers to a degree of proof greater than a mere preponderance." *Idaho State Bar v. Topp*, 129 Idaho 414, 416, 925 P.2d 1113, 1115 (1996) (internal quotations removed). "Clear and convincing evidence is generally understood to be '[e]vidence indicating that the thing to be proved is highly probable or reasonably certain.'" *State v. Kimball*, 145 Idaho 542, 546, 181 P.3d 468, 472 (2008) citing *In re Adoption of Doe*, 143 Idaho 188, 191, 141 P.3d 1057, 1060 (2006); *see also Idaho Dept. of Health & Welfare v. Doe*, 150 Idaho 36, 41, 244 P.3d 180, 185 (2010).

3. In 2016, the Director has sufficient information to quantify irrigated areas for each of the SWC members as required by Step 1.

4. The Joint Forecast predicts an unregulated inflow of 3,200,000 acre feet at the Snake River near Heise gage for the period of April through July. The forecasted flow volume equates to 99% of average.

5. The April predicted DS is 44,200 acre-feet. Junior ground water users holding consumptive water rights bearing priority dates junior to February 8, 1989, within the Eastern Snake Plain Aquifer area of common ground water supply[3] must mitigate for their proportionate share of the predicted DS in accordance with an approved mitigation plan.[4] Junior ground water users mitigating with a secured volume of water pursuant to an approved mitigation plan must, to the satisfaction of the Director, secure their proportionate share for delivery to the injured members of the SWC on or before May 3, 2016. There was no carryover shortfall in the fall of 2015, junior ground water users did not secure any mitigation water for a carryover shortfall, and there is no adjustment to the mitigation obligation.

6. If, on or before May 3, 2016, ground water users holding consumptive water rights bearing priority dates junior to February 8, 1989, within the Eastern Snake Plain Aquifer area of common ground water supply fail to establish, to the satisfaction of the Director, that they can mitigate for their proportionate share of the predicted DS of 44,200 acre-feet in accordance with an approved mitigation plan, the Director will issue an order curtailing the junior-priority ground water user. Junior ground water users who are mitigating with a secured volume of water are not required to assign the secured volume of water until after the Director issues a subsequent order requiring assignment of the water.

7. If, at any time prior to the Director's final determination of the April Forecast Supply, the Director can determine with certainty that any member of the SWC has diverted more natural flow than predicted, or has accrued more storage than predicted, the Director will revise his initial, predicted DS determination.

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[3] The Director must utilize the best available technology for determining the impact of junior ground water diversions. *See Clear Springs Foods, Inc. v. Spackman*, 150 Idaho 790, 816, 252 P.3d 71, 97 (2011). ESPAM 1.1 was the model version utilized in SWC delivery call proceedings. ESPAM 2.1 is the latest version of the ESPAM model and superseded ESPAM 1.1. The Director has determined that ESPAM 2.1 is the best available scientific tool for predicting the effects of ground water pumping. *See In re Water to Water Right Nos. 36-02551 & 36-07694 (Rangen, Inc.) IDWR Docket CM-DC-2011-004*, No. 42775, 2016 WL 1130276, at *4 (Idaho Mar. 23, 2016). Because no trim line has been determined utilizing ESPAM 2.1 in the SWC delivery call matter, in an exercise of discretion, the Director did not apply a trim line in determining the February 8, 1989, priority date.

[4] There are three approved mitigation plans in place responding to the SWC delivery call filed by: 1) A&B Irrigation District, 2) Southwest Irrigation District and Goose Creek Irrigation District (collectively, "SWID"), and 3) the Idaho Ground Water Appropriators, Inc. ("IGWA"). A&B Irrigation District's proportionate share of the predicted DS of 44,200 acre-feet is 3,463 acre-feet. SWID's proportionate share of the predicted DS of 44,200 acre-feet is 956 acre-feet. Due to the nature of SWID's mitigation plan, SWID does not need to establish that it can mitigate for its proportionate share of the predicted DS. The remaining share of the predicted DS is 39,783 acre-feet. The Department does not have sufficient information to determine IGWA's proportionate share of the remainder because the Department does not have an accurate list of all ground water rights covered under IGWA's mitigation plan.

ORDER

Based upon and consistent with the foregoing, IT IS HEREBY ORDERED as follows:

The Director predicts an in-season DS of 44,200 acre-feet. On or before May 3, 2016, ground water users holding consumptive water rights bearing priority dates junior to February 8, 1989, within the Eastern Snake Plain Aquifer area of common ground water supply shall establish, to the satisfaction of the Director, that they can mitigate for their proportionate share of the predicted DS of 44,200 acre-feet in accordance with an approved mitigation plan. If a junior ground water user cannot establish, to the satisfaction of the Director, that they can mitigate for their proportionate share of the predicted DS of 44,200 acre-feet in accordance with an approved mitigation plan, the Director will issue an order curtailing the junior-priority ground water user.

Dated this 19th day of April 2016.

GARY SPACKMAN
Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 19th day of April 2016, the above and foregoing, was served by the method indicated below, and addressed to the following:

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Randall C. Budge Thomas J. Budge RACINE OLSON P.O. Box 1391 Pocatello, ID 83204-1391 rcb@racinelaw.net tjb@racinelaw.net	☒ U.S. Mail, postage prepaid ☐ Hand Delivery ☐ Overnight Mail ☐ Facsimile ☒ Email
Kathleen Marion Carr US Dept. Interior 960 Broadway Ste 400 Boise, ID 83706 kathleenmarion.carr@sol.doi.gov	☒ U.S. Mail, postage prepaid ☐ Hand Delivery ☐ Overnight Mail ☐ Facsimile ☒ Email
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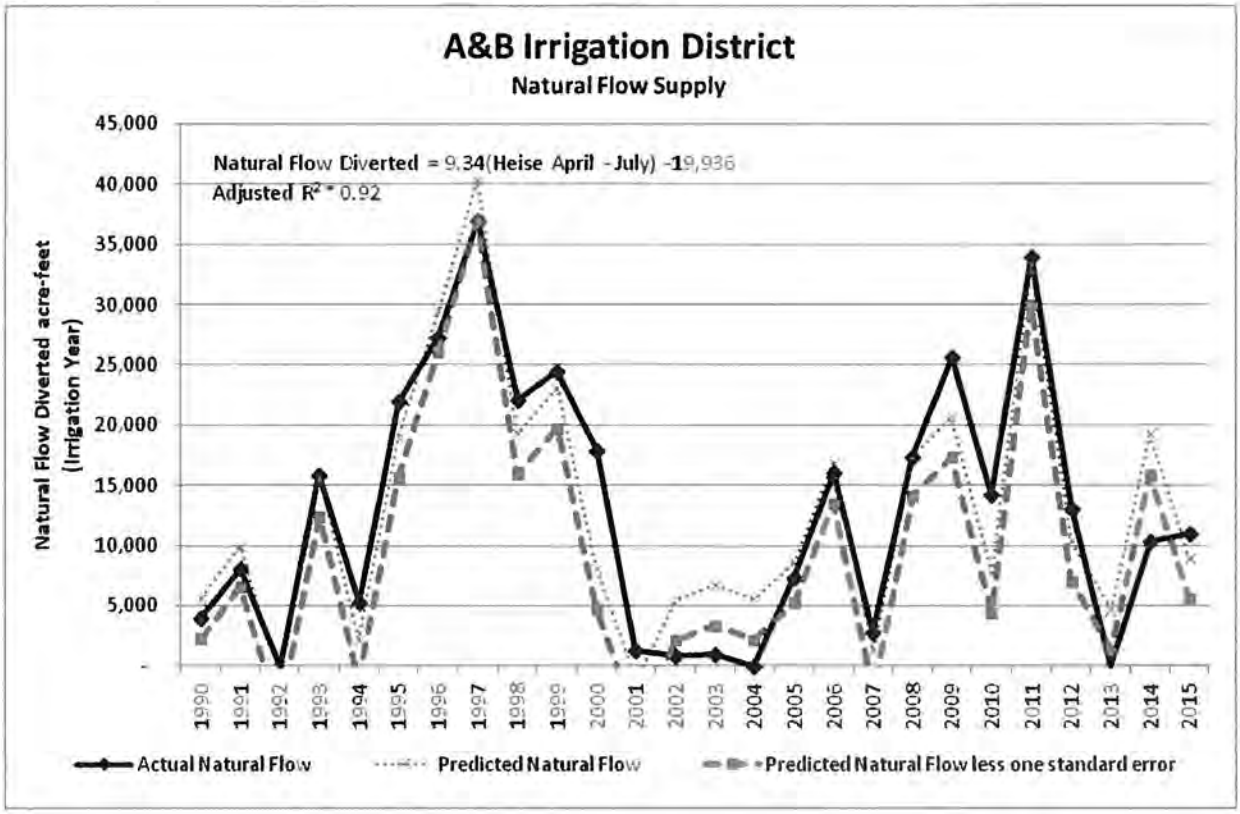
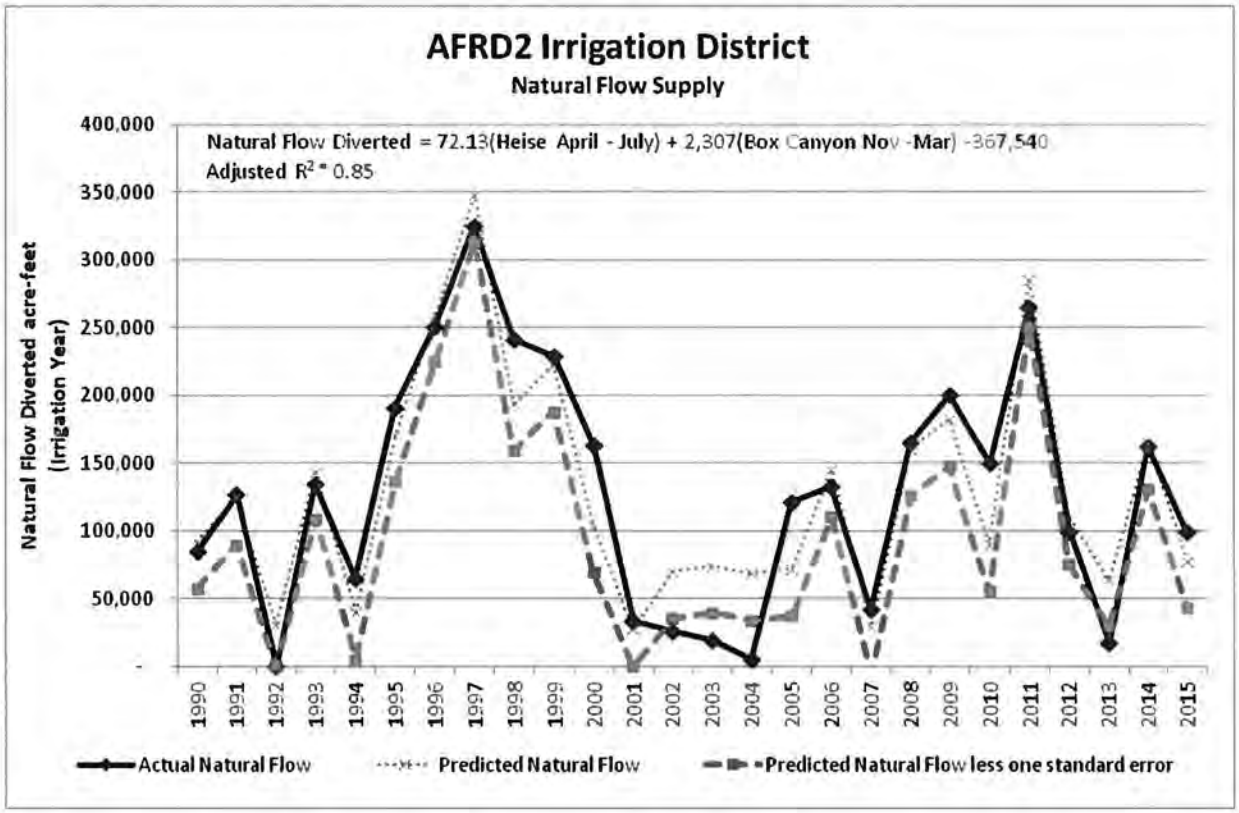
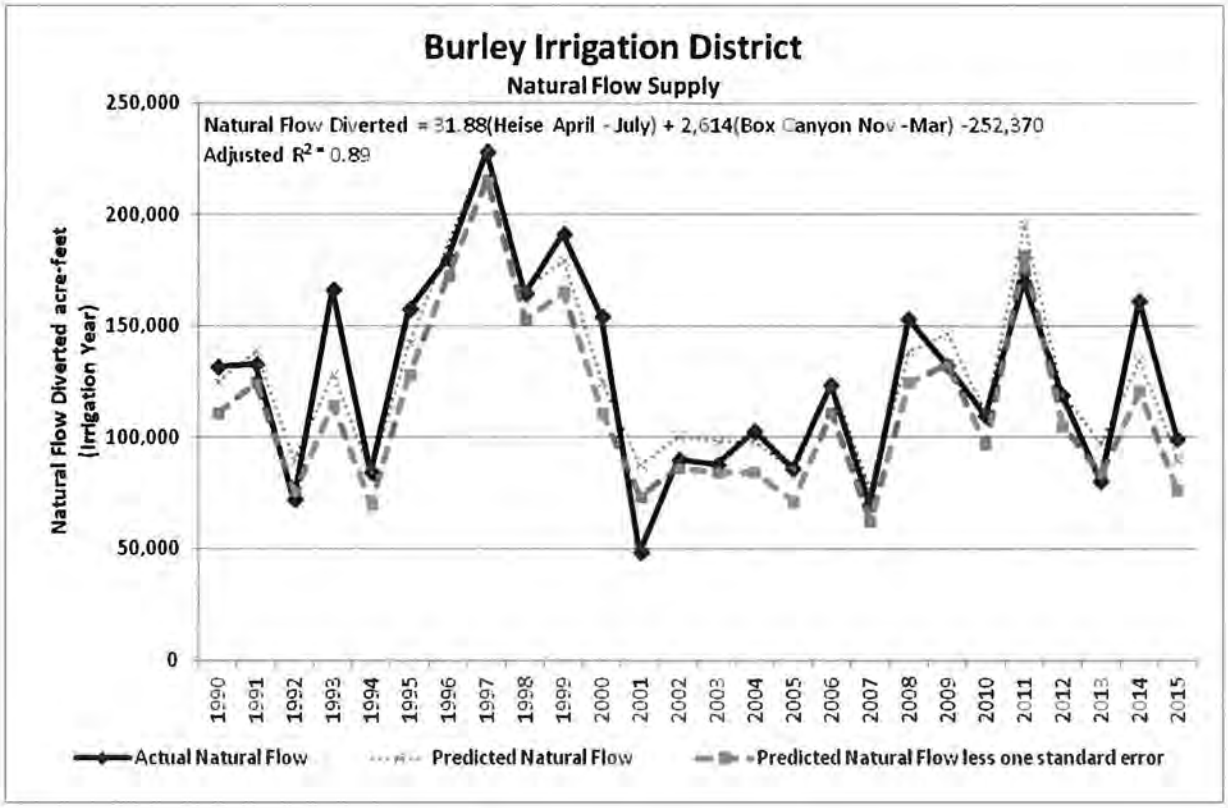
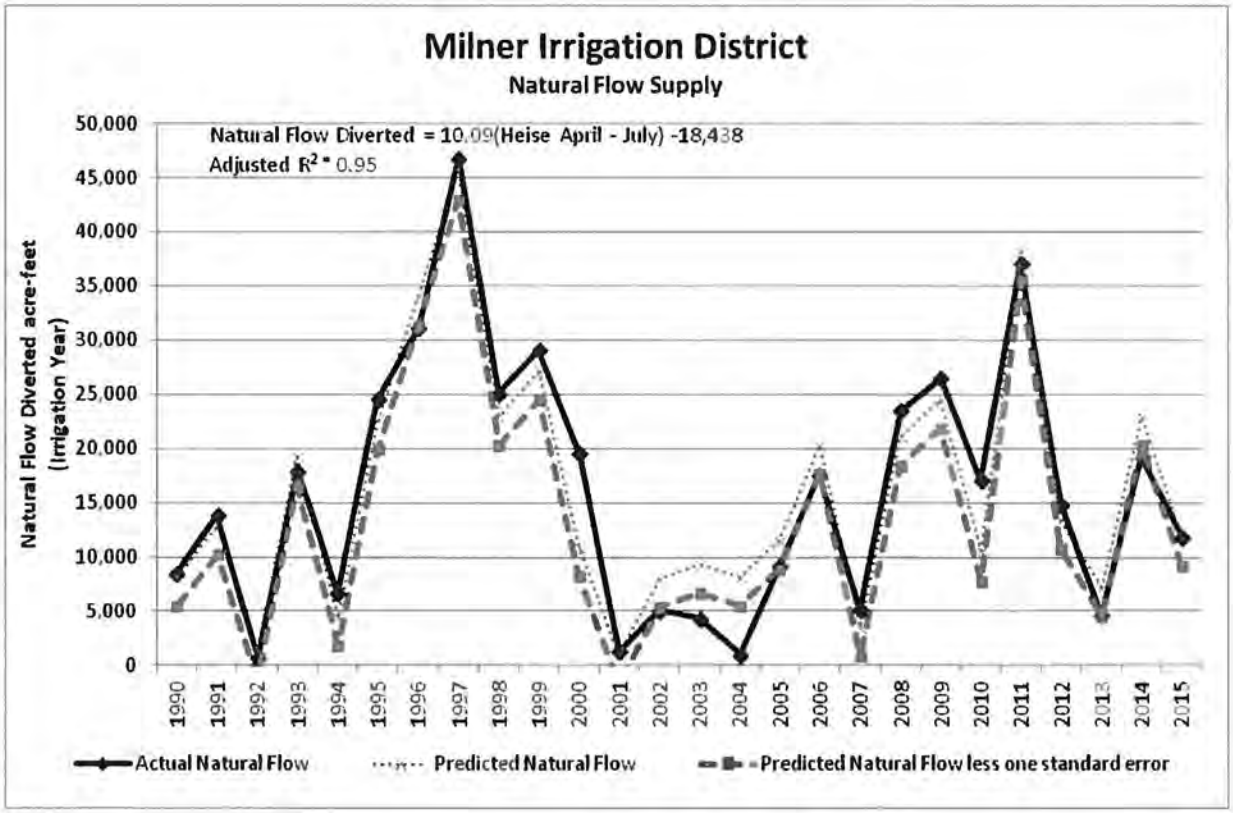
Deborah J. Gibson

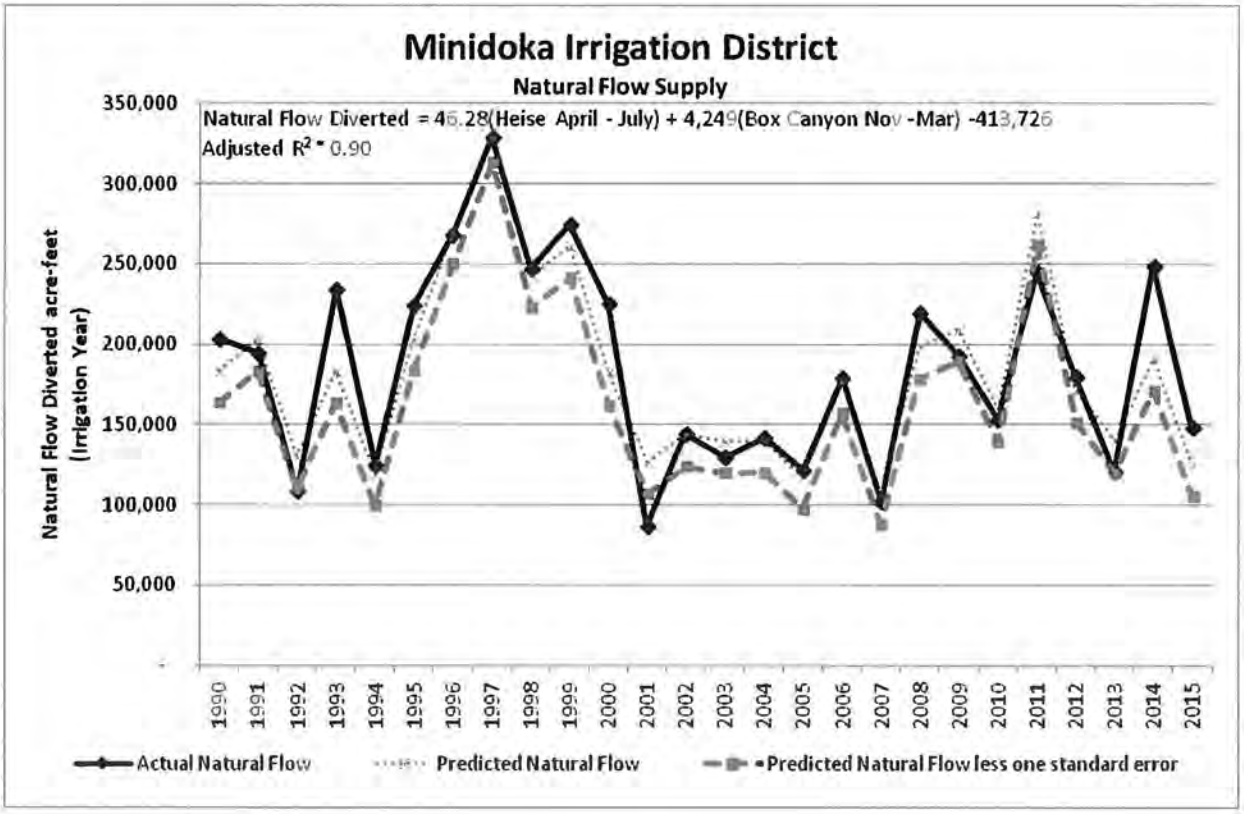
Deborah Gibson
Administrative Assistant

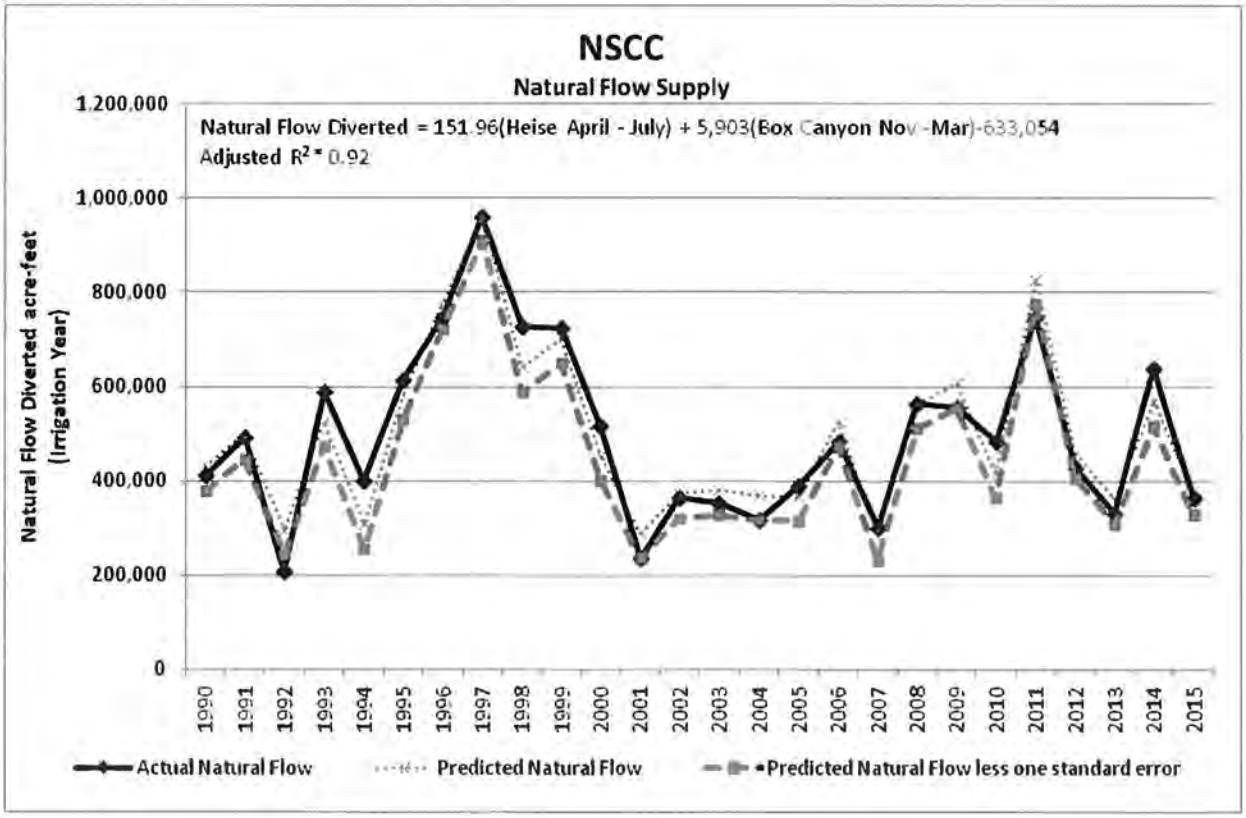

A&B Irrigation District
Natural Flow Supply
Natural Flow Diverted = 9.34(Heise April - July) -19,936
Adjusted R² = 0.92
Natural Flow Diverted acre-feet (Irrigation Year)
45,000
40,000
35,000
30,000
25,000
20,000
15,000
10,000
5,000
-
1990 1991 1992 1993 1994 1995 1996 1997 1998 1999 2000 2001 2002 2003 2004 2005 2006 2007 2008 2009 2010 2011 2012 2013 2014 2015
Actual Natural Flow
Predicted Natural Flow
Predicted Natural Flow less one standard error

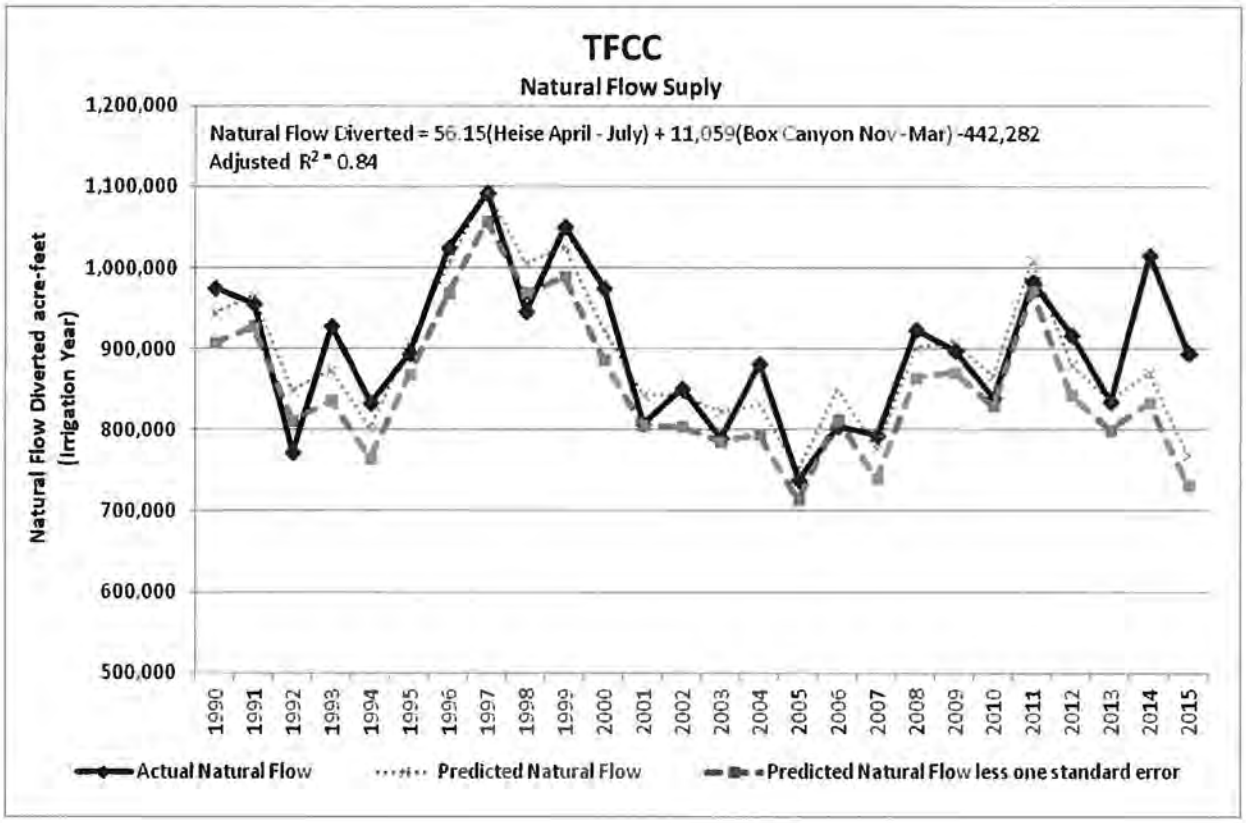

AFRD2 Irrigation District
Natural Flow Supply
Natural Flow Diverted = 72.13(Heise April - July) + 2,307(Box Canyon Nov -Mar) -367,540
Adjusted R² = 0.85
Natural Flow Diverted acre-feet (Irrigation Year)
400,000
350,000
300,000
250,000
200,000
150,000
100,000
50,000
-
1990 1991 1992 1993 1994 1995 1996 1997 1998 1999 2000 2001 2002 2003 2004 2005 2006 2007 2008 2009 2010 2011 2012 2013 2014 2015
Actual Natural Flow
Predicted Natural Flow
Predicted Natural Flow less one standard error


Burley Irrigation District
Natural Flow Supply
Natural Flow Diverted = 31.88(Heise April - July) + 2,614(Box Canyon Nov -Mar) -252,370
Adjusted R² = 0.89
Natural Flow Diverted acre-feet (Irrigation Year)
250,000
200,000
150,000
100,000
50,000
0
1990 1991 1992 1993 1994 1995 1996 1997 1998 1999 2000 2001 2002 2003 2004 2005 2006 2007 2008 2009 2010 2011 2012 2013 2014 2015
Actual Natural Flow
Predicted Natural Flow
Predicted Natural Flow less one standard error


Milner Irrigation District
Natural Flow Supply
Natural Flow Diverted = 10.09(Heise April - July) -18,438
Adjusted R² = 0.95
Natural Flow Diverted acre-feet (Irrigation Year)
50,000
45,000
40,000
35,000
30,000
25,000
20,000
15,000
10,000
5,000
0
1990 1991 1992 1993 1994 1995 1996 1997 1998 1999 2000 2001 2002 2003 2004 2005 2006 2007 2008 2009 2010 2011 2012 2013 2014 2015
Actual Natural Flow
Predicted Natural Flow
Predicted Natural Flow less one standard error


Minidoka Irrigation District
Natural Flow Supply
Natural Flow Diverted = 46.28(Heise April - July) + 4,249(Box Canyon Nov -Mar) -413,726
Adjusted R² = 0.90
Natural Flow Diverted acre-feet (Irrigation Year)
350,000
300,000
250,000
200,000
150,000
100,000
50,000
-
1990 1991 1992 1993 1994 1995 1996 1997 1998 1999 2000 2001 2002 2003 2004 2005 2006 2007 2008 2009 2010 2011 2012 2013 2014 2015
Actual Natural Flow
Predicted Natural Flow
Predicted Natural Flow less one standard error


NSCC
Natural Flow Supply
Natural Flow Diverted = 151.96(Heise April - July) + 5,903(Box Canyon Nov -Mar)-633,054
Adjusted R² = 0.92
Natural Flow Diverted acre-feet (Irrigation Year)
1,200,000
1,000,000
800,000
600,000
400,000
200,000
0
1990 1991 1992 1993 1994 1995 1996 1997 1998 1999 2000 2001 2002 2003 2004 2005 2006 2007 2008 2009 2010 2011 2012 2013 2014 2015
Actual Natural Flow
Predicted Natural Flow
Predicted Natural Flow less one standard error


TFCC
Natural Flow Suply
Natural Flow Diverted = 56.15(Heise April - July) + 11,059(Box Canyon Nov - Mar) -442,282
Adjusted R² = 0.84
Natural Flow Diverted acre-feet (Irrigation Year)
1,200,000
1,100,000
1,000,000
900,000
800,000
700,000
600,000
500,000
1990
1991
1992
1993
1994
1995
1996
1997
1998
1999
2000
2001
2002
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2011
2012
2013
2014
2015
Actual Natural Flow
Predicted Natural Flow
Predicted Natural Flow less one standard error

EXPLANATORY INFORMATION TO ACCOMPANY A FINAL ORDER

(To be used in connection with actions when a hearing was **not** held)

(Required by Rule of Procedure 740.02)

The accompanying order is a "**Final Order**" issued by the department pursuant to section 67-5246, 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 67-5246(4), Idaho Code.

REQUEST FOR HEARING

Unless the right to a hearing before the director or the water resource board is otherwise provided by statute, any person who is aggrieved by the action of the director, and who has not previously been afforded an opportunity for a hearing on the matter shall be entitled to a hearing before the director to contest the action. The person shall file with the director, within fifteen (15) days after receipt of written notice of the action issued by the director, or receipt of actual notice, a written petition stating the grounds for contesting the action by the director and requesting a hearing. See section 42-1701A(3), Idaho Code. **Note: The request must be received by the Department within this fifteen (15) day period.**

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 of: a) the service date of the final order, b) the service date 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.

RECEIVED
MAY 02 2016
DEPARTMENT OF
WATER RESOURCES

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Attorneys for A&B Irrigation District

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY OR FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY	Docket No. CM-DC-2010-001 **A&B IRRIGATION DISTRICT'S PETITION FOR RECONSIDERATION AND REQUEST FOR HEARING RE: APRIL 2016 AS APPLIED ORDER**

COMES NOW, A&B Irrigation District (hereafter referred to as "A&B" or "District"), by and through counsel of record, and hereby requests reconsideration and a hearing on the Director's *Final Order Regarding April 2016 Forecast Supply (Methodology Steps 1-3)* ("*April Order*") issued on April 19, 2016. The petition is filed pursuant to Idaho Code § 67-5246, Idaho Code § 42-1701A(3), and the Department's rules of procedure (IDAPA 37.01.740.02).

BACKGROUND

The Director issued the *April Order* implementing Steps 1 - 3 of the SWC conjunctive administration methodology on April 19, 2016. The Director predicted in-season material injury to TFCC in the amount of 44,200 acre-feet. The Director identified A&B's "proportionate share" of the predicted injury to be "3,463 acre-feet." *April Order* at 5, n. 4. No explanation is given in the order regarding the method and calculation of the "proportionate share." IDWR later published "background data" on its website concerning the apportioned shortfall between junior priority ground water rights subject to the order.[1] The data includes various modeling files and maps. In addition, IDWR included an excel spreadsheet that depicts the "predicted impact of ABID junior use" as "7.8%." No further explanation of the method or calculation is given.

PETITION FOR RECONSIDERATION

A&B requests reconsideration of the Director's calculation that A&B's "proportionate share of the predicted DS of 44,200 acre-feet is 3,463 acre-feet." *April Order* at 2016. A&B is unclear as to the basis for the Director's method and calculation to determine the "proportionate impact" of A&B's ground water rights junior to February 8, 1989 as compared to other junior ground water rights. A&B does not understand how IDWR arrived at the "7.8%" number.

A&B should only be responsible for the predicted injury caused by its junior priority ground water rights subject to the *April Order* on the Near Blackfoot to Minidoka reaches of the Snake River. A&B has five "enlargement" water rights affected by the *April Order* that authorize the irrigation of 2,063.1 acres (water right nos. 36-15127B, 36-15193B, 36-15194B, 36-15195B, and 36-15196B). Even using ESPAM 2.1's average annual crop irrigation requirement of 2.46 af assigned to the A&B area, irrigation of the acres by the junior rights would equal an annual depletion of 5,075 acre-feet. The "proportionate share" identified by the

[1] *See* http://www.idwr.idaho.gov/News/WaterCalls/Surface%20Coalition%20Call/

Director would equal about 68% of the total estimated depletion. A&B does not believe the impact of its junior rights equals 68% of their total annual use, or 3,463 acre-feet on the Near Blackfoot to Minidoka reaches. *See e.g. March 29, 2016 Post Audit Memo (Rangen Call) (Jennifer Sukow)* (showing simulated impact of A&B conversion projects of 1,377 acres on Near Blackfoot to Minidoka reach to be approximately 34%). Moreover, in connection with A&B's mitigation plan for the Rangen Call Brockway Engineering modeled the total depletion for the enlargement water rights as 4,340 acre-feet (2.1 afa). The predicted impact on the Near Blackfoot to Minidoka reaches was estimated as 1,791 acre-feet, or approximately 41% of the total depletion. Using that percentage A&B should only be responsible to mitigate for 2,115 acre-feet (even assuming that IDWR's number of 2.46 afa and 5,075 af is correct).

Consequently, A&B requests the Director to re-calculate the "proportionate impact" based upon the predicted impact of A&B's ground water rights junior to February 8, 1989 on the Near Blackfoot to Minidoka reaches of the Snake River.

Finally, the Director failed to consider the impacts caused by hydraulically connected junior ground water rights tributary to the Snake River but that are not within the defined "area of common ground water supply." Rule 50. Irrespective of the rule, the Director has the duty and obligation to use the best available science in water right administration, which he acknowledges is ESPAM 2.1. *See April Order* at 5, n. 3. ESPAM 2.1 defines the Eastern Snake Plain Aquifer differently than the CM Rules, which was promulgated over 20 years ago. *See* CM Rule 50.01. The rule admittedly fails to account for the best available science to the detriment of junior ground water users like A&B.[2] By excluding certain juniors from administration the Director has artificially enlarged the mitigation obligation of A&B contrary to Idaho's

[2] The Director attempted to repeal Rule 50 during the last legislative session. Although the Legislature rejected the Director's proposed rule change that does not excuse unconstitutional water right administration. Even the Legislature cannot override what the constitution requires.

constitution and water distribution statutes. Stated another way, if all hydraulically connected juniors were being appropriately administered, A&B's "proportionate share" of the mitigation obligation would be lower. The application of the CM Rules in such a manner is unconstitutional and should be reconsidered.

REQUEST FOR HEARING

To the extent the Director denies the above request for reconsideration to identify an accurate "proportionate share" regarding A&B's junior priority ground water rights with respect to the predicted demand shortfall, including appropriately identifying all hydraulically connected junior ground water rights, A&B requests a hearing on the same pursuant to Idaho Code § 42-170A(3).

Further, in order to avoid unnecessary delay and further litigation, A&B and its consultants are available and would be willing to participate in an informal meeting with IDWR the other parties to review and better understand the Director's findings and methods used regarding this issue.

DATED this 2nd day of May, 2016.

BARKER ROSHOLT & SIMPSON LLP

Travis L. Thompson

Attorneys for A&B Irrigation District

CERTIFICATE OF SERVICE

I hereby certify that on this 2nd day of May, 2016, I served a true and correct copy of the foregoing *A&B Irrigation District's Petition for Reconsideration and Request for Hearing re: April 2016 As Applied Order* on the following by the method indicated:

Director Gary Spackman c/o Deborah Gibson State of Idaho Dept of Water Resources 322 E Front St Boise, ID 83720-0098 *** service by electronic mail facsimile – 208-287-6700 gary.spackman@idwr.idaho.gov deborah.gibson@idwr.idaho.gov	Matt Howard U.S. Bureau of Reclamation 1150 N. Curtis Rd. Boise, ID 83706-1234 *** service by electronic mail only mhoward@pn.usbr.gov emcgarry@pn.usbr.gov	IDWR – Eastern Region 900 N. Skyline Dr., Suite A Idaho Falls, ID 83402-1718 *** service by electronic mail only lyle.swank@idwr.idaho.gov
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Travis L. Thompson

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY OR FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY	**CM-DC-2010-001** **ORDER ON PETITION FOR RECONSIDERATION AND REQUEST FOR HEARING**

BACKGROUND

On April 19, 2016, the Director ("Director") of the Idaho Department of Water Resources ("Department") issued the *Fourth Amended Final Order Regarding Methodology for Determining Material Injury to Reasonable In-Season Demand and Reasonable Carryover* ("Methodology Order"). The Methodology Order established nine steps for determining material injury to members of the Surface Water Coalition ("SWC").[1]

On April 19, 2016, the Director issued the *Final Order Regarding April Forecast Supply (Methodology Steps 1-3)* ("As-Applied Order"), which applied steps 1, 2, and 3 of the Methodology Order. The Director predicted an in-season demand shortfall ("DS") of 44,200 acre-feet. *As-Applied Order* at 3-4. The Director ordered that, by May 3, 2016, ground water users with consumptive water rights "junior to February 8, 1989, within the Eastern Snake Plain Aquifer area of common ground water supply shall establish, to the satisfaction of the Director, that they can mitigate for their proportionate share of the predicted DS of 44,200 acre-feet in accordance with an approved mitigation plan." *Id.* at 6. The Director noted that A&B Irrigation District ("A&B") has an approved mitigation plan in place for its ground water rights (filed in Docket No. CM-MP-2015-003) and determined that A&B's "proportionate share of the predicted DS of 44,200 acre-feet is 3,463 acre-feet." *Id.* at 5, n.4.

On May 2, 2016, A&B submitted to the Department *A&B Irrigation District's Petition for Reconsideration and Request for Hearing Re: April 2016 As Applied Order* ("Petition"). On May 9, 2016, the City of Pocatello ("Pocatello") submitted *Pocatello's Response to A&B's Motion for Reconsideration* ("Response").

[1] The SWC is comprised of A&B District, American Falls Reservoir District #2, Burley Irrigation District, Milner Irrigation District, Minidoka Irrigation District, North Side Canal Company, and Twin Falls Canal Company.

ANALYSIS

1. A&B's Proportionate Share Should be Adjusted.

A&B asserts the Director miscalculated A&B's proportionate share of the predicted DS and requests the Director "recalculate the 'proportionate impact' based upon the predicted impact of A&B's ground water rights junior to February 8, 1989 on the Near Blackfoot to Minidoka reaches of the Snake River." *Petition* at 2-3.

A&B's proportionate share of the predicted DS of 44,200 acre-feet was miscalculated. In the As-Applied Order, the Director estimated that A&B's proportionate share is 3,463 acre-feet. The calculation of this volume was based on the incorrect assumption that A&B's approved mitigation plan mitigates for all ground water irrigation diversions within A&B's place of use boundary. However, A&B's mitigation plan only mitigates for specific diversions authorized by ground water rights held by A&B (nos. 36-2080, 36-15192, 36-16749, 36-15127A, 36-15193A, 36-15194A, 36-15195A, 36-15196A, 36-15127B, 36-15193B, 36-15194B, 36-15195B, and 36-15196B). A number of other irrigation water rights are appurtenant to lands located within A&B's district boundaries, but are owned by other water right holders. Because of the inclusion of these other water rights, the As-Applied Order's A&B mitigation obligation of 3,463 acre-feet was calculated based on curtailment of 3,419 acres, which was excessive. As A&B asserts in the Petition, A&B's junior water rights affected by the As-Applied Order only authorize irrigation of 2,063.1 acres. *Petition* at 2.

The Director recalculated the obligation assuming curtailment of only the 2,063.1 acres authorized by junior water rights held by A&B. In ESPAM2.1, the Director applied a stress equal to the average crop irrigation requirement for 2,063.1 acres and distributed the stress among the 184 points of diversion for A&B's junior water rights. The average annual crop irrigation requirement, based on data from the last ten years of the ESPAM2.1 model calibration period (November 1998 through October 2008), was 2.48 acre-feet/acre.[2] Based on the revised analysis, A&B's proportionate share of the predicted DS should be 2,122 acre-feet.[3]

2. The Director will Grant A&B's Request for Hearing on the Scope of Junior-Priority Ground Water Rights That Should be Subject to Administration.

A&B asserts that the Director erroneously excluded "certain juniors from administration" and, therefore, "artificially enlarged the mitigation obligation of A&B contrary to Idaho's constitution and water distribution statutes." *Petition* at 3-4. Specifically, A&B asserts "the Director failed to consider the impacts caused by hydraulically connected junior ground water rights tributary to the Snake River but that are not within" the area of common ground water supply defined by Rule 50 of the Department's Rules for Conjunctive Management of Surface

[2] While A&B notes that Brockway Engineering previously modeled A&B's impact using an annual crop irrigation requirement of 2.1 acre-feet/acre, this value is lower than the ESPAM2.1 data used to calculate the February 8, 1989, priority date for the As-Applied Order. The Director will use the ESPAM2.1 data for the analysis of A&B's impact to be consistent with the calculation of impact for all junior ground water users.

[3] Supporting files for the Department's revised analysis are posted at: http://www.idwr.idaho.gov/News/WaterCalls/Surface%20Coalition%20Call/.

and Ground Water Resources, IDAPA 37.03.11 *et seq.* ("CM Rules"). *Id.* at 3. A&B notes that ESPAM 2.1 defines the Eastern Snake Plain Aquifer differently than the CM Rules and asserts that CM Rule 50 "fails to account for the best available science to the detriment of junior ground water users like A&B." *Id.* A&B asserts that, "if all hydraulically connected juniors were being appropriately administered," A&B's proportionate share of the predicted DS would be lower and that "application of the CM Rules in such a manner is unconstitutional and should be reconsidered." *Id.* at 4. A&B requests a hearing on this issue pursuant to Idaho Code § 1701A(3).

Pocatello argues the Director should reject A&B's argument "that the Director should have evaluated injury without regard to the area of common ground water identified in Rule 50 to reduce A&B's proportional obligation to satisfy SWC's injury amount." *Response* at 2. Pocatello states the Department "is not authorized to disregard lawfully enacted and maintained [CM Rules] in administering delivery calls." *Id.*

Idaho Code § 42-1701A(3) states: "Unless the right to a hearing before the director . . . is otherwise provided by statute, any person aggrieved by any action of the director . . . and who has not previously been afforded an opportunity for a hearing on the matter shall be entitled to a hearing before the director to contest the action." The Director will grant A&B's request for a hearing because the law creates the right to a hearing. A threshold issue is whether the Director can and should determine the constitutionality of a rule establishing an area of common ground water supply.

ORDER

Based upon and consistent with the foregoing, IT IS HEREBY ORDERED that:

1) A&B's request for re-calculation of its proportionate share of the predicted DS set forth in the As-Applied Order is GRANTED. A&B's proportionate share of the predicted DS is 2,122 acre-feet, not 3,463 acre-feet.

2) A&B's request for hearing on the issue of the scope of junior-priority ground water rights that should be subject to administration in response to the SWC delivery call is GRANTED. The granting of this hearing does not stay the effectiveness of the Methodology Order or As-Applied Order. The Director will shortly issue a subsequent order scheduling a pre-hearing conference.

Dated this 11th day of May 2016.

GARY SPACKMAN
Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 11th day of May 2016, the above and foregoing, was served by the method indicated below, and addressed to the following:

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Deborah J. Gibson

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Administrative Assistant to the Director

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Attorneys for A&B Irrigation District

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

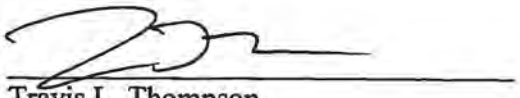
IN THE MATTER OF DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY OR FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY	Docket No. CM-DC-2010-001 Docket No. CM-MP-2015-003 **A&B IRRIGATION DISTRICT'S NOTICE OF WITHDRAWAL OF REQUEST FOR HEARING**

COMES NOW, A&B Irrigation District (hereafter referred to as "A&B" or "District"), by and through counsel of record, and hereby withdraws its request for hearing in the above-captioned matter regarding the issue of the Director's denial of "A&B's request to reduce its proportionate share of the predicted [Demand Shortfall] due to the effects of A&B's enrollment of acres into CREP and its conversions." *See Notice of Pre-Hearing Conference* (dated May 12, 2016). This notice is filed pursuant to A&B's June 14, 2016 letter to the Director and his

subsequent response sent on June 30, 2016.

DATED this 15 day of July, 2016.

BARKER ROSHOLT & SIMPSON LLP



Travis L. Thompson

Attorneys for A&B Irrigation District

CERTIFICATE OF SERVICE

I hereby certify that on this 15th day of July, 2016, I served a true and correct copy of the foregoing *A&B Irrigation District's Notice of Withdrawal of Request for Hearing* on the following by the method indicated:

Director Gary Spackman c/o Deborah Gibson State of Idaho Dept of Water Resources 322 E Front St Boise, ID 83720-0098 *** service by electronic mail facsimile – 208-287-6700 gary.spackman@idwr.idaho.gov deborah.gibson@idwr.idaho.gov	Matt Howard U.S. Bureau of Reclamation 1150 N. Curtis Rd. Boise, ID 83706-1234 *** service by electronic mail only mhoward@pn.usbr.gov emcgarry@pn.usbr.gov	IDWR – Eastern Region 900 N. Skyline Dr., Suite A Idaho Falls, ID 83402-1718 *** service by electronic mail only lyle.swank@idwr.idaho.gov
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Travis L. Thompson

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY OR FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY	**CM-DC-2010-001** **FINAL ORDER CURTAILING NON-ENLARGEMENT GROUND WATER RIGHTS JUNIOR TO APRIL 12, 1994, AND ENLARGEMENT GROUND WATER RIGHTS JUNIOR TO MARCH 14, 1971**

The Director of the Idaho Department of Water Resources ("Department") finds, concludes, and orders as follows:

FINDINGS OF FACT

1. On April 19, 2016, the Director issued the *Fourth Amended Final Order Regarding Methodology for Determining Material Injury to Reasonable In-Season Demand and Reasonable Carryover* ("Methodology Order"). The Methodology Order established nine steps for determining material injury to members of the Surface Water Coalition ("SWC").[1]

2. On April 11, 2019, the Director issued the *Final Order Regarding April 2019 Forecast Supply (Methodology Steps 1-3)* ("As-Applied Order"), which applied steps 1, 2, and 3 of the Methodology Order. The Director predicted an in-season demand shortfall ("DS") of 20,900 acre-feet. *As-Applied Order* at 3-4. The Director ordered that, by May 1, 2019, ground water users with consumptive water rights "junior to August 25, 1991, within the Eastern Snake Plain Aquifer area of common ground water supply ("ESPA ACGWS") shall establish, to the satisfaction of the Director, that they can mitigate for their proportionate share of the predicted DS of 20,900 acre-feet in accordance with an approved mitigation plan." *Id.* at 6. The Director also ordered that, if such a junior ground water user cannot establish they can mitigate for their proportionate share of the predicted DS "in accordance with an approved mitigation plan, the Director will issue an order curtailing the junior-priority ground water user." *Id.*

3. On May 22, 2019, the Director received the Water District 01 Water Report ("Water Report"). The Water Report stated that the Twin Falls Canal Company ("TFCC") leased 5,049.9 acre-feet to the Supplemental Pool according to Water District 01's Rental Pool

[1] The SWC is comprised of A&B Irrigation District, American Falls Reservoir District #2, Burley Irrigation District, Milner Irrigation District, Minidoka Irrigation District, North Side Canal Company, and Twin Falls Canal Company.

Procedure 8.2.a.[2]

4. There are currently six approved mitigation plans in place responding to the SWC delivery call:

(1) Docket No. CM-MP-2009-007 for the benefit of the Idaho Ground Water Appropriators, Inc. ("IGWA") (delivery of stored water);

(2) Docket No. CM-MP-2009-006 for the benefit of IGWA (conversions, dry ups and recharge);

(3) Docket No. CM-MP-2016-001 for the benefit of IGWA (the IGWA and SWC stipulated mitigation plan);

(4) Docket No. CM-MP-2010-001 for the benefit of the Southwest Irrigation District and Goose Creek Irrigation District (collectively, "SWID");

(5) Docket No. CM-MP-2019-001 for the benefit of certain cities commonly referred to as the "Coalition of Cities"; and

(6) Docket No. CM-MP-2015-003 for the benefit of the A&B Irrigation District ("A&B").

5. In the 2019 As-Applied Order, the Director found that due to the nature of the approved mitigation plans for SWID, IGWA and the Coalition of Cities, these entities do not need to establish they can mitigate for their proportionate share of the predicted DS. *See As-Applied Order* at 5, note 4. However, the Director concluded that A&B must mitigate for its proportionate share of the predicted DS of 20,900 acre-feet and determined that A&B's proportionate share is 2,121 acre-feet. *Id.*

6. On April 23, 2019, A&B filed with the Department *A&B Irrigation District's Petition for Reconsideration and Request for Hearing Re: April 2019 As Applied Order*[,] *Notice of Non-use* ("Petition"). In its Petition, A&B requests reconsideration of the Director's determination that A&B's "'proportionate share of the predicted DS of 20,900 acre-feet is 2,121 acre-feet.'" *Petition* at 2 quoting *As Applied Order* at 5, note 4. A&B also requests a hearing regarding the Director's determination of A&B's proportionate share of the predicted DS. *Id* at 3. A&B also provides "notice of non-use of its junior ground water rights subject to the [As-Applied Order] for the 2019 irrigation season." *Id.* at 4.

7. On May 1, 2019, the Coalition of Cities submitted a *Notice of Participation in Cities' Mitigation Plan* to the Department, identifying ground water users participating in the Coalition of Cities mitigation plan for 2019.

8. On May 14, 2019, the Director issued an *Order Granting Request for Hearing* in response to A&B's Petition. Granting the request for hearing does not stay the effectiveness of

[2] The 2019 Water District 01 Rental Pool Procedures can be viewed here: http://www.waterdistrict1.com/rental%20pool%20rules.pdf

the Methodology Order, the As-Applied Order, nor this *Final Order Curtailing Non-Enlargement Ground Water Rights Junior to April 12, 1994, and Enlargement Ground Water Rights Junior to March 14, 1971. Order Granting Request for Hearing* at 2. The *Order Granting Request for Hearing* also states the Director will address A&B's statements of non-use in this order. *Id.*

CONCLUSIONS OF LAW

1. Idaho Code § 42-602 authorizes the Director to supervise water distribution within water districts:

> The director of the department of water resources shall have direction and control of the distribution of water from all natural water sources within a water district to the canals, ditches, pumps and other facilities diverting therefrom. Distribution of water within water districts created pursuant to section 42-604, Idaho Code, shall be accomplished by watermasters as provided in this chapter and supervised by the director. The director of the department of water resources shall distribute water in water districts in accordance with the prior appropriation doctrine. The provisions of chapter 6, title 42, Idaho Code, shall apply only to distribution of water within a water district.

2. As explained above, by May 1, 2019, ground water users with consumptive water rights "junior to August 25, 1991, within the Eastern Snake Plain Aquifer area of common ground water supply" had to "establish, to the satisfaction of the Director, that they can mitigate for their proportionate share of the predicted DS of 20,900 acre-feet in accordance with an approved mitigation plan." *As-Applied Order* at 6. If a junior ground water user does not establish that they can mitigate for their proportionate share of the predicted DS "in accordance with an approved mitigation plan" the ground water user will be subject to this "order curtailing the junior-priority ground water user." *Id.*

Based on the Water Report discussed above, the Director should decrease the forecasted DS by 5,049.9 acre-feet, the amount TFCC rented to the Supplemental Pool. The Methodology Order states "water supplied to private leases or to the rental pool by a SWC member will be included as a part of the SWC supply for that member because non-inclusion would unjustifiably increase the shortfall obligation." Methodology Order at 13; *see also* IDAPA 37.03.11.42.01.g and *American Falls Reservoir Dist. No. 2 v. Idaho Dept. of Water Resources*, 143 Idaho 862, 880, 154 P.3d 433, 451 (2007). Furthermore, when an SWC member leases storage water into the rental pool following a determination of a demand shortfall for that SWC member and the storage water is rented, the rental pool lease in/rental out of storage water is per se evidence that the senior water right holder does not need the water. Therefore, the revised predicted DS is 15,850.1 acre-feet and the revised priority cutoff date is April 12, 1994, for non-enlargement water rights and March 14, 1971, for enlargement water rights. [3]

[3] The As Applied Order determined A&B's proportionate share of the predicted DS or 20,900 acre-feet was 2,121 acre-feet. This *Final Order Curtailing Non-Enlargement Ground Water Rights Junior to April 12, 1994, and Enlargement Ground Water Rights Junior to March 14, 1971's* reduction of the demand shortfall from 20,900 acre-

3. Due to the nature of the approved mitigation plans for SWID, IGWA and the Coalition of Cities, these entities do not need to establish that they can mitigate for their proportionate share of the predicted DS. Junior ground water users entitled to the protection of the SWID, IGWA and Coalition of Cities mitigation plans will not be subject to curtailment during the 2019 irrigation season.

4. As discussed above, A&B's Petition notified the Director that it "will not deliver groundwater pursuant to its referenced ground water rights subject to the [As-Applied Order] this irrigation season. Consistent with the Director's June 30, 2016 letter concerning this same issue, A&B presumes that the referenced water rights will be removed from the curtailment list as A&B will not deliver groundwater pursuant to these rights this irrigation season." Petition at 4. In 2016, A&B similarly stated that it would voluntarily curtail its enlargement water rights but then exercised its enlargement water rights. *Final Order Denying A&B Irrigation District's Petition for Reconsideration* at 2 (Dec. 20, 2016).

5. To ensure that A&B's enlargement water rights are curtailed for 2019, the Director will place the enlargement water rights on the curtailment list. The Director will instruct the Watermaster to confirm that A&B is not diverting ground water pursuant to its enlargement water rights. A&B will not have a mitigation obligation for this year if A&B curtails the enlargement ground water rights and if the priority date for curtailment for 2019 remains junior to A&B's other ground water rights.

6. Consistent with the As-Applied Order, the Director will order curtailment of junior-priority ground water users that have not established they can mitigate for their proportionate share of the predicted DS in accordance with an approved mitigation plan. Junior-priority ground water users subject to curtailment are listed in Attachment A to this order.

ORDER

Based upon and consistent with the foregoing, IT IS HEREBY ORDERED that, at 12:01 a.m. on or before June 21, 2019, ground water users holding water rights bearing priority dates junior to April 12, 1994 and enlargement water rights bearing priority dates junior to March 14, 1971, within the ESPA ACGWS listed in Attachment A to this order shall curtail/refrain from diversion and use of ground water pursuant to those water rights unless notified by the Department that the order of curtailment has been modified or rescinded as to their water rights. This order shall apply to consumptive ground water rights, including but not limited to, agricultural, commercial, industrial, and municipal uses. This order excludes ground water rights used for *de minimis* domestic purposes where such domestic use is within the limits of the definition set forth in Idaho Code § 42-111 and ground water rights used for *de minimis* stock watering where such stock watering use is within the limits of the definitions set forth in Idaho Code § 42-1401A(11), pursuant to IDAPA 37.03.11.020.11.

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feet to 15,580 acre-feet results in a reduction to A&B's proportionate share of the demand shortfall to 1,945 acre-feet.

IT IS FURTHER ORDERED that watermasters for the water districts within the ESPA ACGWS who regulate ground water are directed to review the water rights listed in Attachment A to this order and subject to curtailment and begin contacting the water right holders in their respective districts to evaluate and determine how the water rights will be curtailed.

IT IS FURTHER ORDERED that holders of ground water rights affected by this order may participate in an approved mitigation plan through a ground water district and shall have fifteen days from the issuance of this order to join, solely for mitigation purposes, the ground water district situated nearest the lands to which the water rights are appurtenant. *See* H.B. No. 737 (*Act Relating to the Administration of Ground Water Rights Within the Eastern Snake River Plain*, ch. 356, 2006, *Idaho Sess. Laws* 1089) and Idaho Code § 42-5259. Holders of ground water rights affected by this order may also submit a proposed mitigation plan to the Director in accordance with CM Rule 43. *See* IDAPA 37.03.11.043. Upon receipt of a proposed mitigation plan, the Director will publish notice of the proposed mitigation plan for two successive weeks, after which ten days will be allowed for the filing of protests. The Director will then hold a hearing as necessary to determine whether a proposed mitigation plan will mitigate injury to the SWC caused by the ground water rights at issue. If holders of ground water rights affected by this order do not participate in an approved mitigation plan by June 21, 2019, the Director will curtail the junior priority ground water use.

Dated this 7th day of June 2019.

GARY SPACKMAN
Director

Attachment A
List of Ground Water Rights Subject to Curtailment
Sorted by Owner

Owner	Water Right No.	Basis	Priority Date	Diversion Rate (cfs)	Usage	Total Acres	Enlarge-ment
A&B IRRIGATION DISTRICT; US BUREAU OF RECLAMATION	36-15195B	Decreed	4/1/1978	2.24	IRRIGATION		Y
A&B IRRIGATION DISTRICT; US BUREAU OF RECLAMATION	36-15196B	Decreed	4/1/1981	0.08	IRRIGATION		Y
A&B IRRIGATION DISTRICT; US BUREAU OF RECLAMATION	36-15127B	Decreed	4/1/1984	28.89	IRRIGATION		Y
AARDEMA, DONALD JOHN	36-10225H	Decreed	5/1/1985	0.01	IRRIGATION	3	Y
ALLEN, MICHAEL D; ANDERSON, DANNY L; ANDERSON, MARY ELLEN; BENEFIEL, BRADLEY C; HEILESON, W MAHLON	25-7640	License	4/25/1995	0.1	DOMESTIC		
ATKINSON, ANDREW ; ATKINSON, MARY	29-13736	License	2/21/2006	0.08	DOMESTIC		
BARTAUSKY, GERALD	27-7456	License	3/28/2005	1.71	IRRIGATION	108	
BENCH MARK POTATO CO	22-7534	License	10/28/1996	0.16	COMMERCIAL		
BISHOP, JEREMY KEITH; BISHOP, MICHELLE	35-14394	Decreed	10/31/1986	0.01	IRRIGATION	2	Y
BKC FARMS INC	21-12957	Decreed	9/17/1977	0.28	IRRIGATION	151.3	Y
BLAINE COUNTY SCHOOL DISTRICT #61	37-21742	License	4/17/2006	0.7	IRRIGATION	8.7	
BLAINE COUNTY SCHOOL DISTRICT #61	37-23102		2/20/2018	0.38	IRRIGATION	4.8	
BOTHOF, GERALDA; BOTHOF, ROGER W	36-8805	License	10/31/2000	0.03	IRRIGATION	0.8	
BRP INC	25-7622	License	9/23/1998	0.23	DOMESTIC		
BRUMFIELD, DALE	35-13320	License	8/7/2001	0.1	DOMESTIC		
BURNS CONCRETE INC	25-13982		12/18/2002	4.5	COMMERCIAL		
BURRELL, GEORGE W; BURRELL, LURANA J; RODRIQUEZ, FABIAN	29-13900	License	4/3/2009	0.08	DOMESTIC		
CANYON CREEK LATERAL DITCH ASSN	22-13738	Decreed	10/31/1978	4.95	IRRIGATION	3816	Y
CASSIDY, FRANCIS J; HOFFMAN, RICHARD P; MEYER, DAVID DANIEL; MEYER, JENNY CLUFF; TANNER, TOMMY C	25-7638	License	4/25/1995	0.1	DOMESTIC		
CHURCH OF JESUS CHRIST OF LATTER DAY SAINTS	22-13745	License	7/23/2007	0.11	DOMESTIC		
COOMBS, MICHAEL R	36-15565	License	2/5/2001	0.08	DOMESTIC		

Attachment A
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Sorted by Owner

Owner	Water Right No.	Basis	Priority Date	Diversion Rate (cfs)	Usage	Total Acres	Enlarge-ment
CORP OF THE PRESIDING BISHOP CHURCH OF JESUS CHRIST OF LATTER DAY SAINTS	25-14231	License	9/18/2008	0.14	DOMESTIC		
COUNTRY CLUB WATER	25-14448	Decreed	10/31/1986	0.01	IRRIGATION	18.7	Y
COUNTY OF JEFFERSON	25-13985	License	5/13/2003	0	RECREATION STORAGE		
DAVIDSON, JOSEPH E	36-8790	License	4/12/1999	0.05	DOMESTIC		
DREW, STAN	29-8237	License	4/17/2000	0.11	DOMESTIC		
EAMES, LINDA J	25-7643	License	12/4/1995	0.18	DOMESTIC		
EVANS, MARK C; SANDERS, ROBERT D; SAWYER, KENT H; TAYLOR, BRIAN W	25-7639	License	4/25/1995	0.1	DOMESTIC		
FUNK, BILL	35-4034A	Decreed	4/1/1972	0.3	IRRIGATION	77.1	Y
FUNK, BILL	35-4034B	Decreed	4/1/1979	0.06	IRRIGATION	77.1	Y
GILLEN, NORMAN	27-7585	License	4/20/1999	0.14	DOMESTIC		
GOEDHART, HUGO; GOEDHART, MARY	36-8774	License	3/10/1998	0.13	STOCKWATER, DOMESTIC		
GOLDEN VALLEY DEVELOPMENTS	22-7805	License	2/16/1999	0.39	DOMESTIC		
HAMILTON KOOMPIN, CHERYL; KOOMPIN, RICHARD; SASSER, DALENE	35-14219	License	12/27/2011	0.11	DOMESTIC		
HENDRICKS, TERRY	22-13913	License	1/20/2009	0.17	DOMESTIC		
HERITAGE DEVELOPMENT	29-8173	License	7/19/1996	0.27	DOMESTIC		
HICKS/HELM LLC	25-14233		1/30/2009	0.15	DOMESTIC		
HIGH STONE GRAVEL LLC	25-14325		11/29/2010	1	INDUSTRIAL, COMMERCIAL		
HINCKLEY, LA PREAL	25-14005	License	10/12/2003	0.06	IRRIGATION	3	
HK CONTRACTORS INC	25-14462		3/2/2018	1.12	INDUSTRIAL		
HOFFMAN, RICHARD R; MUELLER, STEVE A; PETTINGILL, CASEY; PETTINGILL, HOLLIE; SIMMONS, JOHN G	25-7649	License	8/12/1996	0.15	DOMESTIC		
HOPE, DENNIS K	22-7784	License	5/24/1995	0.11	DOMESTIC		
INTEGROW MALT LLC	25-13978		5/13/2002	2.23	INDUSTRIAL		
JEFFERSON COUNTY	25-14281	License	9/9/2010	0.65	COMMERCIAL		
JOHNS, KEVIN L; JOHNS, TRACY	35-8603	License	4/18/1994	3.2	IRRIGATION	169	
JOURNEYS END HOMEOWNERS ASSN	35-13612	License	11/24/2003	0.4	DOMESTIC		
JOURNEYS END HOMEOWNERS ASSN	35-13611	License	1/13/2007	0.11	COMMERCIAL, DOMESTIC		

Attachment A
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Sorted by Owner

Owner	Water Right No.	Basis	Priority Date	Diversion Rate (cfs)	Usage	Total Acres	Enlarge-ment
KNIFE RIVER CORPORATION MOUNTAIN WEST	25-14344	License	6/9/2011	0.2	INDUSTRIAL, COMMERCIAL		
LAVA LAKE LAND & LIVESTOCK LLC	37-22469	Decreed	10/31/1986	2.37	IRRIGATION, MITIGATION	586.2	Y
LAZY EIGHT ESTATES DIVISION 2 HOMEOWNERS ASSN INC	25-14189	License	10/26/2006	0.5	DOMESTIC		
LISH, DEBRA KAY	29-7417	License	10/13/1999	0.22	IRRIGATION, DOMESTIC	9.2	
M & B INVESTMENTS LLC	25-14163	License	12/9/2004	0.3	DOMESTIC		
M & B INVESTMENTS LLC	25-14379	License	8/13/2012	0.39	DOMESTIC		
MALAD ESTATES WATER USERS	37-8892	License	6/28/2000	0.2	DOMESTIC		
MILLER, BLAINE E; MILLER, CAROLANNE	36-16878	Decreed	10/31/1986	0.02	STOCKWATER, COMMERCIAL		Y
MORNINGVIEW WATER CO INC	25-7593	License	10/10/1995	0.79	IRRIGATION, DOMESTIC	23	
MORNINGVIEW WATER CO INC	25-14199		9/4/2007	0.83	DOMESTIC		
MORNINGVIEW WATER CO INC	25-14236		7/7/2009	0.25	DOMESTIC		
MOUNTAIN RIVER SPORTSMANS RV PARK & CAMP	25-14229	License	9/2/2008	0.2	COMMERCIAL		
NELSEN DAIRY	36-8745	License	11/7/1995	0.11	STOCKWATER, COMMERCIAL		
NEST EGG INVESTMENTS LLC	25-14419		10/23/2014	0.25	IRRIGATION, DOMESTIC	1	
NEW PHASE INVESTMENTS LLC	25-14186	License	9/18/2006	0.05	COMMERCIAL		
NORTH RIM FAIRWAYS OWNERS ASSN INC	36-16406	License	2/24/2006	0.23	DOMESTIC		
PACIFICORP	25-14431	License	2/19/2016	0.47	WATER QUALITY IMPROVEMENT		
PARKER, CHARLOTTE; PARKER, J BLAIR	21-12952	Decreed	6/1/1977	0.6	IRRIGATION	127	Y
PARKINSON FARMS	34-10393	Decreed	5/1/1976	0.26	IRRIGATION	306	Y
PHELPS, KALEB	27-12264		2/18/2014	0.08	DOMESTIC		
PINSON, JANICE	25-14182	License	3/24/2006	0.2	COMMERCIAL		
RAMSOWER LLC	36-17146	Decreed	4/1/1984	0.01	IRRIGATION	1108	Y
RAMSOWER LLC	36-17141	Decreed	4/1/1984	0.01	IRRIGATION	9	Y
RESERVE HOLDINGS LLC	36-17120		10/10/2017	2.7	INDUSTRIAL STORAGE, INDUSTRIAL FROM STORAGE, DIVERSION TO STORAGE		
RLC FARMS INC	21-10930	Decreed	4/1/1975	0.6	IRRIGATION	179.3	Y
RLC FARMS INC	21-13132	Decreed	9/13/1977	0.44	IRRIGATION	157.3	Y

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Owner	Water Right No.	Basis	Priority Date	Diversion Rate (cfs)	Usage	Total Acres	Enlarge-ment
ROWLANDS INC	29-14000	Decreed	12/31/1976	0.11	INDUSTRIAL		Y
ROWLANDS INC	29-14027		1/31/2012	0.08	IRRIGATION, COMMERCIAL	1	
RUFF TIMES FARMS	35-9050	License	5/18/1995	0.64	IRRIGATION	869	
SAND SPRINGS LP	36-17052		7/15/2015	2.43	WILDLIFE STORAGE, DIVERSION TO STORAGE		
SCHREINER FARMS IDAHO LLC	21-10023	Decreed	3/24/1975	0.36	IRRIGATION	230.3	Y
SCHWENDIMAN, MELVIN; STAKER, DONALD	22-11070	Decreed	6/1/1978	1.13	IRRIGATION	186.7	Y
SORENSON, ESMERALDA J; SORENSON, GREGORY J	37-20361	License	1/9/2001	0.06	STOCKWATER		
SOUTH PARK ESTATES WATER & SEWER	27-7581	License	10/21/1997	0.69	DOMESTIC, FIRE PROTECTION		
SPACE ACRES WATER USERS	29-13555	License	4/24/2003	0.08	DOMESTIC		
SUNROC PARK WATER ASSN INC	25-14170	License	6/20/2005	0.05	DOMESTIC		
TAYLOR MOUNTAIN WATER AND SEWER DISTRICT	25-14440		6/8/2016	0.5	DOMESTIC		
THE CEDAR BUTTE OWNERS ASSN INC	22-7794	License	7/5/1997	1.1	DOMESTIC, FIRE PROTECTION		
UNITED STATES OF AMERICA BUREAU OF LAND MANAGEMENT	35-14430		7/13/2015	0.12	STOCKWATER, INDUSTRIAL, WILDLIFE		
US DEPT OF INTERIOR	35-9059	License	1/28/1997	0.08	STOCKWATER, WILDLIFE		
VALLEY SCHOOL DISTRICT #262	36-16299	License	9/22/2004	1.52	DOMESTIC, FIRE PROTECTION		
WALKER, YOUNG HARVEY	34-10473	Decreed	8/10/1977	0.36	IRRIGATION	190	Y
WALTERS READY MIX	22-14019	License	9/19/2011	4.99	INDUSTRIAL, INDUSTRIAL STORAGE		
WALTERS READY MIX INC	22-13967	License	4/15/2009	4.15	INDUSTRIAL		
WILD WEST INC	37-21719	License	3/22/2006	0.11	DOMESTIC		
WILD WEST PROPERTIES LLC	35-13955		7/22/2009	0.69	MUNICIPAL		
WOODVILLE WATER & SEWER DISTRICT	35-14562		12/11/2017	0.37	DOMESTIC		
YANCEY, CLEM R	35-14239	License	3/14/2012	0.12	DOMESTIC		
YANCEY, LYLE	35-14460		4/7/2016	0.06	DOMESTIC		
YANCEY, LYLE	35-14461		4/7/2016	0.06	DOMESTIC		
YANCEY, RACHEL; YANCEY, RYAN	35-14409	License	12/26/2014	0.12	DOMESTIC		

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 7th day of June 2019, a true and correct copy of the foregoing was served by the method indicated below, and addressed to the following:

John Simpson Travis L. Thompson Nicole L. Swafford BARKER ROSHOLT & SIMPSON, LLP P.O. Box 485 Twin Falls, ID 83303 jks@idahowaters.com nls@idahowaters.com tlt@idahowaters.com jf@idahowaters.com	☒ U.S. Mail, postage prepaid ☐ Hand Delivery ☐ Overnight Mail ☒ Email
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Kathleen Marion Carr US Dept. Interior 960 Broadway Ste 400 Boise, ID 83706 kathleenmarion.carr@sol.doi.gov	☒ U.S. Mail, postage prepaid ☐ Hand Delivery ☐ Overnight Mail ☒ Email
David W. Gehlert Natural Resources Section U.S. Department of Justice 999 18th St, South Terrace, Ste 370 Denver, CO 80202 david.gehlert@usdoj.gov	☒ U.S. Mail, postage prepaid ☐ Hand Delivery ☐ Overnight Mail ☒ Email
Randall D. Fife City Attorney, City of Idaho Falls P.O. Box 50220 Idaho Falls, ID 83405 rfife@idahofallsidaho.com	☒ U.S. Mail, postage prepaid ☐ Hand Delivery ☐ Overnight Mail ☒ Email
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Robert E. Williams WILLIAMS, MESERVY, & LOTHSPEICH, LLP P.O. Box 168 Jerome, ID 83338 rewilliams@wmlattys.com	☒ U.S. Mail, postage prepaid ☐ Hand Delivery ☐ Overnight Mail ☒ Email

Kimberle English

Kimberle English

I FURTHER CERTIFY that on this 7th day of June 2019, a true and correct copy of the foregoing was served on the following by U.S. mail only:

A & B IRRIGATION DISTRICT
PO BOX 675
RUPERT ID 83350-0675

DANNY L AND MARY ELLEN ANDERSON
9787 N 27TH E
IDAHO FALLS ID 83401

DONALD JOHN AARDEMA
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WENDELL ID 83355

PAUL L ARRINGTON
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PO BOX 63
TWIN FALLS ID 83303-0063

MICHAEL D ALLEN
2643 E 97TH N
IDAHO FALLS ID 83401

ANDREW AND MARY ATKINSON
RT 2 NORTH BOX 33
POCATELLO ID 83202

GERALD BARTAUSKY
310 EAST 200 NORTH
BLACKFOOT ID 83221

BENCH MARK POTATO CO
C/O LEE SUTTON
4799 S HWY 191
REXBURG ID 83440

BRADLEY C BENEFIEL
2665 E 97TH N
IDAHO FALLS ID 83401

JEREMY KEITH AND MICHELLE BISHOP
12894 N 26TH W
IDAHO FALLS ID 83402-5263

BKC FARMS INC AND RLC FARMS INC
1908 E 500 N
ST ANTHONY ID 83445

BLAINE COUNTY SCHOOL DISTRICT #61
118 W BULLION ST
HAILEY ID 83333

BRP INC
PO BOX 1768
IDAHO FALLS ID 83403-1768

DALE BRUMFIELD
125 N 800 W
BLACKFOOT ID 83221

BURNS CONCRETE INC
PO BOX 1864
IDAHO FALLS ID 83403

GEORGE W AND LURANA J BURRELL
1852 TRUCKERVILLE RD
POCATELLO ID 83204

CANYON CREEK LATERAL DITCH ASSN
12241 E 3749 N
NEWDALE ID 83436

FRANCIS J CASSIDY
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IDAHO FALLS ID 83401

CORP OF THE PRESIDING BISHOP
CHURCH OF JESUS CHRIST OF LATTER DAY SAINTS
REAL ESTATE SERVICES DIVISION
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SALT LAKE CITY UT 84150-6320

COUNTRY CLUB WATER
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JEROME ID 83338

STAN DREW
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RIGBY ID 83442

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IDAHO FALLS ID 83401

CASTULO FARFAN-CEJA
2459 HWY 25
HAZELTON ID 83335

BILL FUNK
3252 N PLEASANT VALLEY RD
AMERICAN FALLS ID 83211

NORMAN GILLEN
449 S MAIN
TOOELE UT 84074

HUGO AND MARY GOEDHART
610 N 200 E
JEROME ID 83338

GOLDEN VALLEY DEVELOPMENTS
C/O BOYD WITHERS
266 NEZ PERCE
REXBURG ID 83440

CHERYL HAMILTON KOOMPIN AND RICHARD KOOMPIN
2229 W 1000 S
STERLING ID 83210

ROBERT L HARRIS
PO BOX 50130
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HAWLEY TROXELL ENNIS & HAWLEY
PO BOX 1617
BOISE ID 83701-1617

W MAHLON HEILESON
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TERRY HENDRICKS
340 NORTH 12TH WEST
REXBURG ID 83440

HERITAGE DEVELOPMENT
C/O MIKE BIRD
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POCATELLO ID 83201

HICKS/HELM LLC
41 E 7720 S
MIDVALE UT 84047

HIGH STONE GRAVEL LLC
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LA PREAL HINCKLEY
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DENNIS K HOPE
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JEFFERSON COUNTY
210 COURTHOUSE WAY STE 130
RIGBY ID 83442

KEVIN L JOHNS AND TRACY JOHNS
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ABERDEEN ID 83210-1550

JOURNEYS END HOMEOWNERS ASS
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SHELLEY ID 83274

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OXNARD CA 93033-3846

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HOMEOWNERS ASSN INC
8893 SADDLE HORN DR
IDAHO FALLS ID 83404

M & B INVESTMENTS LLC
6549 SOUTH 5TH WEST
IDAHO FALLS ID 83404

DAVID DANIEL AND JENNY CLUFF
MEYER
2599 E 97TH N
IDAHO FALLS ID 83401

MOUNTAIN RIVER SPORTSMANS RV
PARK & CAMP
64 N 5050 E
RIRIE ID 83443

NELSEN DAIRY
600 N 120 E
JEROME ID 83338

NORTH RIM FAIRWAYS OWNERS
ASSN INC
PO BOX 242
JEROME ID 83338

PARKINSON FARMS
2253 N 3100 W
ARCO ID 83213

BETH AND TERRY L PRICE
111 W 400 S
JEROME ID 83338-5947

JERRY R RIGBY
RIGBY ANDRUS & MOELLER CHTD
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REXBURG ID 83440

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C/O DOUG RUFF
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ABERDEEN ID 83210

KNIFE RIVER CORPORATION
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366 S 1700 E
JEROME ID 83338

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1665 DELMAR DR
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PACIFICORP
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SALT LAKE CITY UT 84116

CASEY AND HOLLIE PETTINGILL
2544 E 98TH ST
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RBA LLC
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KIMBERLY ID 83341-0370

FABIAN RODRIQUEZ
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POCATELLO ID 83204

DALENE SASSER
2221 W 1000 S
STERLING ID 83210

LAVA LAKE LAND & LIVESTOCK LLC
PO BOX 2249
HAILEY ID 83333

DEBRA KAY LISH
1347 SYPHON RD
POCATELLO ID 83202

MALAD ESTATES WATER USERS
PO BOX 68
HAGERMAN ID 83332

MOFFATT THOMAS BARRETT ROCK
FIELDS CHTD
PO BOX 51505
IDAHO FALLS ID 83405-1505

KALEB PHELPS
1382 N 750 E
SHELLEY ID 83274

NEW PHASE INVESTMENTS LLC
PO BOX 756
RIGBY ID 83442

CHARLOTTE PARKER
1970 E 600 N
SAINT ANTHONY ID 83445-5307

JANICE PINSON
PO BOX 1854
EUREKA MT 59917

RESERVE HOLDINGS LLC
PO BOX 536
RUPERT ID 83350

ROWLANDS INC
1141 ROWLAND RD
POCATELLO ID 83204-7416

KENT H SAWYER
9730 N 27TH E
IDAHO FALLS ID 83401

SCHREINER FARMS IDAHO LLC
C/O GARY KELLY
105 E 8TH
OLYMPIA WA 98501

ESMERALDA J AND GREGORY J SORENSON
423 N 100 E
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BRIAN W TAYLOR
9764 N 27TH E
IDAHO FALLS ID 83401

UNITED STATES OF AMERICA
USDI BUREAU OF LAND MANAGEMENT
1387 S VINNELL WAY
BOISE ID 83709-1657

YOUNG HARVEY WALKER
2338 N 2930 W
ARCO ID 83213

WILD WEST PROPERTIES LLC
4554 W 17TH S
IDAHO FALLS ID 83402

LYLE YANCEY
143 N 360 W
BLACKFOOT ID 83221

MELVIN SCHWENDIMAN
PO BOX 74
NEWDALE ID 83436

SOUTH PARK ESTATES WATER & SEWER
C/O BOB MORRISON
1460 N 1180 E
SHELLEY ID 83274

SUNROC PARK WATER ASSN INC
2695 W OMNI DR
IDAHO FALLS ID 83402

TETON HOLDINGS LLC
C/O LAURENCE GUNDERSON
1015 LAKEWOOD DR
TWIN FALLS ID 83301

US DEPT OF INTERIOR
BUREAU OF LAND MANAGEMENT
1405 HOLLIPARK DR
IDAHO FALLS ID 83401

WALTERS READY MIX INC
PO BOX 390
REXBURG ID 83440-0390

WOODVILLE WATER & SEWER DISTRICT
C/O MIKE ANDERSON
705 E 1550 N
SHELLEY ID 83274

CLEM R YANCEY
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BLACKFOOT ID 83221

JOHN G SIMMONS
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SPACE ACRES WATER USERS
C/O DENNIS HOWELL
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THE CEDAR BUTTE OWNERS ASSN
PO BOX 856
REXBURG ID 83440

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Kimberle English

EXPLANATORY INFORMATION TO ACCOMPANY A FINAL ORDER

(To be used in connection with actions when a hearing was **not** held)

(Required by Rule of Procedure 740.02)

The accompanying order is a "**Final Order**" issued by the department pursuant to section 67-5246, 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 67-5246(4), Idaho Code.

REQUEST FOR HEARING

Unless the right to a hearing before the director or the water resource board is otherwise provided by statute, any person who is aggrieved by the action of the director, and who has not previously been afforded an opportunity for a hearing on the matter shall be entitled to a hearing before the director to contest the action. The person shall file with the director, within fifteen (15) days after receipt of written notice of the action issued by the director, or receipt of actual notice, a written petition stating the grounds for contesting the action by the director and requesting a hearing. See section 42-1701A(3), Idaho Code. **Note: The request must be received by the Department within this fifteen (15) day period.**

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 of: a) the service date of the final order, b) the service date 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.

Revised July 1, 2010

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY OR FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY	**CM-DC-2010-001** **ORDER REVISING APRIL 2021 FORECAST SUPPLY** ***(METHODOLOGY STEP 6)***

The Director ("Director") of the Idaho Department of Water Resources ("Department") finds, concludes, and orders as follows:

FINDINGS OF FACT

A. Background

1. On April 19, 2016, the Director issued his *Fourth Amended Final Order Regarding Methodology for Determining Material Injury to Reasonable In-Season Demand and Reasonable Carryover* ("Methodology Order"). The Methodology Order established nine steps for determining material injury to members of the Surface Water Coalition ("SWC"). This order applies Step 6 of the Methodology Order.

2. Step 6 states:

> Approximately halfway through the irrigation season, but following the events described in Step 5, the Director will, for each member of the SWC: (1) recalculate RISD [Reasonable In-Season Demand]; (2) issue a revised FS [Forecast Supply]; and (3) estimate the Time of Need date.

Methodology Order at 37 (internal footnote omitted).

3. On April 19, 2021, the Director issued his *Final Order Regarding April 2021 Forecast Supply (Methodology Steps 1 – 3)* ("April Forecast Supply Order"). The April Forecast Supply Order predicted a demand shortfall to the SWC of 40,500 acre-feet for the 2021 irrigation season. *April Forecast Supply Order* at 3. At that time, the only member of the SWC predicted to experience material injury during the 2021 irrigation season was the Twin Falls Canal Company ("TFCC"). The Director ordered that, by May 1, 2021, ground water users with consumptive water rights "junior to May 30, 1989, within the Eastern Snake Plain Aquifer area of common ground water supply shall establish, to the satisfaction of the Director, that they can mitigate for their proportionate share of the predicted [demand shortfall] of 40,500 acre-feet in

accordance with an approved mitigation plan." *Id.* at 6. The Director also ordered that, if a junior ground water user cannot establish they can mitigate for their proportionate share of the predicted demand shortfall in accordance with an approved mitigation plan, "the Director will issue an order curtailing the junior-priority ground water user." *Id.*

4. On May 20, 2021, the Director issued a *Final Order Curtailing Ground Water Rights Junior to May 30, 1989* ("Curtailment Order"). The Director ordered that:

> [A]t 12:01 a.m. on or before June 3, 20[21], ground water users holding water rights bearing priority dates junior to May 30, 1989, within the [Eastern Snake Plain Aquifer area of common ground water supply] listed in Attachment A to this order shall curtail/refrain from diversion and use of ground water pursuant to those water rights unless notified by the Department that the order of curtailment has been modified or rescinded as to their water rights.

Curtailment Order at 3-4.

B. April – June Climate

5. The April 2021 Joint Forecast prepared by the United States Army Corps of Engineers and the United States Bureau of Reclamation ("BOR") predicted 2,600,000 acre-feet of natural flow at the Heise gage for the period April – July, 2021. *April Forecast Supply Order* at 2. The Joint Forecast "is generally as accurate a forecast as is possible given current data gathering and forecasting techniques." *Methodology Order* at 17.

6. The months of April, May, and June were dry. According to data measured at the Natural Resources Conservation Service's SNOTEL sites in the Upper Snake River Basin, the basin received 49%, 121%, and 13% of average precipitation in April, May, and June, respectively. The National Weather Service's Twin Falls weather station reported 29%, 51%, and 2% of normal precipitation in April, May and June, respectively. Twin Falls temperatures were 0.3 degrees below normal for April, were 0.1 degrees above normal for May, and were 8.4 degrees above normal for June.[1]

C. Reasonable In-Season Demand

7. RISD is the volume of water that would be required to be diverted at the point of diversion during the year of evaluation to grow the specific crops within the service area of the entity. In April, the demand from the 2006/2008/2012 baseline year ("BLY") represents the RISD. During the irrigation season, the RISD for the already expired portion of the irrigation season is recalculated by dividing the actual crop water need ("CWN") for each entity by the project efficiency for that entity. For the future remainder of the irrigation season, the RISD is the demand predicted from the July-October 06/08/12 BLY. RISD is calculated on a monthly timestep.

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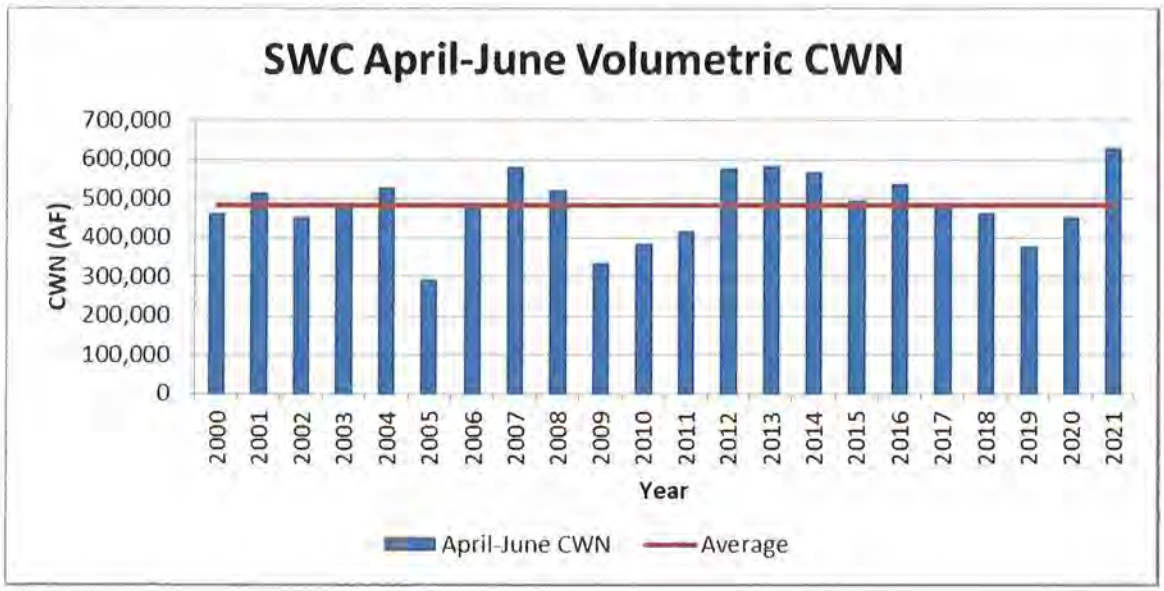
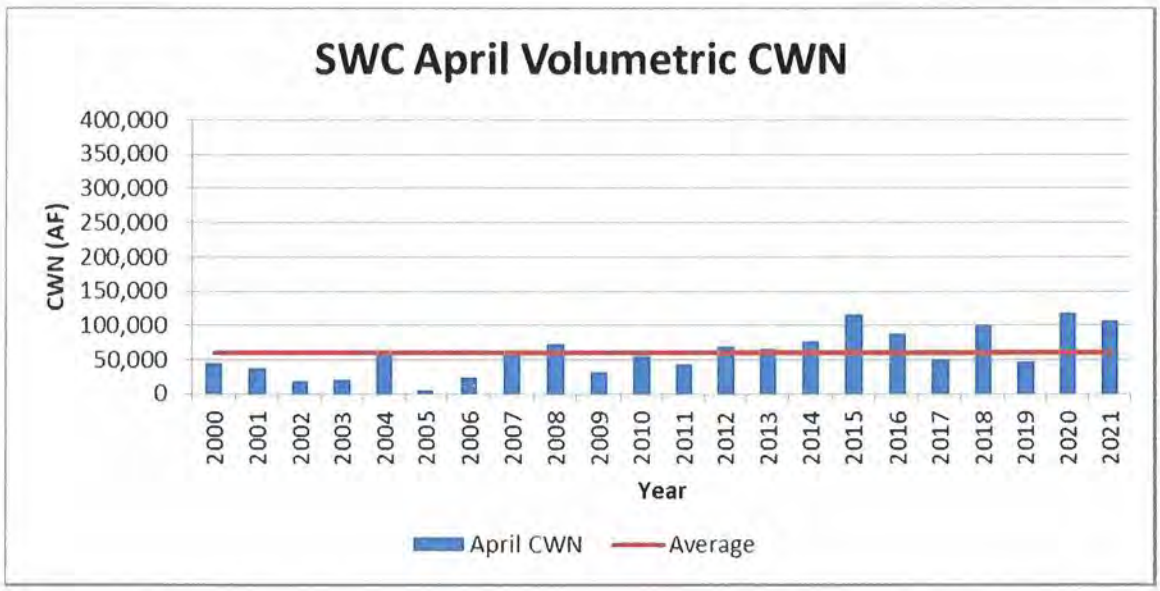
[1] Precipitation and temperature data obtained from the NOAA National Weather Service Preliminary Monthly Climate Data for the Twin Falls 3SE weather station (Twin Falls Airport).

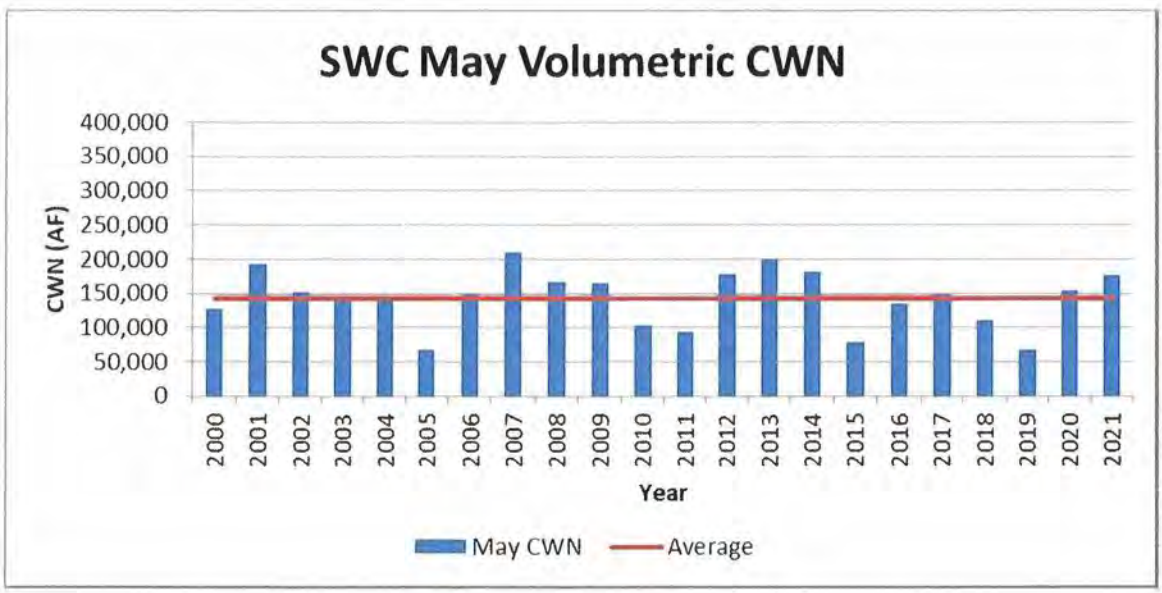
i. Crop Water Need

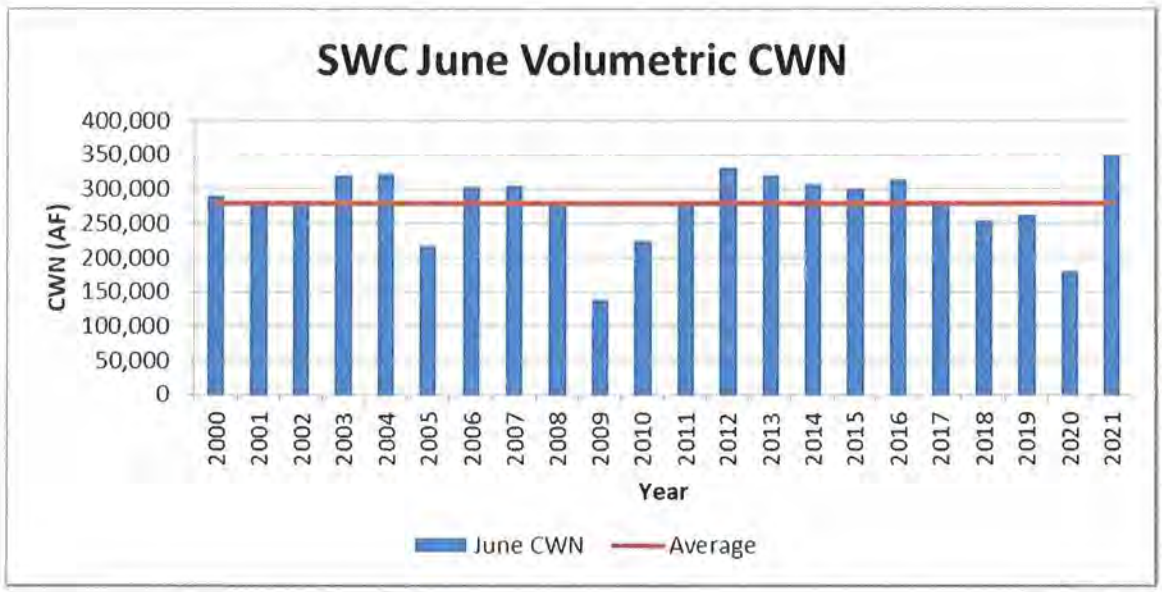
8. CWN is the project wide volume of irrigation water required for crop growth so crop development is not limited by water availability. CWN is the difference between the fully realized consumptive use associated with crop development, or evapotranspiration, and effective precipitation. CWN is an input variable for calculating RISD for those months of the irrigation season that are complete. Actual RISD for the completed portion of the irrigation season is combined with monthly predicted baseline demands for the remaining months of the irrigation season to calculate a season-total RISD volume. Demand shortfall is then calculated as the difference between the adjusted forecast supply and the RISD. For specifics regarding determination of CWN, see *Methodology Order* at 14.

9. As calculated from the beginning of the irrigation season (April 1), the SWC's volumetric CWN for the current water year through the month of June is 631,436 acre-feet. This volume is 127% of the April 1 – June 30 ten-year average CWN (2011-2020) and 120% of the CWN for the (2006/2008/2012) BLY. As calculated from April 1 to June 30, from the year 2000 until this year, 2021 has the largest CWN volume of any irrigation season. The following graphs summarize monthly volumetric CWN values.




SWC April Volumetric CWN
CWN (AF)
400,000
350,000
300,000
250,000
200,000
150,000
100,000
50,000
0
2000
2001
2002
2003
2004
2005
2006
2007
2008
2009
2010
2011
2012
2013
2014
2015
2016
2017
2018
2019
2020
2021
Year
April CWN
Average


SWC May Volumetric CWN
CWN (AF)
400,000
350,000
300,000
250,000
200,000
150,000
100,000
50,000
0
2000
2001
2002
2003
2004
2005
2006
2007
2008
2009
2010
2011
2012
2013
2014
2015
2016
2017
2018
2019
2020
2021
Year
May CWN
Average



ii. Extension of BLY

10. The RISD for the future portion of the irrigation season (July –October) is the July-October demand for (2006/2008/2012) BLY. The numeric July-October demand values are shown in the table in Finding of Fact 11 below.

iii. Calculation of RISD

11. As calculated from the beginning of the irrigation season (April 1), the SWC's volumetric RISD for 2021 through June 30 is 1,731,575 acre-feet. This volume is 129% of the April 1 – June 30 ten-year average RISD (2011-2020) and 132% of the April-June demand for the (2006/2008/2012) BLY. As calculated from April 1 to June 30, from the year 2000 until this year, 2021 has the largest RISD volume of any irrigation season. The recalculated RISD on June 30 of the 2021 irrigation season by entity is summarized in column six of the following table:

	April-June CWN (AF)	E_p (April - June)	April-June RISD (AF)	July-October Demand for 06/08/12 BLY (AF)	Recalculated RISD (AF)
A&B	19,056	0.45-0.96	31,790	36,114	67,904
AFRD2	70,170	0.21-0.37	234,532	261,740	496,272
BID	53,223	0.31-0.47	130,653	136,738	267,390
Milner	14,636	0.35-0.90	29,302	28,352	57,654
Minidoka	100,661	0.36-0.56	213,368	200,690	414,058
NSCC	156,076	0.22-0.39	525,648	584,862	1,110,510
TFCC	217,614	0.29-0.50	566,343	633,715	1,200,058

D. Forecast Supply

12. When determined during the irrigation season, the forecast supply ("FS") is the sum of the actual natural flow supply from April through June, the predicted natural flow supply from July through October, and the actual storage allocations. *Methodology Order* at 37. Actual natural flow diversions for the already expired portion of the irrigation season are extracted from the Department's water rights accounting program. The natural flow diversions for the remainder of the irrigation season are estimated by a regression analysis. *Id.* at 18, 37. Storage allocations are established by the BOR and Water District 01 ("WD1") on the day of allocation. *Id.* at 37.

i. Sum of Actual Natural Flow Diverted

13. Actual natural flow diverted for the period April through June for each SWC member are summarized in the table contained within the Summary of Forecast Supply section in Finding of Fact 21.

ii. Regression Models to Predict Natural Flow (July – October)

14. Natural flow diversions were predicted for the remainder of the irrigation season by regression analysis. The Methodology Order established the following variables as predictor variables in the regression models: natural flow in the Snake River near Heise as reported by the BOR, snow water equivalent ("SWE") data from the Two Ocean Plateau SNOTEL site, Spring Creek discharge, and select ground water levels near American Falls Reservoir. *Methodology Order* at 19. Unique regression models with unique predictor variable groups are established in the Methodology Order for each SWC member.

15. Either June 15 or July 1 SWE values for the Two Ocean Plateau SNOTEL site are used as input variables in each of the regression models developed in the Methodology Order. Two Ocean Plateau SWE data was selected as a predictor variable in the Methodology Order based upon step-wise statistical analysis carried out in the development of each regression model. The Two Ocean Plateau SWE data is an optimum predictor variable for several reasons including: its elevation (the site is located above 9,000 ft and typically still has snow late in the runoff season (June 15 and July 1); its location (the site is in the headwaters of the Snake River above Jackson Reservoir); and its period of record, which is sufficiently long enough to support model development.

16. On July 1, 2021, the Two Ocean Plateau SNOTEL station reported 0.2 inches of SWE and this value was used to predict July – October natural flow volumes for A&B, AFRD2, and Milner.

17. The variables used to predict July – October natural flow volumes for BID, Minidoka, and NSCC in 2021 include: (1) 0.0 inches of SWE reported by the Two Ocean Plateau SNOTEL site on June 15, 2021; (2) 1,841,633 acre-feet of natural flow runoff at the Snake River near Heise (April – June) as reported by the BOR; and (3) 26.25 feet depth to water at well 5S31E27ABA1 as measured by IDWR on March 23, 2021.

18. The variables used to predict the July – October natural flow volume for TFCC in 2021 include: (1) 0.0 inches of the SWE reported by the Two Ocean Plateau SNOTEL Site on June 15; (2) 1,841,633 acre-feet of natural flow runoff at the Snake River near Heise (April – June) as reported by the BOR; and (3) 80,118 acre-feet of discharge (January – May) as measured and reported by the United States Geologic Survey for its *Spring Creek at Sheepskin Rd Nr Fort Hall ID* Gage (Gage No. 13075983).

iii. Storage Allocations

19. Preliminary storage allocation values for each member of the SWC were established by the BOR and WD1 and published in WD1's Initial Storage Report on June 29, 2021,[2] found in the table in Finding of Fact 21 below.

iv. Adjustments to Total Supply

20. The natural flow and storage water supplies were both adjusted as shown in the table in Finding of Fact 21 below. Adjustments to natural flow include wheeled water to Southwest Irrigation District through BID and Milner, 3,700 acre-feet and 3,000 acre-feet, respectively. The only adjustments made to the stored water supply in the table below were for the Minidoka Credit. Adjustments for wheeled storage water published in WD1's weekly reports were not included as an adjustment because wheeled water does not actually increase the amount of water available for use by the SWC. Water supplied to or from the rental pool was not included in the adjustments. An adjustment for water supplied to or from the rental pool would artificially increase or decrease the shortfall obligation.

v. Summary of Forecast Supply

21. The table below contains the individual components of the FS for each of the SWC members.

	Natural Flow Diverted 4/1 to 6/30 (AF)	Predicted Natural Diversions Flow 7/1 to 10/31 (AF)	Natural Flow Adjustment (AF)	Preliminary Storage Allocation (AF)	Minidoka Credit Adjustment (AF)	Forecast Supply (AF)
A&B	2,868	0	0	132,913		135,781
AFRD2	57,259	2,864	0	382,492	1,000	443,616
BID	113,750	4,178	(3,700)	220,123	5,130	339,482
Milner	11,124	835	(3,000)	83,050		92,009
Minidoka	108,748	5,620	0	314,318	8,370	437,056
NSCC	279,202	44,560	0	834,679	(7,750)	1,150,691
TFCC	457,025	394,532	0	237,962	(6,750)	1,082,769

[2] The *Initial Storage Report* may be viewed at: http://www.waterdistrict1.com/WD01%20Storage%20Report.pdf.

E. Revised Shortfall Prediction

22. Demand Shortfall ("DS") is calculated as the difference between RISD and the FS.

23. Based on the above, and as summarized in the table below, the Director predicts, at this time, that TFCC and AFRD2 are expected to experience material injury.

	Forecast Supply (AF)	RISD (AF)	Shortfall (AF)
A&B	135,781	67,904	0
AFRD2	443,616	496,272	52,700
BID	339,482	267,390	0
Milner	92,009	57,654	0
Minidoka	437,056	414,058	0
NSCC	1,150,691	1,110,510	0
TFCC	1,082,769	1,200,058	117,300
		Total	170,000

24. The current, predicted shortfall to the SWC's RISD is 170,000 acre-feet.

25. The estimated Time of Need was established by predicting when the remaining storage balance for TFCC was equal to their reasonable carryover volume of 25,200 acre-feet and the remaining storage balance for AFRD2 was equal to their reasonable carryover volume of 11,500 AF. An analogous year was chosen to predict the storage use for TFCC and AFRD2 for the remainder of this season. The analogous year, 2013, was selected based on similar Blackfoot to Milner reach gains. Anticipating that TFCC's and AFRD2's storage use for the remainder of the 2021 season will be similar to their storage use in 2013, the Time of Need is predicted to occur on August 20, 2021, for TFCC and September 25, 2021 for AFRD2.

F. Step 6

26. Step 6 requires the following:

> Upon a determination of an additional mitigation obligation, junior ground water users will be required to establish, to the satisfaction of the Director, their ability to secure a volume of storage water pursuant to an approved mitigation plan or to conduct other approved mitigation activities that will deliver the additional mitigation obligation water to the injured members of the SWC at the Time of Need. If junior ground water users fail or refuse to submit this information within fourteen (14) days from issuance of a Step 6 order, the Director will issue an order curtailing junior ground water users. The ESPA Model will be run to determine the priority date to produce the

necessary mitigation obligation volume within the area of common ground water supply, as described by CM Rule 50.01.

Methodology Order at 38 (footnote omitted).

27. The predicted July DS for TFCC is 117,300 acre-feet. The predicted shortfall to AFRD2 is 52,700 acre-feet.

28. The Department ran the Eastern Snake Plain Aquifer Model ("ESPAM") version 2.1 to predict the junior priority water rights that must be curtailed to produce the volume of water equal to the predicted July DS. Ground water rights bearing priority dates junior to June 14, 1977, must be curtailed to produce the volume of water equal to the predicted July DS.

CONCLUSIONS OF LAW

29. Idaho Code § 42-602 authorizes the Director to supervise water distribution within water districts:

> The director of the department of water resources shall have direction and control of the distribution of water from all natural water sources within a water district to the canals, ditches, pumps and other facilities diverting therefrom. Distribution of water within water districts created pursuant to section 42-604, Idaho Code, shall be accomplished by watermasters as provided in this chapter and supervised by the director. The director of the department of water resources shall distribute water in water districts in accordance with the prior appropriation doctrine. The provisions of chapter 6, title 42, Idaho Code, shall apply only to distribution of water within a water district.

30. Idaho Code § 42-607 states the watermaster, under the direction of the Director, shall regulate diversions "when in times of scarcity of water it is necessary so to do in order to supply the prior rights of others in such stream or water supply . . . ."

31. Based on Findings of Fact 5 through 25 above, it is reasonably certain TFCC and AFRD2 will be materially injured. The predicted shortfall to TFCC is 117,300 acre-feet. The predicted shortfall to AFRD2 is 52,700 acre-feet.

32. In the April Forecast Supply Order, the Director predicted a demand shortfall to the SWC of 40,500 acre-feet. Because the Step 6 revised mid-season prediction is greater than the shortfall predicted in the April Forecast Supply Order, the curtailment date established in the Curtailment Order must be adjusted.

33. Using the ESPAM 2.1, the new curtailment date is junior to June 14, 1977.

34. The predicted July DS is 170,000 acre-feet. Junior ground water users holding consumption water rights bearing priority dates junior to June 14, 1977, within the Eastern Snake

Plain Aquifer area of common ground water supply must mitigate for their proportionate share of the predicted DS in accordance with an approved mitigation plan.[3] Junior ground water users mitigating for their proportionate share of the predicted DS with a secured volume of water pursuant to an approved mitigation plan must, to the satisfaction of the Director, secure their proportionate share for delivery to the injured members of the SWC on or before August 3, 2021.

35. If, on or before August 3, 2021, ground water users holding consumptive water rights bearing priority dates junior to June 14, 1977, within the Eastern Snake Plain Aquifer area of common ground water supply fail to establish, to the satisfaction of the Director, that they can mitigate for their proportionate share of the predicted DS of 170,000 acre-feet in accordance with an approved mitigation plan, the Director will issue an order curtailing the junior-priority ground water user. Junior ground water users who are mitigating with a secure volume of water are not required to assign the secured volume of water until after the Director issues a subsequent order requiring assignment of the water.

ORDER

Based upon and consistent with the foregoing, IT IS HEREBY ORDERED as follows:

The Director's revised prediction is an in-season DS of 170,000 acre-feet. On or before August 3, 2021, ground water users holding consumptive water rights bearing priority dates junior to June 14, 1977, within the Eastern Snake Plain Aquifer area of common ground water supply shall establish, to the satisfaction of the Director, that they can mitigate for their proportionate share of the predicted DS of 170,000 acre-feet in accordance with an approved mitigation plan. If a junior ground water user cannot establish, to the satisfaction of the Director that they can mitigate for their proportionate share of the predicted DS of 170,000 acre-feet in accordance with an approved mitigation plan, the Director will issue an order curtailing the junior-priority ground water user.

[3] There are six approved mitigation plans in place responding to the SWC delivery call filed by: 1) A&B Irrigation District, 2) Southwest Irrigation District and Goose Creek Irrigation District (collectively, "SWID"), 3) the Idaho Ground Water Appropriators, Inc. ("IGWA"), and 4) certain cities commonly referred to as the "Coalition of Cities." A&B's enlargement rights have already been curtailed by the May 20, 2021, Curtailment Order, which remains in effect. A&B's other water rights are not affected by the adjusted curtailment date, thus A&B does not need to establish that it can mitigate for its proportionate share of the predicted DS in this order. SWID, IGWA and the Coalition of Cities, do not need to establish that they can mitigate for their proportionate share of the predicted DS either due to the nature of their respective mitigation plans.

IT IS FURTHER ORDERED the May 20, 2021, Curtailment Order remains in full force and effect. All ground water users holding water rights listed in Attachment A to the May 20, 2021, Curtailment Order bearing priority dates junior to May 30, 1989, shall continue to be curtailed from diversion and use of ground water pursuant to those water rights unless they are mitigating in accordance with an approved mitigation plan or are notified by the Department that the order of curtailment has been modified or rescinded as to their water rights.

Dated this 20th day of July, 2021.

GARY SPACKMAN
Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 20th day of July 2021, a true and correct copy of the foregoing was served by the method indicated below, and addressed to the following:

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Megan Jenkins

EXPLANATORY INFORMATION TO ACCOMPANY A FINAL ORDER

(To be used in connection with actions when a hearing was **not** held)

(Required by Rule of Procedure 740.02)

The accompanying order is a "**Final Order**" issued by the department pursuant to section 67-5246, 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 67-5246(4), Idaho Code.

REQUEST FOR HEARING

Unless the right to a hearing before the director or the water resource board is otherwise provided by statute, any person who is aggrieved by the action of the director, and who has not previously been afforded an opportunity for a hearing on the matter shall be entitled to a hearing before the director to contest the action. The person shall file with the director, within fifteen (15) days after receipt of written notice of the action issued by the director, or receipt of actual notice, a written petition stating the grounds for contesting the action by the director and requesting a hearing. See section 42-1701A(3), Idaho Code. **Note: The request must be received by the Department within this fifteen (15) day period.**

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 of: a) the service date of the final order, b) the service date 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.

Revised July 1, 2010

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY OR FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY	Docket No. CM-DC-2010-001 **FINAL ORDER ESTABLISHING 2022 REASONABLE CARRYOVER** ***(METHODOLOGY STEP 9)***

FINDINGS OF FACT

1. On April 19, 2016, the Director ("Director") of the Idaho Department of Water Resources ("Department") issued the *Fourth Amended Final Order Regarding Methodology for Determining Material Injury to Reasonable In-Season Demand and Reasonable Carryover* ("Methodology Order"). The Methodology Order established 9 steps for determining material injury to members of the Surface Water Coalition ("SWC"). This order applies step 9, the final step of the Methodology Order for the 2022 water year.

2. The Methodology Order describes step 9 as follows:

> Step 9: Following the end of the irrigation season (on or before November 30), the Department will determine the total actual volumetric demand and total actual [crop water need] for the entire irrigation season. This information will be used for the analysis of reasonable carryover shortfall, selection of future [base line year], and for the refinement and continuing improvement of the method for future use.
>
> On or before November 30, the Department will issue estimates of actual carryover and reasonable carryover shortfall volumes for all members of SWC. These estimates will be based on, but not limited to, the consideration of the best available water diversion and storage data from Water District 01, return flow monitoring, comparative years, and [reasonable in-season demand]. These estimates will establish the obligation of junior ground water users in providing water to the SWC for reasonable carryover shortfall. Fourteen (14) days following the issuance by the Department of reasonable carryover shortfall obligations, junior ground water users will be required to establish, to the satisfaction of the Director, their ability to supply a volume of storage water or to conduct other approved mitigation activities that will provide water to the injured members of the SWC equal to the reasonable carryover shortfall for all injured members of the SWC. If junior ground water users cannot provide this information, the Director will issue an order curtailing junior ground water rights.

Methodology Order at 38–39.

3. There are currently seven approved mitigation plans in place responding to the SWC delivery call to mitigate for material injury to in-season demand and reasonable carryover:

1) Docket No. CM-MP-2009-007 for the benefit of the Idaho Ground Water Appropriators, Inc. ("IGWA") (delivery of stored water);

2) Docket No. CM-MP-2009-006 for the benefit of IGWA (conversions, dry ups, and recharge);

3) Docket No. CM-MP-2016-001 for the benefit of IGWA (the IGWA and SWC stipulated mitigation plan);

4) Docket No. CM-MP-2010-001 for the benefit of the Southwest Irrigation and Goose Creek Irrigation District (collectively, "SWID");

5) Docket No. CM-MP-2019-001 for the benefit of certain cities commonly referred to as the "Coalition of Cities";

6) Docket No. CM-MP-2015-003 for the benefit of the A&B Irrigation District ("A&B"); and

7) Docket No. CM-MP-2007-001 for the benefit of J.R. Simplot Company, Basic American Foods, and ConAgra Foods Packaged Foods Company, Inc., d/b/a Lamb-Weston (collectively, the "Water Mitigation Coalition") (delivery of stored water).

4. The following table summarizes the 2022 irrigation season diversions and crop water need, and reasonable in-season demand ("RISD") volumes for each SWC entity. RISD is calculated for each SWC entity using demand, crop water need, and project efficiency. *Methodology Order* at 16. All values are reported in acre-feet ("AF"). These values are used to determine entity-specific season ending reasonable in-season demand ("RISD") values.

Entity	Demand[1]	Crop Water Need
A&B	63,848	35,762
AFRD2	408,710	160,162
BID	241,033	103,327
Milner	56,452	31,908
Minidoka	311,795	188,016
NSCC	953,998	375,458
TFCC	957,044	472,011

5. The following table summarizes the final calculated 2022 in-season demand shortfall values in AF, if any, for each member of the SWC. The values in this table are different from those in the *Final Order Regarding April 2022 Forecast Supply (Methodology Steps 1–3)* (April 20, 2022) ("April Forecast Supply Order") and *Order Revising April 2022 Forecast Supply and Amending Curtailment Order (Methodology Steps 5 & 6)* (July 20, 2022) ("July Order"). The Director predicted a 162,600 AF material injury to the SWC in the April Forecast Supply Order. *April Forecast Supply Order* at 4. The Director predicted a 52,600 AF material injury to the SWC in the July Order. *July Order* at 8. The differences are due to changes in total supply and

[1] The "Demand" for each SWC entity is equal to each entity's 2022 April – October diversions.

RISD that reflect diversion and ET data not available at the time the April Forecast Supply Order and July Order were issued. The second column of the summary table contains the total natural flow diversions from April 1 to October 31 for each SWC member.[2] The third column summarizes the natural flow adjustments, which include natural flow delivered for recharge[3] and natural flow delivered to SWID.[4] The fourth column contains the preliminary storage allocations reported from WD01.[5] The fifth column summarizes storage adjustments due to application of the Minidoka Credit.[6] The sixth column contains the total supply available to each SWC member and is calculated by summing columns two through five. The seventh column contains the calculated RISD. The demand shortfall in the last column is calculated by subtracting the RISD from the total supply. The demand shortfall is zero when the total supply is greater than the RISD. Completed application of the methodology order results in a final net in-season demand shortfall volume of 84,200 AF to AFRD2 and 192,400 AF to TFCC for the 2022 irrigation season.[7]

Entity	Natural Flow Diverted through 10/31	Natural Flow Adjustment	Preliminary Storage Allocation	In-Season Storage Adjustment	Total Supply	RISD	Demand Shortfall
A&B	0	-	106,072	-	106,072	60,832	-
AFRD2	40,893	(2,464)	338,245	1,000	377,673	461,831	84,200
BID	86,261	(3,714)	202,293	5,130	289,970	243,232	-
Milner	9,717	(3,011)	63,046	-	69,752	62,186	-
Minidoka	111,676	-	251,632	8,370	371,678	354,496	-
NSCC	354,800	(10,368)	762,791	(7,750)	1,099,473	1,059,783	-
TFCC	755,866	(5,346)	220,395	(6,750)	964,165	1,156,558	192,400

[2] The natural flow diverted was calculated from the preliminary daily water right accounting records located here: https://www.waterdistrict1.com/media/yszp4lj1/snkwra.pdf.

[3] Natural flow recharge values represent accomplished recharge through the Idaho Water Resource Board's recharge water rights as of October 31, 2022.

[4] *See* column titled "Natural Flow Adjustment" in Attachment A to this order for further information regarding these adjustments.

[5] The preliminary storage allocations can be found on Water District 01's website located here: https://www.waterdistrict1.com/media/5vaf2jtc/2022.pdf

[6] *See* column titled "In-Season Storage Adjustment" in Attachment A to this order. The Minidoka Credit is a long-standing exchange of stored water among AFRD2, BID, MID, NSCC, and TFCC that has been incorporated into an agreement of those entities and accepted by the SRBA district court.

[7] *The Order Revising 2022 Forecast Supply (Methodology Steps 7–8)* (August 18, 2022) ("Step 7–8 Order") revised the total shortfall prediction to 132,100 AF and established the times of need. *Step 7–8 Order* at 10–11. The Step 7–8 Order demand shortfall was mitigated by junior ground water users through implementation of approved mitigation plans cited in Finding of Fact 3, or by curtailment of water use authorized by junior-priority water rights during the 2022 irrigation season not protected by an approved mitigation plan. No additional mitigation is required to address in-season demand shortfall for the 2022 irrigation season.

6. The following table summarizes the end of season reasonable carryover shortfall calculation for 2022. All values are reported in AF. The second column of the summary table contains the carryover volumes reported from the October 31, 2022 Water District 01 water rights accounting report.[8] The third column summarizes the water supplied to each SWC member for mitigation. Adjusting the October 31, 2022 carryover volumes by deducting storage water delivered to SWC members for mitigation ensures that junior ground water users not participating in approved mitigation plans do not benefit from implementation of those mitigation plans. The fourth column summarizes adjustments for storage water leased by a SWC member to the rental pool via a private lease. The adjustments for storage water leased by a SWC member ensure that the leases, which are voluntary reductions in storage supplies, do not increase the reasonable carryover shortfall obligation of junior ground water users. The fifth column contains the actual carryover volumes as defined by the Methodology Order (*Methodology Order* at 28) and is calculated by summing columns two, three, and four. The sixth column contains the reasonable carryover volumes established in the Methodology Order. *Methodology Order* at 28. The reasonable carryover shortfall in the last column is the difference between reasonable carryover and the actual carryover volume for each member of the SWC at the end of the irrigation season. Completed application of the Methodology determines a final net shortfall to AFRD2's reasonable carryover of 38,255 AF and a final net shortfall to TFCC's reasonable carryover of 11,054 AF. No other members of the SWC have a reasonable carryover shortfall.

Entity[9]	Oct. 31, 2022, Carryover	Adjustments for Mitigation	Adjustments for Storage Water Leased	Actual Carryover	Reasonable Carryover	Reasonable Carryover Shortfall
A&B	54,982	(9,703)	-	45,279	18,500	0
AFRD2	10	(26,765)	-	(26,755)	11,500	38,255
BID	51,583	(4,388)	-	47,196	0	0
Milner	28,424	(2,598)	-	25,826	4,800	0
Minidoka	66,727	(14,157)	30,000	82,569	0	0
NSCC	171,637	(14,216)	-	157,142	65,500	0
TFCC	31,125	(16,979)	-	14,146	25,200	11,054

7. The above determinations are based on water diversion and storage data from Water District 01. Although these preliminary numbers are subject to revision by Water District 01 during final accounting for 2022, revisions will not become available until after issuance of this order. For this reason, these estimates establish the final obligation of junior ground water users

[8] The preliminary water right accounting report for the 2022 irrigation season was published to the Water District 01 webpage on November 18, 2022: https://www.waterdistrict1.com/media/yszp4lj1/snkwra.pdf

The carryover volumes used in this order can be found in the report's summary Diversion table under the "AF RMNG" columns for October 31, 2022. The "AF RMNG" for Minidoka and BID were summed and then prorated 56.4% to Minidoka and 43.6% to BID. Because final accounting for 2022 is not yet complete for Water District 01, the proportions were estimated using an average of the previous five years. The October 31, 2022 "AF RMNG" for AFRD2 was corrected to address an accounting error that indicated additional storage use after irrigation shut off.

[9] Details of adjustments to quantities in the above tables are set forth in Attachment A to this order.

in supplying water to the SWC for reasonable carryover shortfall. The above determination of reasonable carryover shortfall is carried forward from the Methodology Order and accounts for the best available water diversion and storage data, comparative water years, and RISD. *Methodology Order* at 38–39.

CONCLUSIONS OF LAW

1. The Methodology Order states that, on or before November 30, the Director will estimate the SWC's reasonable carryover shortfall, if any, for 2022. *Methodology Order* at 38–39 (Step 9). If a reasonable carryover shortfall is established, junior-priority ground water users shall have fourteen days to demonstrate, to the satisfaction of the Director, "their ability to provide a volume of storage water or to conduct other approved mitigation activities that will provide water to the injured members of the SWC equal to the reasonable carryover shortfall for all injured members of the SWC." *Id.* at 39.

2. The evidentiary standard to apply in conjunctive administration of hydraulically connected water rights is clear and convincing. *A&B Irr. Dist. v. Idaho Dep't of Water Res.*, 153 Idaho 500, 524, 284 P.3d 225, 249 (2012).

3. "Clear and convincing evidence refers to a degree of proof greater than a mere preponderance." *Idaho State Bar v. Topp*, 129 Idaho 414, 416, 925 P.2d 1113, 1115 (1996) (internal quotations removed). "Clear and convincing evidence is generally understood to be '[e]vidence indicating that the thing to be proved is highly probable or reasonably certain.'" *State v. Kimball*, 145 Idaho 542, 546, 181 P.3d 468, 472 (2008) citing *In re Adoption of Doe*, 143 Idaho 188, 191, 141 P.3d 1057, 1060 (2006); *see also Idaho Dep't of Health & Welfare v. Doe*, 150 Idaho 36, 41, 244 P.3d 180, 185 (2010).

4. Consistent with Finding of Fact 6, the Director concludes by clear and convincing evidence there is a 38,255 AF volume of material injury to AFRD2's reasonable carryover and a 11,054 AF volume of material injury to TFCC's reasonable carryover. No other members of the SWC have a reasonable carryover shortfall.

5. Because not all junior ground water users are participants in an approved mitigation plan, the Director must determine a priority date for curtailment that will result in an accumulation of water at steady state, to the reaches of the Snake River from which the SWC members divert, in amount equal to the established reasonable carryover shortfall. Using the Eastern Snake Plain Aquifer Model ("ESPAM") Version 2.2, the Director determines the curtailment date to produce a steady state volume of at least 49,309 AF in the near Blackfoot to Minidoka reach is junior to May 31, 1989.

6. According to the Methodology Order, fourteen days following issuance of this order, which establishes the reasonable carryover shortfall obligation, junior ground water users must "establish, to the satisfaction of the Director, their ability to supply a volume of storage water or to conduct other approved mitigation activities that will provide water to the injured members of the SWC equal to the reasonable carryover shortfall for all injured members of the SWC."

Methodology Order at 39. Otherwise, "the Director will issue an order curtailing junior ground water rights." *Id.*

ORDER

Based upon the foregoing, IT IS HEREBY ORDERED that, junior ground water users holding consumptive ground water rights within the Eastern Snake Plain Aquifer area of common ground water supply bearing priority dates junior to May 31, 1989, must mitigate for their proportionate share of the reasonable carryover shortfall of 49,309 AF in accordance with an approved mitigation plan.[10] If, within fourteen days following issuance of this order, junior ground water users fail to establish, to the satisfaction of the Director, their ability to mitigate for their proportionate share of the reasonable carryover shortfall of 49,309 AF in accordance with an approved mitigation plan, the Director will issue an order curtailing the junior-priority ground water use.

IT IS FURTHER ORDERED that this final order concludes the application of the Methodology Order to the climatic, hydrologic, and agronomic facts of the 2022 irrigation season.

Dated this 30th day of November 2022.

GARY SPACKMAN
Director

[10] As stated, in Finding of Fact 3 above, seven mitigation plans are currently approved for the SWC delivery call to mitigate for material injury to reasonable carryover. Participants in the mitigation plans approved for IGWA, SWID, the Cities, and Water Mitigation Coalition do not need to establish their ability to mitigate for their proportionate share of the reasonable carryover shortfall. However, due to the nature of A&B's mitigation plan, A&B must establish to the satisfaction of the Director its ability to mitigate for its proportionate share of the reasonable carryover shortfall, which is 2,542 AF.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 30th day of November 2022, I served a true and correct copy of the foregoing, *Final Order Establishing 2022 Reasonable Carryover (Methodology Step 9)*, by the method indicated below, upon the following:

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Corey Skinner IDWR—Southern Region 1341 Fillmore St., Ste. 200 Twin Falls, ID 83301-3033 corey.skinner@idwr.idaho.gov	☒ Email
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Megan Jenkins
Administrative Assistant II

Attachment A (2022 SWC Adjustments)

Entitiy	Volume (AF)	Description	Natural Flow Adjustment	In-Season Storage Adjustment	Adjustments of Mitgation	Adjustments for Storage Water Lease
A&B	6,400.0	IGWA Assignments - SWC			Yes	
	2,215.0	IGWA Assignments - SWC			Yes	
	3,038.0	Magic Valley GWD				
	1,088.0	Minidoka (Water Mitigation Coalition)			Yes	
		Total A&B	**0**	**0**	**9,703**	**0**
AFRD2	4,855.1	City of Pocatello (multiple cities)			Yes	
	1,435.1	City of Pocatello			Yes	
	1,755.0	Enterprize (Galena GWD)				
	1,100.0	Idaho Canal (Big Wood GWD)				
	4,900.0	IGWA Assignments - SWC			Yes	
	1,696.0	IGWA Assignments - SWC			Yes	
	13,046.0	IGWA Assignments - SWC			Yes	
	(1,076.0)	Magic Valley GWD				
	3,500.0	Minidoka (North Snake GWD)				
	833.0	Minidoka (Water Mitigation Coalition)			Yes	
	1,000.0	Minidoka Credit		Yes		
	(2,464.0)	IWRB Recharge	Yes			
		Total AFRD	**(2,464)**	**1,000**	**26,765**	**0**
BID	3,750.0	IGWA Assignments - SWC			Yes	
	2,200.0	Minidoka (Southwest Irrigation District)				
	637.5	Minidoka (Water Mitigation Coalition)			Yes	
	5,130.0	Minidoka Credit		Yes		
	(3,714.0)	SWID Natural Flow	Yes			
		Total BID	**(3,714)**	**5,130**	**4,388**	**0**
Milner	200.0	Scott Breeding				
	978.5	Artesian				
	1,500.0	Falls Irrigation District (Southwest Irrigation District)				
	1,000.0	IGWA Assignments - SWC			Yes	
	346.0	IGWA Assignments - SWC			Yes	
	1,082.0	IGWA Assignments - SWID			Yes	
	3,038.0	Magic Valley GWD				
	170.0	Minidoka (Water Mitigation Coalition)			Yes	
	2,800.0	Minidoka (Southwest Irrigation District)				
	1,046.4	PWUI				
	140.0	Southwest Irrigation District Pumps				
	(3,011.0)	SWID Natural Flow	Yes			
		Total Milner	**(3,011)**	**0**	**2,598**	**0**
MID	(1,088.0)	A & B (Water Mitigation Coalition)				Yes
	(3,500.0)	AFRD #2 (North Snake GWD)				Yes
	(833.0)	AFRD #2 (Water Mitigation Coalition)				Yes
	(637.5)	Burley Irrigation District (Water Mitigation Coalition)				Yes
	(2,200.0)	Burley Irrigation District (Southwest Irrigation District)				Yes
	13,128.5	IGWA Assignments - SWC			Yes	
	(170.0)	Milner (Water Mitigation Coalition)				Yes
	(2,800.0)	Milner (Southwest Irrigation District)				Yes
	(2,065.5)	Northside Canal Co (Water Mitigation Coalition)				Yes
	(11,500.0)	Northside Canal Co (North Snake GWD)				Yes
	(1,500.0)	Northside Canal Co (Water Mitigation Coalition)				Yes
	1,028.5	IGWA Assignments - SWID			Yes	
	(1,028.5)	IGWA Assignments - SWID				Yes
	(2,677.0)	TFCC (Water Mitigation Coalition)				Yes
	8,370.0	Minidoka Credit		Yes		
		Total MID	**0**	**8,370**	**14,157**	**(30,000)**
NSCC	12,150.0	IGWA Assignments - SWC			Yes	
	100.0	Arthur Henry Farms				
	11,500.0	Minidoka (North Snake GWD)				
	1,500.0	Minidoka (Water Mitigation Coalition)				
	2,065.5	Minidoka (Water Mitigation Coalition)			Yes	
	(7,750.0)	Minidoka Credit		Yes		
	(10,367.8)	IWRB Recharge	Yes			
		Total NSCC	**(10,368)**	**(7,750)**	**14,216**	**0**
TFCC	1,391.7	Artesian				
	8,671.5	IGWA Assignments - SWC			Yes	
	4,500.0	IGWA Assignments - SWID			Yes	
	1,130.0	IGWA Assignments - SWID			Yes	
	2,677.5	Minidoka (Water Mitigation Coalition)			Yes	
	' 281.9	PWUI				
	(6,750.0)	Minidoka Credit		Yes		
	(5,346.0)	IWRB Recharge	Yes			
		Total TFCC	**(5,346)**	**(6,750)**	**16,979**	**0**

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(To be used in connection with actions when a hearing was **not** held)

(Required by Rule of Procedure 740.02)

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Unless the right to a hearing before the director or the water resource board is otherwise provided by statute, any person who is aggrieved by the action of the director, and who has not previously been afforded an opportunity for a hearing on the matter shall be entitled to a hearing before the director to contest the action. The person shall file with the director, within fifteen (15) days after receipt of written notice of the action issued by the director, or receipt of actual notice, a written petition stating the grounds for contesting the action by the director and requesting a hearing. See section 42-1701A(3), Idaho Code. **Note: The request must be received by the Department within this fifteen (15) day period.**

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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:

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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 of: a) the service date of the final order, b) the service date 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.

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY OR FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY	Docket No. CM-DC-2010-001 **FINAL ORDER REGARDING APRIL 2023 FORECAST SUPPLY** **(METHODOLOGY STEPS 1–3)**

FINDINGS OF FACT

1. On April 21, 2023, the Director of the Idaho Department of Water Resources ("Department") issued his *Fifth Amended Final Order Regarding Methodology for Determining Material Injury to Reasonable In-Season Demand and Reasonable Carryover* ("Methodology Order"). The Methodology Order established nine steps for determining material injury to members of the Surface Water Coalition ("SWC"). This order applies steps 1, 2, and 3 of the Methodology Order.

A. Step 1

2. By April 1 of each year, Step 1 requires members of the SWC to submit to the Department electronic shapefiles delineating the total anticipated irrigated acres for the upcoming year "or confirm in writing that the existing electronic shape file submitted by SWC has not varied by more than five percent." *Methodology Order* ¶ 1 at 39.

3. On February 6, 2023, the Department received a letter from American Falls Reservoir District #2 ("AFRD2"), stating that its total number of irrigated acres has not varied by more than five percent.

4. On March 2, 2023, Minidoka Irrigation District ("Minidoka") submitted its electronic shapefile delineating its total irrigated acres to the Department.

5. On March 10, 2023, the Department received a letter from A&B Irrigation District ("A&B"), Burley Irrigation District ("BID"), Milner Irrigation District ("Milner"), North Side Canal Company ("NSCC") and Twin Falls Canal Company ("TFCC"), stating that their total number of irrigated acres for 2023 will not vary by more than five percent from the electronic shapefiles submitted in prior years.

6. Based on the information submitted by the SWC, the Department will use the following total irrigated acres:

	Total Irrigated Acres[1]	Data Source
A&B	15,924	SRBA Partial Decree
AFRD2	62,361	SRBA Partial Decree
BID	46,035	2013 shapefile submitted by BID, reduced by Department for overlapping acres and acres outside of service area.
Milner	13,264	2010 service area shapefile, reduced by Department for overlapping acres and acres outside of service area.
Minidoka	75,093	SRBA Partial Decree
NSCC	154,067	SRBA Partial Decree
TFCC	194,732	2013 shapefile submitted by TFCC, reduced by Department for overlapping acres and acres outside of service area.

B. Step 2

7. Step 2 states that, within fourteen days of the issuance of the joint forecast prepared by the United States Bureau of Reclamation and the United States Army Corp of Engineers, the Director "will issue a final order predicting the April [Forecast Supply] for the water year for each SWC entity. The Director will compare the April [Forecast Supply] for each SWC entity to the [Baseline Demand] for each SWC entity to determine if a in-season demand shortfall ("IDS") is anticipated for the upcoming irrigation season." *Methodology Order* ¶ 3 at 40.

8. On April 7, 2023, the joint forecast ("Joint Forecast") was announced, predicting an unregulated inflow 3,700,000 acre-feet at the Snake River near Heise gage for the period of April through July. The forecasted flow volume equates to 112% percent of average.[2] The Joint Forecast "is generally as accurate a forecast as is possible using current data gathering and forecasting techniques." *Id.* ¶ 49 at 18 (citation omitted).

9. The Heise natural flow data from years 1990–2022 were data inputs for development of regression equations for A&B and Milner to predict the natural flow supply.[3] Data greater or less than two standard deviations from average were excluded from the regression development.

10. The April–July Heise natural flow data from the years 1990–2022 and Box Canyon November–March total discharge data for the period 1989–2022, were data inputs for development of multiple linear regression equations to predict the natural flow supplies for

[1] The number of irrigated acres used in this methodology order is the number of reported acres unless that number is larger than the decreed irrigated acres, and if so, then the decreed acres were used.

[2] The average is based on the years 1991-2020. The Joint Forecast relies on a "30-Year Climate Normal" to calculate an Average April through July runoff volume.

[3] Attached hereto, as Attachment A, are the regression analyses for each SWC entity used to predict natural flow supply.

AFRD2, BID, Minidoka, NSCC, and TFCC. *Methodology Order* ¶ 49 at 18. The U.S. Geological Survey measures and monitors the flow at the Box Canyon stream flow measurement gage. The Box Canyon November–March total discharge used by the Director in the regression models for 2023 totaled 91,898 acre-feet.

11. The storage allocations were predicted for each SWC member. As of April 11, 2023, preliminary water right accounting for the 2023 irrigation year had not been completed. Storage allocations were calculated using an average of actual storage allocations of analogous years. The Surface Water Supply Index (SWSI)[4], produced by the Natural Resources Conservation Service (NRCS), is calculated by summing reservoir carryover and the forecasted spring and summer streamflow runoff. The April 1 SWSI indicates the water supply in 1993 and 2016 are analogous to the water supply in 2023. Based on the analogous years, the Director anticipates SWC members will receive 95–100% of their allocation. The storage allocations are based on the anticipated allocations minus evaporation charges.

12. Based on the above, the Director projects as follows:

	Predicted Natural Flow Supply	Predicted Storage Allocation	Minidoka Credit Adjustment	Total Supply	BLY 2018	Shortfall
A&B	14,833	135,411		150,244	64,192	0
AFRD2	115,223	387,853	1,000	504,076	453,890	0
BID	109,313	221,713	5,130	336,156	262,211	0
Milner	18,347	88,047		106,393	58,417	0
Minidoka	156,468	342,620	8,370	507,458	354,851	0
NSCC	457,802	819,773	-7,750	1,269,825	1,026,661	0
TFCC	820,663	232,606	-6,750	1,046,519	1,121,717	75,200
				Total Projected Demand Shortfall (AF)		75,200

C. Step 3

13. Step 3 requires the following:

> Step 3: By May 1, or within fourteen (14) days from issuance of the final order predicting the April FS, whichever is later in time, junior ground water users with approved mitigation plans for delivery of water must secure, to the satisfaction of the Director, a volume of water equal to their proportionate share of the April IDS unless the April IDS is revised as explained below in paragraph 6. If junior ground water users secured water for a reasonable carryover shortfall to an individual SWC member in the previous year, the current-year mitigation obligation to the

[4] SWSI is a predictive indicator of the surface water available in a basin compared to historic supply. The SWSI is produced monthly by the Natural Resources Conservation Service (NRCS). *See* Nat. Res. Conserv'n Serv., U.S. Dep't of Agric., *Surface Water Supply Index (SWSI)*, https://www.nrcs.usda.gov/wps/portal/nrcs/detail/id/snow/waterproducts/?cid=stelprdb1240689 (last visited Apr. 20, 2022).

individual SWC member will be reduced by the quantity of water secured for the reasonable carryover shortfall. The secured water will not be required to be delivered to the injured members of the SWC until the Time of Need.

Methodology Order ¶ 4 at 40.

14. The predicted April DS for TFCC is 75,200 acre-feet. The total predicted DS is 75,200 acre-feet.

15. The Eastern Snake Plain Aquifer Model ("ESPAM") is used to predict the junior priority water rights that must be curtailed to produce the volume of water equal to the predicted April DS in the near Blackfoot to Minidoka reach. The ESPAM is updated periodically as new field measurements and advancements in modeling technology become available. ESPAM Version 2.2 ("ESPAM2.2") is the current version. ESPAM2.2 model documentation reports (including a model calibration report, a predictive uncertainty analysis, a superposition model scenario, and a curtailment scenario) were finalized on May 27, 2021. *See* Idaho Dep't of Water Res., *ESPAM2.2 Reports* (2021), https:// research.idwr.idaho.gov/files/projects/espam/ browse/ESPAM22_Reports/.

16. The Department ran ESPAM2.2 to predict the junior priority water rights within the area of common ground water supply that must be curtailed to produce the volume of water equal to the predicted April DS between the May 1 and September 30 of this irrigation season pursuant to the *Fifth Amended Final Order Regarding Methodology for Determining Material Injury to Reasonable In-Season Demand and Reasonable Carryover*. Ground water rights bearing priority dates later than December 30, 1953, must be curtailed to produce the volume of water equal to the predicted April DS in the near Blackfoot to Minidoka reach.

CONCLUSIONS OF LAW

1. The Fifth Judicial District Court, in and for the County of Minidoka, held that the evidentiary standard of proof to apply in conjunctive administration of hydraulically connected water rights is clear and convincing. *See* Mem. Decision & Order on Pets. for Jud. Rev., *A&B Irr. Dist., Inc. v. Idaho Dep't of Water Res.*, No. CV-2009-647 (Minidoka Cnty. Dist. Ct. Idaho May 4, 2010); Mem. Decision & Order on Pets. for Reh'g, *A&B Irr. Dist., Inc. v. Idaho Dep't of Water Res.*, No. CV-2009-647 (Minidoka Cnty. Dist. Ct. Idaho Nov. 2, 2010).

2. "Clear and convincing evidence refers to a degree of proof greater than a mere preponderance." *Idaho State Bar v. Topp*, 129 Idaho 414, 416, 925 P.2d 1113, 1115 (1996) (internal quotations removed). "Clear and convincing evidence is generally understood to be '[e]vidence indicating that the thing to be proved is highly probable or reasonably certain.'" *State v. Kimball*, 145 Idaho 542, 546, 181 P.3d 468, 472 (2008) (citing *In re Adoption of Doe*, 143 Idaho 188, 191, 141 P.3d 1057, 1060 (2006)); *see also Idaho Dep't of Health & Welfare v. Doe*, 150 Idaho 36, 41, 244 P.3d 180, 185 (2010).

3. The Director must utilize the best available technology for determining the impact of junior ground water diversions. *See Clear Springs Foods, Inc. v. Spackman*, 150 Idaho 790, 814,

252 P.3d 71, 95 (2011). ESPAM 1.1 and 2.1 are the model versions utilized previously in SWC delivery call proceedings. The Director determined that ESPAM 2.1 is the best available scientific tool for predicting the effects of ground water pumping. *See Idaho Ground Water Assoc. v. Idaho Dep't of Water Res.*, 160 Idaho 119, 124, 369 P.3d 897, 902 (2016). ESPAM 2.2 is the latest version of the ESPAM model. The improvements incorporated into ESPAM 2.2, as discussed in Finding of Fact 15, make it the best available scientific tool for predicting the effects of ground water pumping in this proceeding.

4. In 2023, the Director has sufficient information to quantify irrigated areas for each of the SWC members as required by Step 1.

5. The Joint Forecast predicts an unregulated inflow of 3,700,000 acre-feet at the Snake River near Heise gage for the period of April through July. The forecasted flow volume equates to 112% of average.

6. The April predicted DS is 75,200 acre-feet. Junior ground water users holding consumptive water rights bearing priority dates junior to December 30, 1953, within the Eastern Snake Plain Aquifer area of common ground water supply must mitigate for their proportionate share of the predicted DS in accordance with an approved mitigation plan.[5] Junior ground water users mitigating for their proportionate share of the predicted DS with a secured volume of water pursuant to an approved mitigation plan must, to the satisfaction of the Director, secure their proportionate share for delivery to the injured members of the SWC on or before May 5, 2023. There was a reasonable carryover shortfall of 49,309 acre-feet in the fall of 2022. However, because junior ground water users did not secure any mitigation water for a carryover shortfall, there is no adjustment to the mitigation obligation.

7. If, on or before May 5 2023, ground water users holding consumptive water rights bearing priority dates junior to December 30, 1953, within the Eastern Snake Plain Aquifer area of common ground water supply fail to establish, to the satisfaction of the Director, that they can mitigate for their proportionate share of the predicted DS of 75,200 acre-feet in accordance with an approved mitigation plan, the Director will issue an order curtailing the junior-priority ground water user. Junior ground water users who are mitigating with a secured volume of water are not required to assign the secured volume of water until after the Director issues a subsequent order requiring assignment of the water.

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[5] There are seven approved mitigation plans in place responding to the SWC delivery call filed by: 1) A&B Irrigation District, 2) Southwest Irrigation District and Goose Creek Irrigation District (collectively, "SWID"), 3) the Idaho Ground Water Appropriators, Inc. ("IGWA"), 4) certain cities commonly referred to as the "Coalition of Cities", and 5) certain entities commonly referred to as the "Water Mitigation Coalition." A&B Irrigation District's proportionate share of the predicted DS of 75,200 acre-feet is 458 acre-feet. Due to the nature of the mitigation plans for SWID, the Coalition of Cities and the Water Mitigation Coalition, these entities do not need to establish that they can mitigate for their proportionate share of the predicted DS. IGWA has two approved mitigation plans. If IGWA is in compliance with mitigation plan CM-MP-2016-001, IGWA does not need to establish that it can mitigate for its proportionate share of the predicted DS. If IGWA seeks to provide mitigation by delivery of storage water as approved in mitigation plan CM-MP-2009-007, IGWA's proportionate share of the predicted DS of 75,198 acre-feet is 63,645 acre-feet.

8. If, at any time prior to the Director's final determination of the April Forecast Supply, the Director can determine with certainty that any member of the SWC has diverted more natural flow than predicted, or has accrued more storage than predicted, the Director will revise his initial, predicted DS determination.

ORDER

Based upon and consistent with the foregoing, IT IS HEREBY ORDERED as follows:

The Director predicts an in-season DS of 75,200 acre-feet. On or before May 5, 2023, ground water users holding consumptive water rights bearing priority dates junior to December 30, 1953, within the Eastern Snake Plain Aquifer area of common ground water supply shall establish, to the satisfaction of the Director, that they can mitigate for their proportionate share of the predicted DS of 75,200 acre-feet in accordance with an approved mitigation plan. If a junior ground water user cannot establish, to the satisfaction of the Director, that they can mitigate for their proportionate share of the predicted DS of 75,200 acre-feet in accordance with an approved mitigation plan, the Director will issue an order curtailing the junior-priority ground water user.

Dated this 21st day of April 2023.

GARY SPACKMAN
Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 21st day of April 2023, the above and foregoing, was served by the method indicated below, and addressed to the following:

John K. Simpson MARTEN LAW LLP P.O. Box 2139 Boise, ID 83701-2139 jsimpson@martenlaw.com	☒ U.S. Mail, postage prepaid ☒ Email
Travis L. Thompson MARTEN LAW LLP P.O. Box 63 Twin Falls, ID 83303-0063 tthompson@martenlaw.com jnielsen@martenlaw.com	☒ U.S. Mail, postage prepaid ☒ Email
W. Kent Fletcher FLETCHER LAW OFFICE P.O. Box 248 Burley, ID 83318 wkf@pmt.org	☒ U.S. Mail, postage prepaid ☒ Email
Thomas J. Budge Elisheva M. Patterson RACINE OLSON P.O. Box 1391 Pocatello, ID 83204-1391 tj@racineolson.com elisheva@racineolson.com	☒ U.S. Mail, postage prepaid ☒ Email
Kathleen Marion Carr US Dept. Interior 960 Broadway Ste 400 Boise, ID 83706 kathleenmarion.carr@sol.doi.gov	☒ U.S. Mail, postage prepaid ☒ Email
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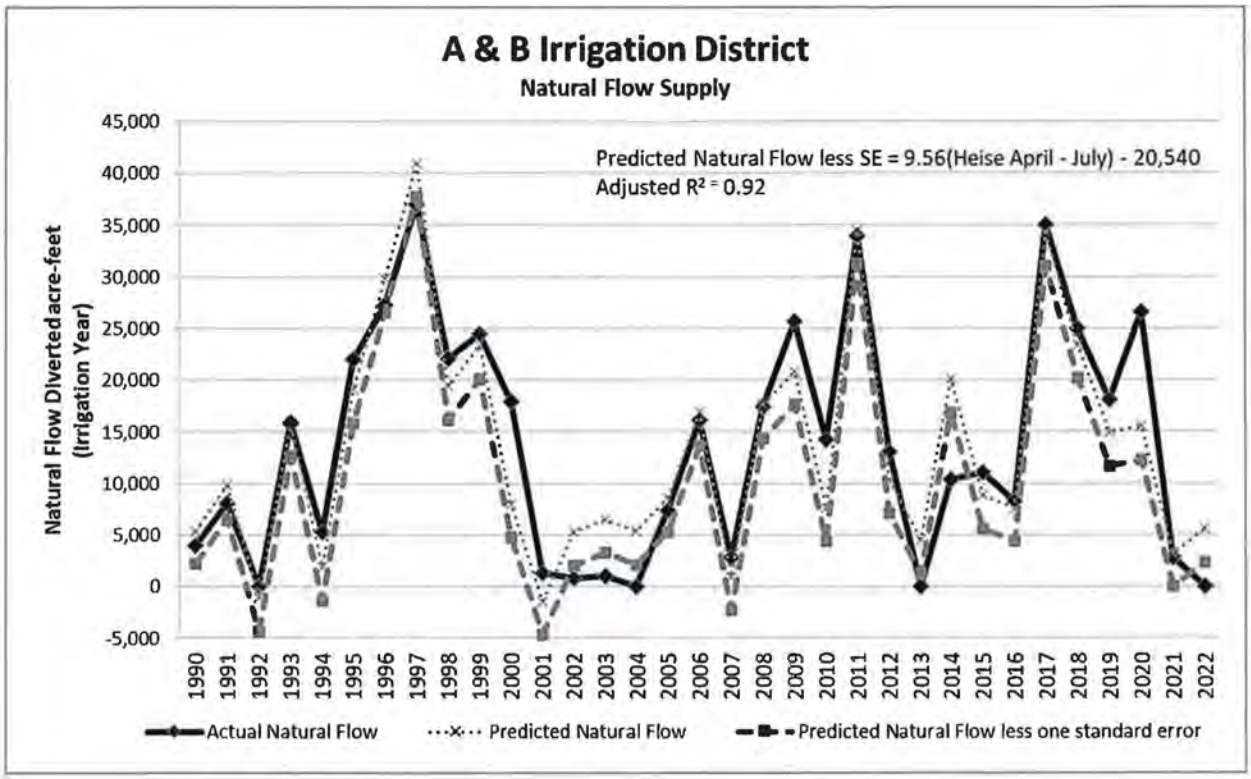
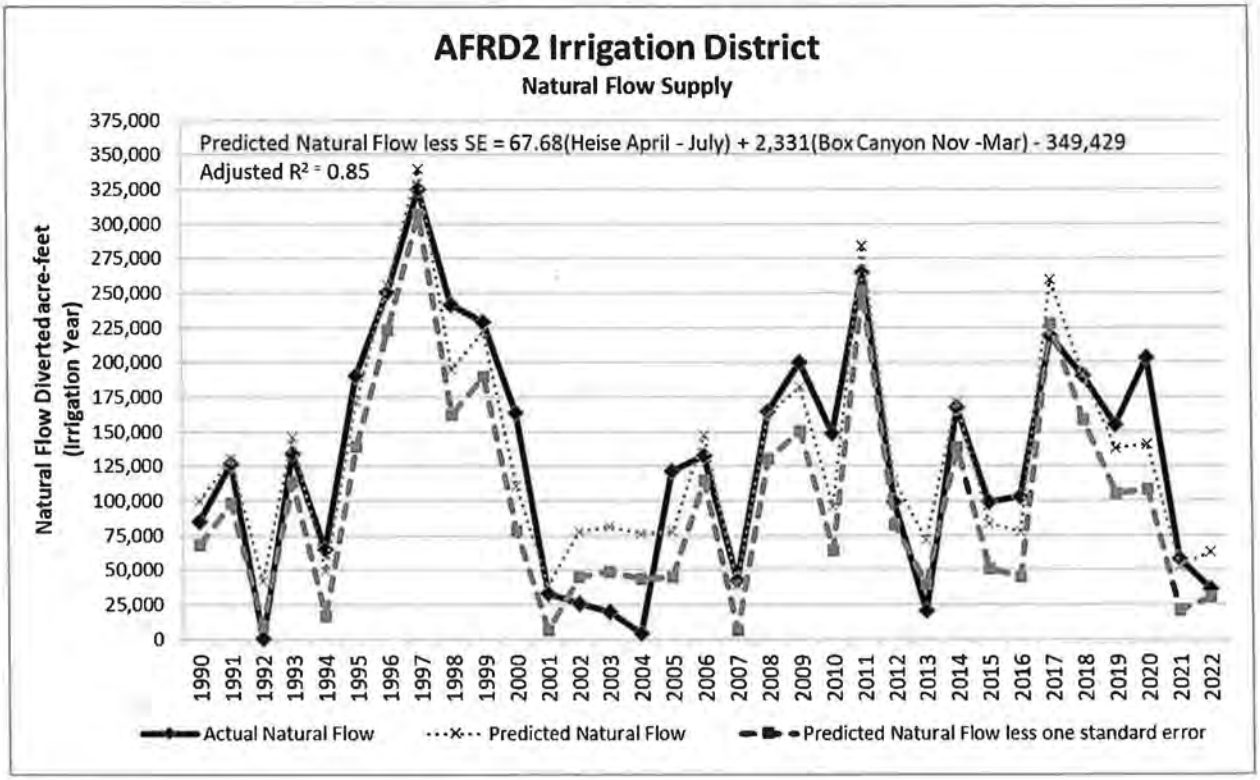
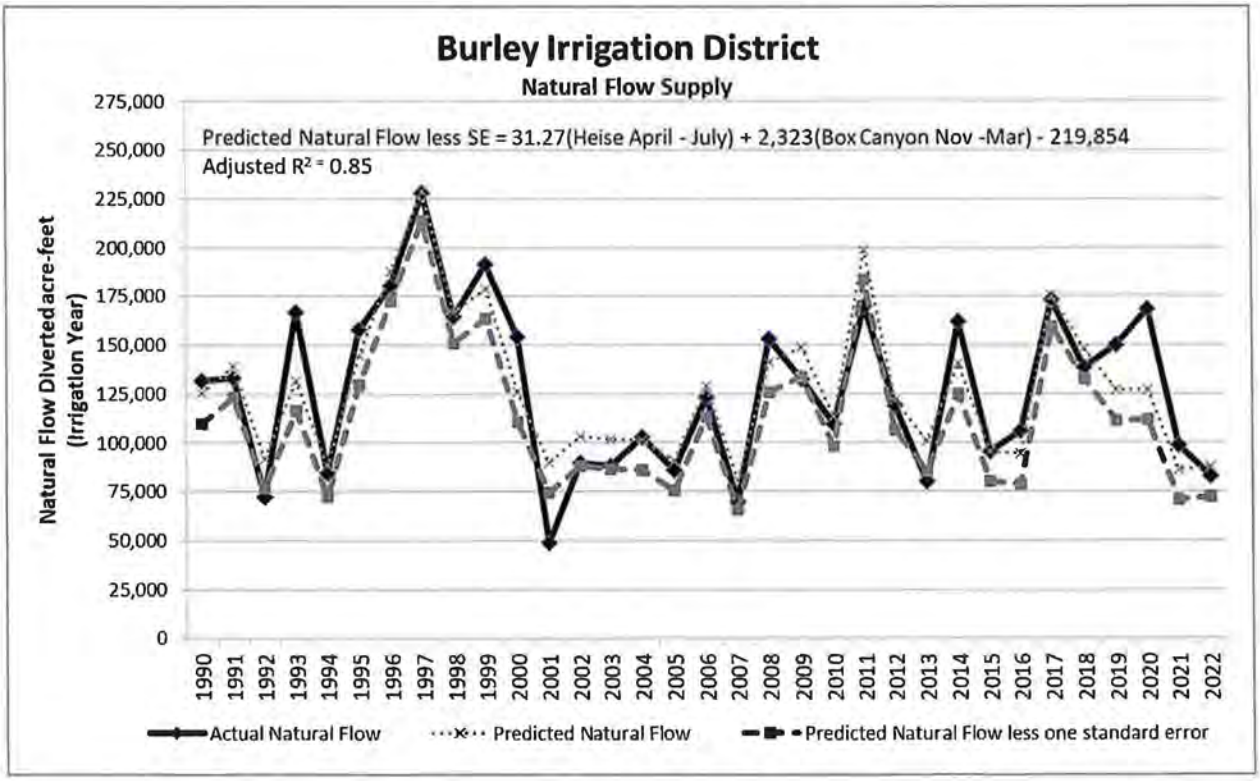
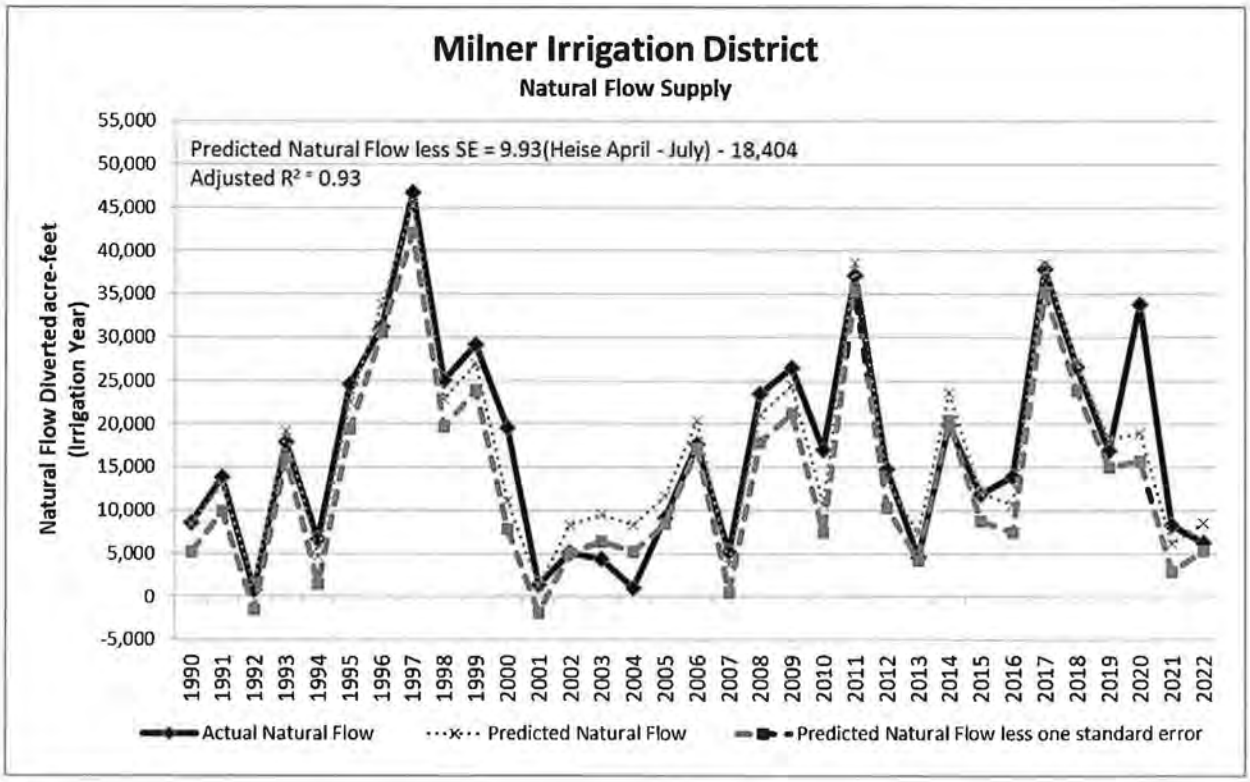
Megan Jenkins
Administrative Assistant II

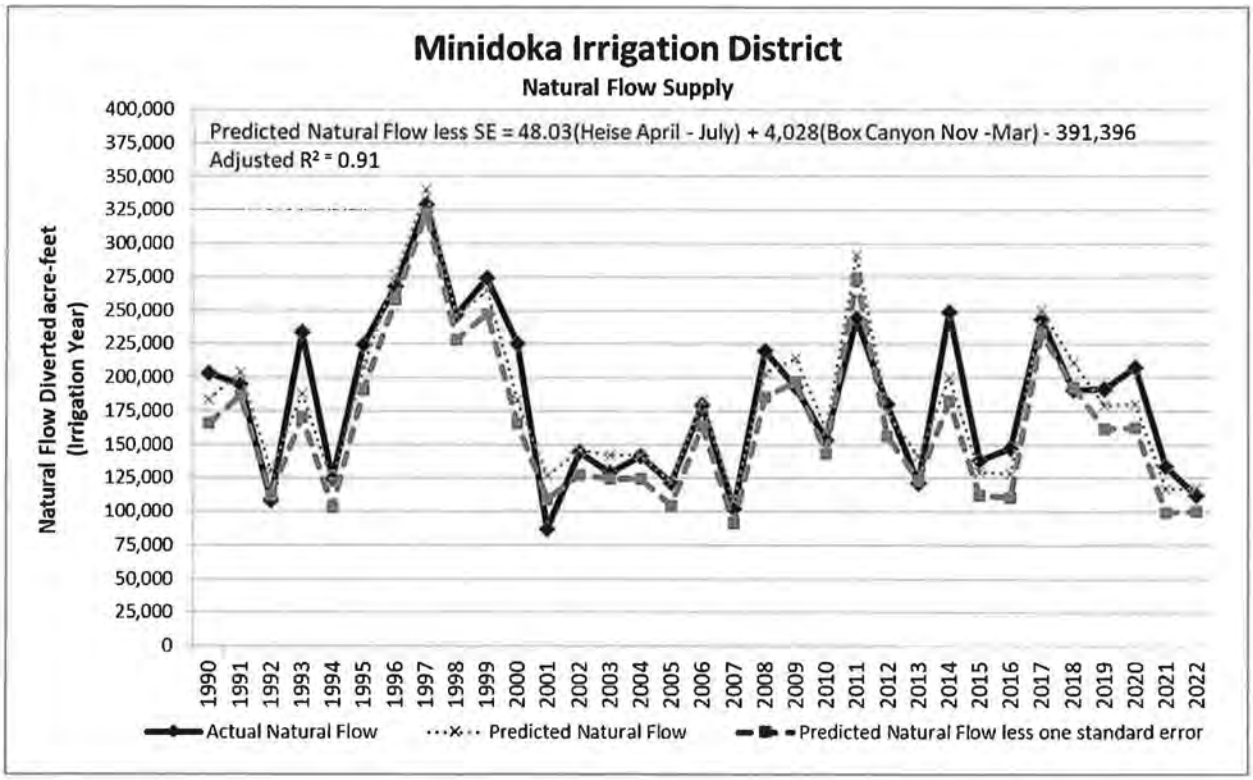
ATTACHMENT A

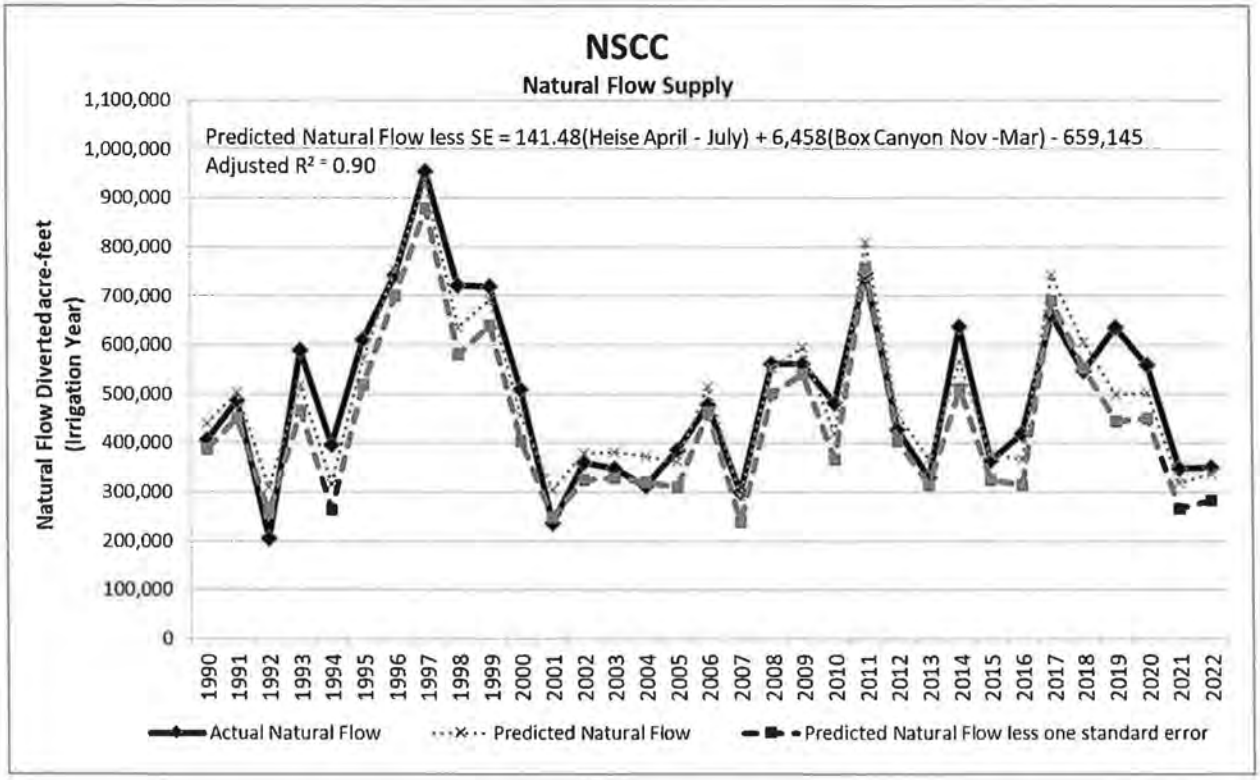


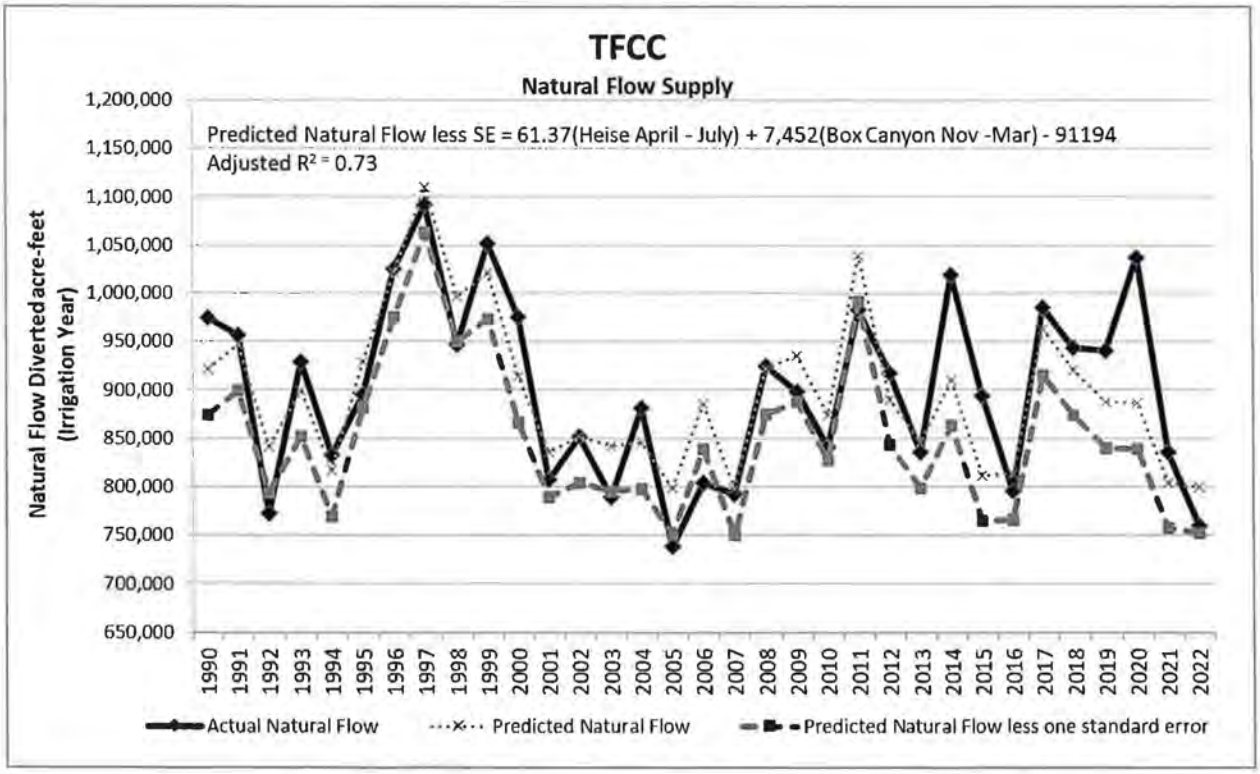

AFRD2 Irrigation District
Natural Flow Supply
Predicted Natural Flow less SE = 67.68(Heise April - July) + 2,331(Box Canyon Nov -Mar) - 349,429
Adjusted R² = 0.85
Natural Flow Diverted acre-feet (Irrigation Year)
375,000
350,000
325,000
300,000
275,000
250,000
225,000
200,000
175,000
150,000
125,000
100,000
75,000
50,000
25,000
0
1990 1991 1992 1993 1994 1995 1996 1997 1998 1999 2000 2001 2002 2003 2004 2005 2006 2007 2008 2009 2010 2011 2012 2013 2014 2015 2016 2017 2018 2019 2020 2021 2022
Actual Natural Flow
Predicted Natural Flow
Predicted Natural Flow less one standard error


Burley Irrigation District
Natural Flow Supply
Predicted Natural Flow less SE = 31.27(Heise April - July) + 2,323(Box Canyon Nov -Mar) - 219,854
Adjusted R² = 0.85
Natural Flow Diverted acre-feet (Irrigation Year)
275,000
250,000
225,000
200,000
175,000
150,000
125,000
100,000
75,000
50,000
25,000
0
1990 1991 1992 1993 1994 1995 1996 1997 1998 1999 2000 2001 2002 2003 2004 2005 2006 2007 2008 2009 2010 2011 2012 2013 2014 2015 2016 2017 2018 2019 2020 2021 2022
Actual Natural Flow
Predicted Natural Flow
Predicted Natural Flow less one standard error


Milner Irrigation District
Natural Flow Supply
Predicted Natural Flow less SE = 9.93(Heise April - July) - 18,404
Adjusted R² = 0.93
Natural Flow Diverted acre-feet (Irrigation Year)
55,000
50,000
45,000
40,000
35,000
30,000
25,000
20,000
15,000
10,000
5,000
0
-5,000
1990 1991 1992 1993 1994 1995 1996 1997 1998 1999 2000 2001 2002 2003 2004 2005 2006 2007 2008 2009 2010 2011 2012 2013 2014 2015 2016 2017 2018 2019 2020 2021 2022
Actual Natural Flow
Predicted Natural Flow
Predicted Natural Flow less one standard error


Minidoka Irrigation District
Natural Flow Supply
Predicted Natural Flow less SE = 48.03(Heise April - July) + 4,028(Box Canyon Nov -Mar) - 391,396
Adjusted R² = 0.91
Natural Flow Diverted acre-feet (Irrigation Year)
400,000
375,000
350,000
325,000
300,000
275,000
250,000
225,000
200,000
175,000
150,000
125,000
100,000
75,000
50,000
25,000
0
1990 1991 1992 1993 1994 1995 1996 1997 1998 1999 2000 2001 2002 2003 2004 2005 2006 2007 2008 2009 2010 2011 2012 2013 2014 2015 2016 2017 2018 2019 2020 2021 2022
Actual Natural Flow
Predicted Natural Flow
Predicted Natural Flow less one standard error


NSCC
Natural Flow Supply
Predicted Natural Flow less SE = 141.48(Heise April - July) + 6,458(Box Canyon Nov -Mar) - 659,145
Adjusted R² = 0.90
Natural Flow Diverted acre-feet (Irrigation Year)
1,100,000
1,000,000
900,000
800,000
700,000
600,000
500,000
400,000
300,000
200,000
100,000
0
1990 1991 1992 1993 1994 1995 1996 1997 1998 1999 2000 2001 2002 2003 2004 2005 2006 2007 2008 2009 2010 2011 2012 2013 2014 2015 2016 2017 2018 2019 2020 2021 2022
Actual Natural Flow
Predicted Natural Flow
Predicted Natural Flow less one standard error


TFCC
Natural Flow Supply
Predicted Natural Flow less SE = 61.37(Heise April - July) + 7,452(Box Canyon Nov -Mar) - 91194
Adjusted R² = 0.73
Natural Flow Diverted acre-feet (Irrigation Year)
1,200,000
1,150,000
1,100,000
1,050,000
1,000,000
950,000
900,000
850,000
800,000
750,000
700,000
650,000
1990 1991 1992 1993 1994 1995 1996 1997 1998 1999 2000 2001 2002 2003 2004 2005 2006 2007 2008 2009 2010 2011 2012 2013 2014 2015 2016 2017 2018 2019 2020 2021 2022
Actual Natural Flow
Predicted Natural Flow
Predicted Natural Flow less one standard error

EXPLANATORY INFORMATION TO ACCOMPANY A FINAL ORDER

(To be used in connection with actions when a hearing was **not** held)

(Required by Rule of Procedure 740.02)

The accompanying order is a "**Final Order**" issued by the department pursuant to section 67-5246, 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 67-5246(4), Idaho Code.

REQUEST FOR HEARING

Unless the right to a hearing before the director or the water resource board is otherwise provided by statute, any person who is aggrieved by the action of the director, and who has not previously been afforded an opportunity for a hearing on the matter shall be entitled to a hearing before the director to contest the action. The person shall file with the director, within fifteen (15) days after receipt of written notice of the action issued by the director, or receipt of actual notice, a written petition stating the grounds for contesting the action by the director and requesting a hearing. See section 42-1701A(3), Idaho Code. **Note: The request must be received by the Department within this fifteen (15) day period.**

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 of: a) the service date of the final order, b) the service date 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.

Revised July 1, 2010

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF THE DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY AND FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY	Docket No. CM-DC-2010-001 **FIFTH AMENDED FINAL ORDER REGARDING METHODOLOGY FOR DETERMINING MATERIAL INJURY TO REASONABLE IN-SEASON DEMAND AND REASONABLE CARRYOVER**

BACKGROUND

On April 19, 2016, the Director ("Director") of the Idaho Department of Water Resources ("Department") issued his *Fourth Amended Final Order Regarding Methodology for Determining Material Injury to Reasonable In-Season Demand and Reasonable Carryover* ("Fourth Methodology Order"). The Fourth Methodology Order: (1) explained how the Director would determine material injury to storage and natural flow water rights of members of the Surface Water Coalition ("SWC")[1]; (2) established methods for quantifying material injury to SWC storage and natural flow water rights as predictive and actual demand shortfalls; (3) established methods for quantifying mitigation obligations by holders of junior priority ground water rights for shortfalls in predictive and actual SWC water demands; and (4) established a method for determining a priority date for curtailment if mitigation obligations are not satisfied.

The processes established in the Fourth Methodology Order for determining material injury are not carved in stone. Updates to the methodology order based on additional data and analyses were always anticipated:

> Recognizing his ongoing duty to administer the State's water resources, the Director should use available data, and consider new analytical methods or modeling concepts, to evaluate the methodology. As more data is gathered and analyzed, the Director will review and refine the process of predicting and evaluating material injury. The methodology will be adjusted if the data supports a change.

[1] The SWC is comprised of A&B District, American Falls Reservoir District #2, Burley Irrigation District, Milner Irrigation District, Minidoka Irrigation District, North Side Canal Company, and Twin Falls Canal Company. Each entity holds separate senior surface natural flow water rights and has separate storage contracts for storage water space in the reservoirs.

Fourth Methodology Order, Conclusion of Law 17; *see also In Matter of Distribution of Water to Various Water Rts. Held By or For Ben. of A & B Irrigation Dist.*, 155 Idaho 640, 645, 315 P.3d 828, 833 (2013) ("[t]he concept of a baseline is that it is adjustable . . . ."). The prediction and determination of rights and obligations of the holders of senior priority and junior priority water rights respectively must: (1) apply the best available science and underlying water data; (2) consider changing climatic and cropping patterns; and (3) adhere to the most recent decisions of the courts related to water administration.

Many of the data sets the Department relied upon in the Fourth Methodology Order have been expanded and now include additional years. Furthermore, the Department now has multiple years of experience with the methodology to better understand the impact of applying steady-state modeling versus transient modeling to determine a curtailment priority date that would supply adequate water to the senior water right holders. The first version of the ESPA groundwater flow model was not calibrated at a time-scale that supported in-season transient modeling. In contrast, the current version was calibrated using monthly stress periods and half-month time steps, a refinement that facilitates in-season transient modeling for calculating the response to curtailment of groundwater use. The purpose of this *Fifth Amended Final Order Regarding Methodology for Determining Material Injury to Reasonable In-Season Demand and Reasonable Carryover* ("Fifth Methodology Order") is to update the Director's methodology for determining material injury to storage and natural flow water rights either held by or committed to members of the SWC consistent with the Director's ongoing obligation to use the best available science and information.

FINDINGS OF FACT

I. Overview of the Methodology for Determining Material Injury to Water Rights by Determining Reasonable In-Season Demand and Reasonable Carryover

1. The methodology for determining material injury to water rights by determining reasonable in-season demand ("RISD") and reasonable carryover should be based on updated data, the best available science, analytical methods, and the Director's professional judgment as manager of the state's water resources. In the future, climate may vary and conditions may change; therefore, the methodology may need to be adjusted to consider a different baseline year or years ("BLY") or changes to other components.

2. In-season demand shortfall ("IDS") will be computed by subtracting RISD from the forecast supply ("FS"). In-season demand shortfall is computed using the following equation:

$$IDS = FS - RISD$$

3. If the FS is greater than the RISD, there is no demand shortfall. If the FS is less that the RISD, the negative difference is the demand shortfall. Initially, RISD is equal to the historic demands associated with a BLY as selected by the Director, but will be corrected during the season to account for variations in climate and water supply between the BLY and actual conditions.

4. Reasonable carryover shortfall will be computed by subtracting reasonable carryover from actual carryover, where reasonable carryover is defined as the difference between a baseline year demand ("BD") and projected typical dry year supply. Reasonable carryover shortfall will be computed using the following equation:

Reasonable Carryover Shortfall = Actual Carryover – Reasonable Carryover

5. If actual carryover exceeds the reasonable carryover, there is no reasonable carryover shortfall. In contrast, if reasonable carryover exceeds the actual carryover, the negative difference is the reasonable carryover shortfall.

6. The concepts underlying the selection of the BLY, determination of in-season demand shortfall, and reasonable carryover shortfall will be discussed in detail below.

II. In-Season Demand Shortfall

A. Considerations for the Selection of a Baseline Year

7. A BLY is a year or average of years when irrigation demand represents conditions that can predict need in the current year of irrigation at the start of the irrigation season. The purpose of predicting need is to estimate material injury.

8. A BLY is selected by analyzing three factors: (1) climate; (2) available water supply; and (3) irrigation practices. R. Vol. 37 at 7098.[2] To capture current irrigation practices, identification of a BLY is limited to years subsequent to 1999. *Id*. at 7096.

9. The historic diversion volumes from the BLY and the predicted supply forecast at the start of the irrigation season are inputs to predict the initial ISD, where a demand shortfall is the difference between the BD and the FS. When the difference is a negative number, the ISD is zero. ISD increases with increases in BD, decreases in FS, or both. Assuming constant irrigation practices, crop distributions, and total irrigated acres, demand for irrigation water typically increases in years of higher temperature, higher reference evapotranspiration ("ET"), and lower precipitation. If water demand data is averaged for several years and these averages are the basis to predict demand shortfall at the start of the season, in a high-water demand year, these averages may often under-predict the demand shortfall. In a high-water demand year, under-prediction of IDS might be acceptable if the junior priority ground water right holders and the senior priority surface water right holders shared equally in the risk of water shortages. Equality in sharing the risk will not adequately protect the senior priority surface water right holder from injury. Actual demand shortfalls to a senior surface water right holder resulting from predictions at the start of the irrigation season based on average data unreasonably shifts the risk of shortage to the senior surface water right holder. Therefore, a BLY should represent a

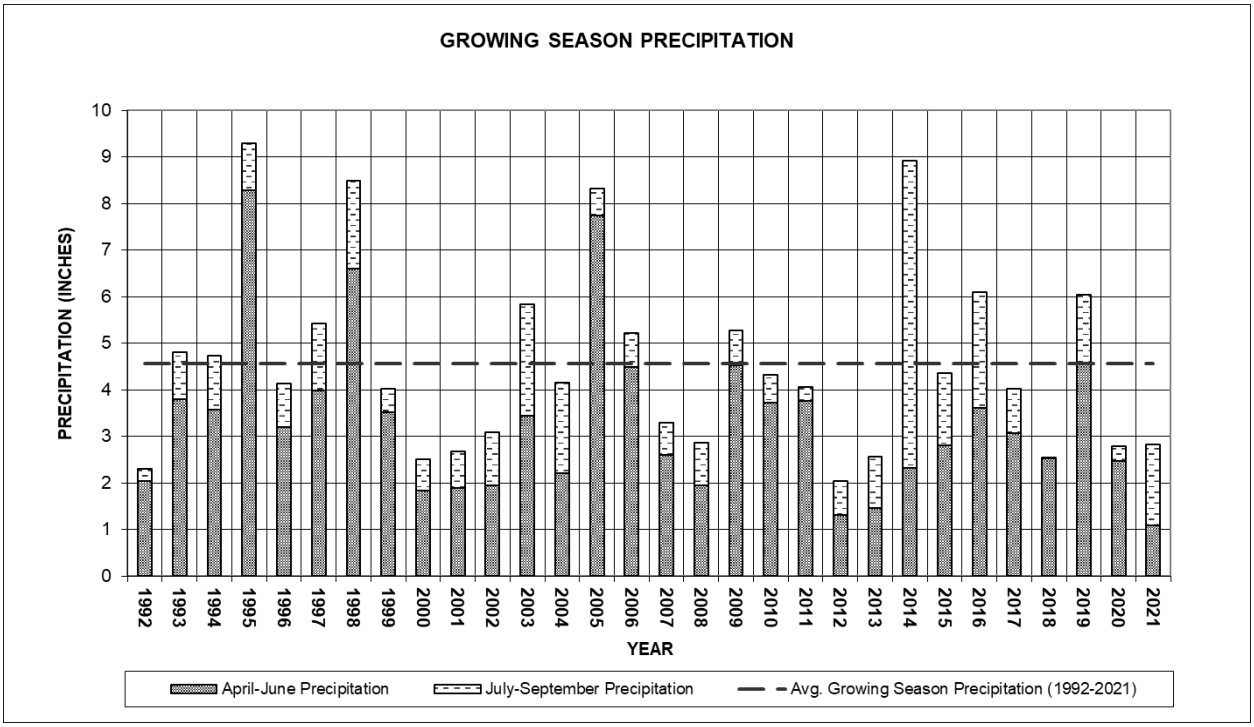
[2] All citations in this Order are to material that was admitted during the original hearing and is part of the final agency record on appeal in Gooding County Case No. CV-2008-551, which was lodged with the Fifth Judicial District Court on February 6, 2009.

year(s) of above average diversions and should not represent a year(s) of average or below average diversions. An above average diversion year(s) selected as the BLY should also represent a year(s) of above average temperatures and reference ET, and below average precipitation to ensure that increased diversions were a function of crop water need and not other factors. In addition, actual supply should be analyzed to assure that the BLY is not a year of limited supply.

i. Climate

10. For the methods outlined herein, climate is represented by precipitation, reference ET, and growing degree days.

11. Precipitation. Water, in all phases, introduced to Idaho from the atmosphere is termed precipitation. During the growing season, precipitation reduces the irrigation water needed for growing crops. Ex. 3024 at 19. The figure below shows the precipitation recorded during the growing season at the National Weather Service's Twin Falls weather station.



Growing Season Precipitation at National Weather Service's Twin Falls Weather Station 1992–2021.[3]

[3] The Fourth Methodology Order included data for the period 1990 through 2014. This Fifth Methodology Order updates this chart with data for the period 1992 to 2021. The chart is created from NOAA National Weather Service total precipitation data obtained from the NCDC's Climatological Data Annual Summary Idaho report series for the Twin Falls 6 E and Twin Falls Sun Valley Regional Airport weather stations.

12. Evapotranspiration. ET is a variable representing both the amount of water that transpires from vegetation and the amount of water that evaporates from the underlying soil. ET is an important factor for properly estimating RISD. In its water budget calculations, the SWC proposed the use of ET values from the USBR as part of their Pacific Northwest Cooperative Agricultural Network, i.e. AgriMet. Ex. 8000, Vol. II, Chap. 9; Ex. 8000, Vol. IV, Appdx. AU. The ground water users proposed the use of ET values from Richard G. Allen and Clarence W. Robison 2007, Evapotranspiration and Consumptive Irrigation Water Requirements for Idaho, i.e. ETIdaho. Ex. 3007A at 21; Ex. 3024 at 1-58.

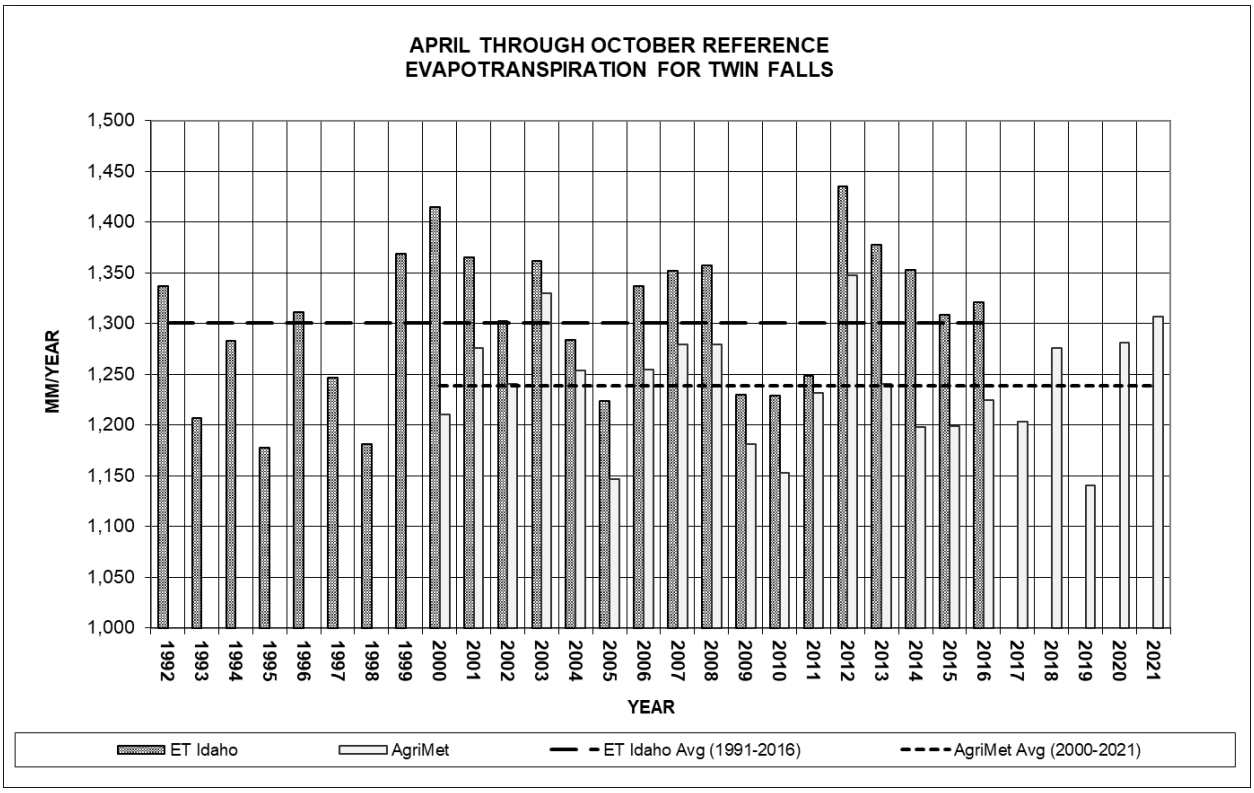
13. Reference ET is a standardized index that approximates the climatic demand for water vapor (i.e. ET). Both ETIdaho and AgriMet calculate and publish reference ET data. The Department will identify potential BLYs by consulting both ETIdaho reference ET and AgriMet reference ET.

14. Neither ETIdaho reference ET data nor AgriMet reference ET data span the entire period of analysis (1992-2021). ETIdaho reference ET data are currently available from 1990 through 2016.[4] AgriMet reference ET data are available from 2000 to 2021.[5] Ideal BLY candidates are years in which reference ET exceeds average reference ET values. The individual year is compared using both AgriMet and ETIdaho reference ET data for those years in which both data are available and only AgriMet data in those years where there is no ETIdaho data.

[4] The Fourth Methodology Order included ETIdaho reference ET data for the period 1991 to 2011. ETIdaho reference ET data is now available through 2016. This Fifth Methodology Order updates this chart with data for the period 1992 to 2016.

[5] The Fourth Methodology Order included AgriMet reference ET data for the period 2000 to 2014. . AgriMet reference ET data is now available through 2021. This Fifth Methodology Order updates this chart with data for the period 2000 to 2021.

15. Years of above average values of reference ET are appropriate BLY candidates.[6] Total April through October reference ET for the period of record from the Twin Falls (Kimberly) AgriMet site is shown below.

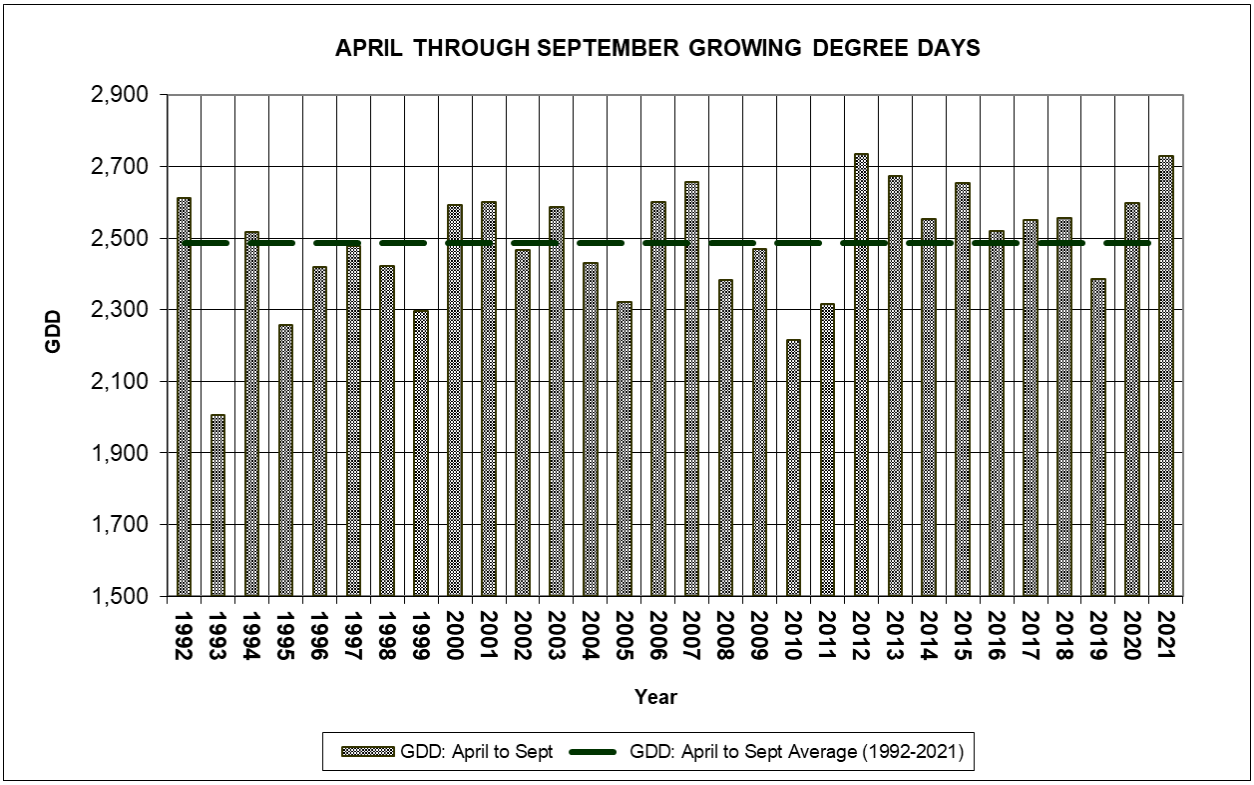


Reference ET for Twin Falls (Kimberly) with both AgriMet and ETIdaho data 1992-2021.[7]

[6] Values for reference ET between ETIdaho and AgriMet do not match because they are derived differently. The relevant information for identifying a potential BLY is the relationship between the year under consideration and the average for the data sets.

[7] The Fourth Methodology Order included data only through 2014. This Fifth Methodology Order updates this chart with combined data for the period 1992 to 2021, establishing a 30-year record which is the professional standard of practice for calculating climatic and hydrologic normals.

16. Growing Degree Days. Growing degree days define the length and type of growing season. Growing degree days are an arithmetic accumulation of daily mean temperature above a certain base temperature. Ex. 3024 at 10; 117-21. These growth units are a simple method of relating plant growth and development to air temperatures. Different plant species have different base temperatures below which they do not grow. At temperatures above this base, the amount of plant growth is approximately proportional to the amount of heat or temperature accumulated. A higher annual growing degree day value correlates to a higher potential rate of plant growth. The table below shows growing degree days accumulated for April through September for the Twin Falls (Kimberly) AgriMet site.

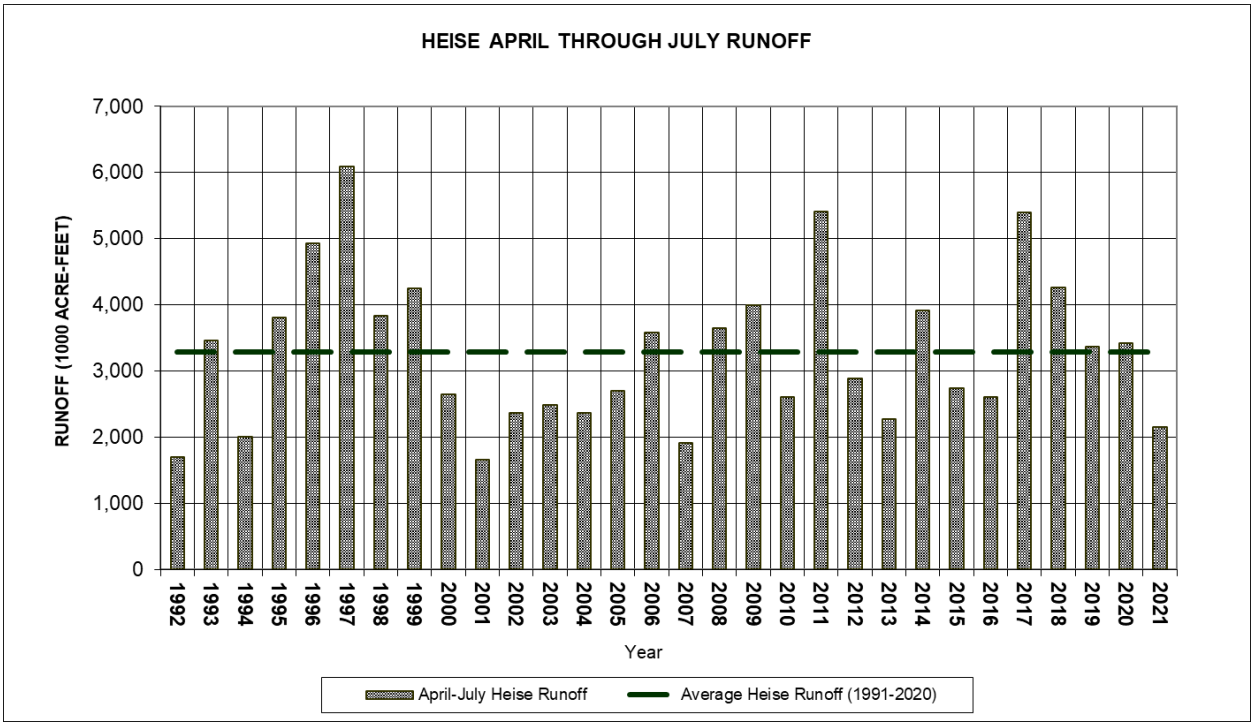


Growing Degree Days ("GDD") for Twin Falls (Kimberly) AgriMet Site 1992-2021.[8]

[8] The Fourth Methodology Order included data only through 2014. This Fifth Methodology Order updates this chart with data for the period 1992 to 2021.

ii. Available Water Supply

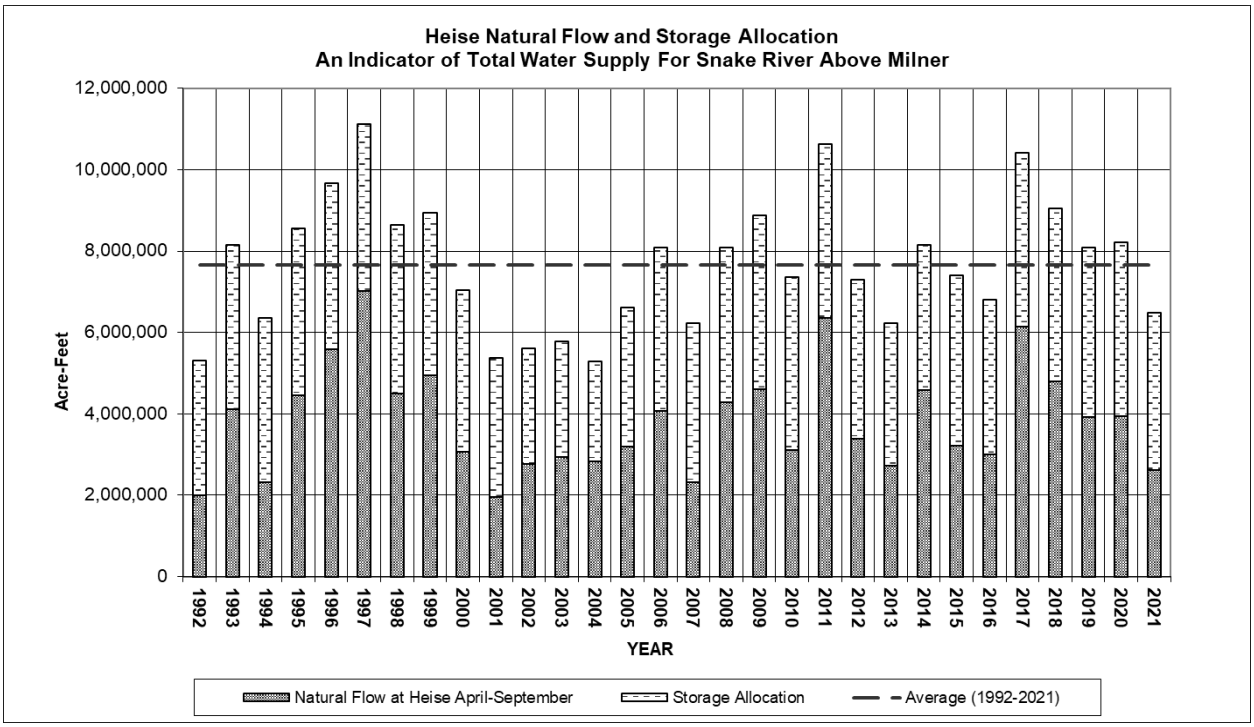
17. The April through July Heise runoff volume represents the volume of water available for diversion into storage reservoirs and is an indicator of natural flow supplies. The graph below shows actual unregulated flow volumes at Heise for 1992 through 2021. The 1992 to 2021 average (3,284,000 acre-feet) is displayed by the dashed line.



April through July Unregulated Flow Volume at Heise, 1992-2021.[9]

[9] The Fourth Methodology Order included data only through 2014. This Fifth Methodology Order updates this chart with data for the period 1992 to 2021.

18. The sum of the Heise natural flow and the reservoir storage allocations is an indicator of the total supply of the Snake River. The sum of the Heise natural flow and reservoir storage allocations for each year from 1992-2021 is represented in the graph below.



The sum of the Heise natural flow and the storage allocation for the Snake River above Milner 1992-2021.[10]

iii. Irrigation Practices

19. A baseline year ("BLY") must be recent enough to represent current irrigation practices. R. Vol. 37 at 7099-7100. Current conditions should be represented by: (a) the net area of the irrigated crops, (b) farm application methods (flood/furrow or sprinkler irrigation), and (c) the conveyance system from the river to the farm. The type of sprinkler systems should be similar between the BLY and the current year.

20. Sprinkler systems are currently the predominant application system. *Id*. at 7101-02. To ensure that current irrigation practices are captured, selection of a BLY for the SWC should be limited to years subsequent to 1999. *Id*. at 7096; 7099-7100.

[10] The Fourth Methodology Order included data for the period 1990 to 2014. This Fifth Methodology Order updates this chart with data for the period 1992 to 2021.

21. Estimates of irrigated acres from the hearing show a trend of decreasing irrigated acreage. R. Vol. 28, 5205-15; R. Vol. 37 at 7100. According to the Hearing Officer, beneficial use cannot occur on acres that have been hardened or are otherwise not irrigated. R. Vol. 37 at 7100.

22. The following table summarizes: a) SWC entities; b) shapefile source of reported irrigated acres; c) year shapefile created; d) decreed irrigated acres; (e) number of reported acres in shapefile; and f) irrigated acres used in this methodology order for the 2023 irrigation season. The number of irrigated acres used in this methodology order is the number of reported acres unless that number is larger than the decreed irrigated acres, and if so, then the decreed acres were used. This table will be updated annually based on the reported number of irrigated acres by each SWC entity in Step 1 of the Methodology Order.

Entity	Shapefile Source	Shapefile Year	Partial Decree Acres	Shapefile Acres	Acres Used in Methodology
A&B	PPU[1]	2010	15,924	21,972	15,924
AFRD2	PPU	2010	62,361	69,077	62,361
BID	SWC	2013	47,643	46,035	46,035
Milner	PPU	2010	13,335	13,264	13,264
Minidoka	SWC	2023	75,093	77,176	75,093
NSCC	PPU	2010	154,067	224,463	154,067
TFCC	SWC	2013	196,162	194,732	194,732

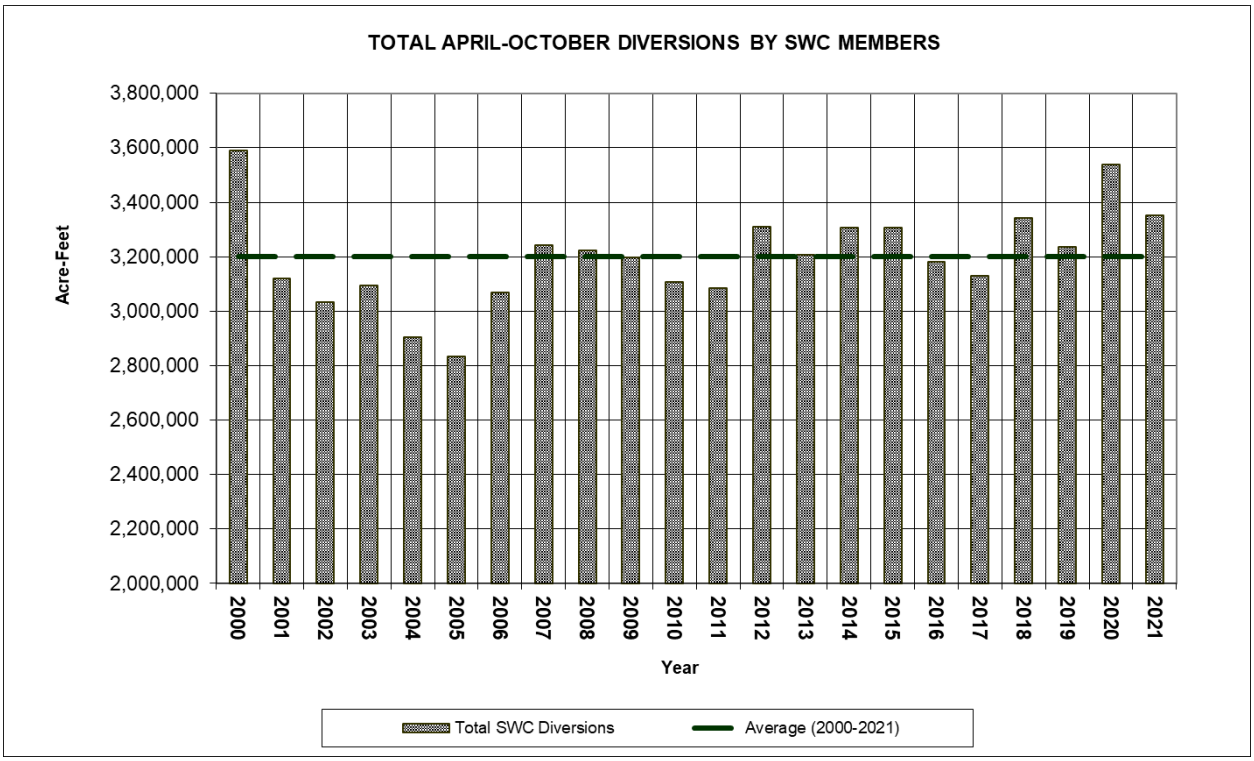
[1] IDWR permissible place of use.

Acres used in the methodology.

23. There are lands within the service areas of SWC entities that are irrigated with supplemental groundwater. Exhibit 3007. Supplemental groundwater is a factor the Director can consider in the context of a delivery call. *Memorandum Decision and Order on Petitions for Judicial Review* ("Methodology Remand Order") in Gooding County Consolidated Case No. CV-2010-382, at 18-19. At this time, the information submitted or available to the Department is insufficient to determine the extent of supplemental irrigation on lands within the service areas of SWC entities.

iv. Diversions

24. The following figure summarizes the annual measured diversions by the combined SWC members from 2000-2021. Diversions for a baseline year should exceed the average diversions.



Total April-October Diversions by SWC Members.[11]

B. Selection of the Initial Baseline Year

25. When selecting the BLY the Director must evaluate recent data to determine whether the BLY section criteria are satisfied.

26. In the Fourth Methodology Order, the Department considered the years 2000-2014 when deciding the BLY. Ultimately, the Department chose an average of the years 2006, 2008, and 2012 for the BLY ("BLY 06/08/12"). For this Fifth Methodology Order, the years 2000-2021 were considered for the BLY selection. With the addition of new data from 2014 to 2021, the total diversions by the SWC for the previous BLY 06/08/12 are 100% of the average SWC diversions for the years 2000-2021. As a result of adding the new data, BLY 06/08/12 no longer satisfies the presumption criteria that total diversions in the BLY should exceed the average annual diversions. Mem. Decision & Order on Pets. for Jud. Rev., at 34, *IGWA v. Idaho Dep't of Water Res.*, No. CV-2010-382 (Gooding Cnty. Dist. Ct. Idaho Sept. 26, 2014).

[11] The Fourth Methodology Order did not include this chart. It was added to demonstrate that the baseline year is a year of above average total diversions.

27. Years 2018 and 2020 satisfy all the BLY selection criteria discussed above. Each of these years had (1) total diversions above the average diversions for the years 2000-2021, (2) total growing degree days above the average for the years 1992-2021, and (3) reference ET values above the average for the years 1992-2021. The years 2018 and 2020 also had total precipitation values below the average precipitation for the years 1992-2021 and were not water supply limited years. The Department has reviewed the SWC's diversion data for the 2020 irrigation season. The Department finds that 2020 ranks as the second-highest year of total diversions for the SWC and is more than one standard deviation above the average for the years 2000-2021. In comparison, 2018 ranks as the fourth-highest year of total diversions for the SWC and is less than one standard deviation above the average for the years 2000-2021. Choosing a BLY with above average diversions but within one standard deviation, ensures that a conservative year is selected that protects the senior while excluding extreme years from consideration. The Director concludes that total diversions for 2018 adequately protect senior water rights when predicting the demand shortfall at the start of the irrigation season and selects 2018 as the BLY.

Entity	2000-2021 Avg. Total Diversions (Acre-Feet)	06/08/12 Avg. Total Diversions (Acre-Feet)	06/08/12 % of Avg.	2018 Total Diversions (Acre-Feet)	2018 % of Avg.
A&B	59,474	59,993	101%	64,192	108%
AFRD2	427,978	427,672	100%	453,890	106%
BID	247,049	251,531	102%	262,211	106%
Milner	53,343	47,135	88%	58,417	110%
Minidoka	354,181	369,492	104%	354,851	100%
NSCC	996,267	978,888	98%	1,026,661	103%
TFCC	1,062,098	1,060,011	100%	1,121,717	106%
Total	3,200,389	3,194,722	100%	3,341,939	104%

Average SWC Diversions (acre-feet) for 2000-2021, 2006/2008/2012 BLY, and 2018 BLY.

C. Calculation of Reasonable In-Season Demand

28. Reasonable in-season demand (RISD) is the projected annual diversion volume for each SWC entity during the year of evaluation that is attributable to the beneficial use of growing crops within the service area of the entity. Given that climate and system operations for the year being evaluated will likely be different from the BLY, the BLY must be adjusted for those differences. As stated by the Hearing Officer, "The concept of a baseline is that it is adjustable as weather conditions or practices change, and that those adjustments will occur in an orderly, understood protocol." R. Vol. 37 at 7098.

i. Project Efficiency

29. Project efficiency ("E_p") is the ratio of total volumetric crop water needs within a SWC entity's boundary and the total volume of water diverted by that entity to satisfy its crop needs. It is the same concept as system efficiency, which was presented at hearing. Ex. 3007 at

28-29. Implicit in this relationship are the components of seepage loss (conveyance loss), on-farm application losses (deep percolation, field runoff), and system operational losses (return flows) for which data is not obtainable by the Department. By utilizing project efficiency and its input parameters of crop water need and total diversions, the influence of the unknown components for which data is not obtainable can be captured and described without quantifying each of the components. Project efficiency is derived by dividing crop water need by total diversions as depicted in the algorithm below:

$$E_p = \frac{CWN}{Q_D}$$

Where:

E_p = project efficiency,
CWN = crop water need, and
Q_D = irrigation entity diversion of water specifically put to beneficial use for the growing of crops within the irrigation entity.

30. Monthly SWC entity diversions ("Q_D") will be obtained from Water District 01's diversion records. Ex. 8000, Vol. II, at 8-4, 8-5. Raw monthly diversion values will then be adjusted to remove any water diversions that can be identified to not directly support the beneficial use of crop development within the irrigation entity. Examples of adjustments include the removal of diversions associated with in-season recharge and diversion of irrigation water on the behalf of another irrigation entity. Adjustments are unique to each SWC member and each irrigation season and will be evaluated each year. Any natural flow or storage water deliveries to entities other than the SWC for purposes unrelated to the original right will not be included as a part of the SWC water supply or carryover volume. Water that is purchased or leased by a SWC member may become part of the shortfall obligation to the extent that member has been found to have been materially injured. *See e.g.* R. Vol. 38 at 7201, n. 11 (Eighth Supplemental Order). Conversely, water supplied to private leases or to the rental pool by a SWC member will be included as a part of the SWC supply for that member because non-inclusion would unjustifiably increase the shortfall obligation.

31. Monthly project efficiencies will be computed for the entire irrigation season. Project efficiency varies from month-to-month during the season and will typically be lower during the beginning and ending of the season. Monthly project efficiencies will be divided into actual monthly crop water need ("CWN") values to determine RISD during the year of evaluation.

32. In the Fourth Methodology Order, project efficiencies for each SWC member were initially averaged over an eight-year period (2007-2014) and project efficiency greater or less than two standard deviations were excluded from the calculation. By including only those values within two standard deviations, extreme values from the data set are removed. Under the Fourth Methodology Order, an updated 8-year rolling average of project efficiencies was calculated each year the methodology was implemented. The Director now finds that averaging over a rolling period of 15 years results in project efficiency values that are more consistent from year-to-year, reducing the impact of short-term trends. The Director finds that it is still

appropriate to remove project efficiencies greater or less than two standard deviations from the average.

The following is a table of efficiency values averaged over the most recent fifteen-year period of record.

Month	A&B	AFRD2	BID	Milner	Minidoka	NSCC	TFCC	Monthly Avg.
4	0.98	0.33	0.45	0.87	0.43	0.24	0.31	0.51
5	0.47	0.22	0.32	0.39	0.35	0.24	0.30	0.33
6	0.66	0.40	0.49	0.60	0.56	0.41	0.51	0.52
7	0.74	0.44	0.52	0.67	0.63	0.48	0.58	0.58
8	0.58	0.41	0.42	0.55	0.52	0.43	0.46	0.48
9	0.45	0.27	0.32	0.45	0.38	0.32	0.27	0.35
10	0.18	0.16	0.09	0.14	0.11	0.06	0.04	0.11
Season Avg.	0.58	0.32	0.37	0.52	0.43	0.31	0.35	

SWC Member Average Monthly Project Efficiencies from 2007-2021.[12]

ii. Crop Water Need

33. CWN is the volume of irrigation water required for crop growth within a SWC entity boundary, such that crop growth is not limited by water availability. CWN only applies to crops irrigated with surface water. CWN is the difference between the fully realizable consumptive use associated with crop growth, or ET, and effective precipitation (W_e) and is synonymous with the terms irrigation water requirement and precipitation deficit. Ex. 3024. For the purposes of the methodology, CWN is calculated as set forth below:

$$CWN = \sum_{i=1}^{n} (ET_i - W_e) A_i$$

Where,

CWN = crop water need
ET_i = consumptive use of specific crop type,
W_e = effective precipitation,
A_i = total irrigated area of specific crop type,
i = index variable representing the different specific crop types grown within the irrigation entity, and
n = upper bound of summation equal to the total number of different specific crop types grown within the irrigation entity.

[12] In the Fourth Methodology Order, this table summarized average E_p data for the period 2007 to 2014. This Fifth Methodology Order updates this table with average E_p data for the period 2007 to 2021.

iii. Evapotranspiration

34. ET can be estimated with theoretically based equations that calculate ET for an individual crop, necessitating crop distribution maps for each year. Ex. 3007A at 21, Figure 3, Tables 6-12; Ex. 3024 at 1-58; Ex. 8000, Vol. II at Chapter 9; Ex. 8000, Vol. IV, Appdx. AU.

35. At hearing, values of ET were estimated by the SWC from AgriMet, Ex. 8000, Vol. IV, Appdx. AU-1, and by the ground water users from ETIdaho, Ex. 3007A at 21; Ex. 3024 at 1-58. At this time, the Director finds that the use of AgriMet is more appropriate for determining ET than ETIdaho because AgriMet is available to all parties in real-time without the need for advanced programming. Accordingly, the methodology will rely on AgriMet derived ET values in the calculations of project efficiency, CWN, and RISD. In the future, with the development of additional enhancements, ETIdaho may become a more appropriate analytical tool for determining ET.[13]

36. CWN is derived by multiplying crop specific ET values, adjusted for estimated effective precipitation, by the total irrigated area of individual crop types, and summing for all crop types. The areas for individual crop types will be derived from published crop distributions from the United States Department of Agriculture's National Agricultural Statistics Service ("NASS"). Ex. 1005 at 1. NASS annually creates a crop-specific land cover digital dataset from satellite imagery and field checks. The dataset is called the Cropland Data Layer ("CDL"). Each year, the Department will calculate acreage by crop type for each SWC entity using NASS CDL data. In the future, the NASS data may not be the most accurate source of data. The Department prefers to rely on data from the current season if and when it becomes usable.

37. AgriMet ET and precipitation data are gathered at the Rupert and Twin Falls (Kimberly) stations. Both stations are in the vicinity of the SWC entities. A&B Irrigation District ("A&B"), Burley Irrigation District ("BID"), and Minidoka Irrigation District ("Minidoka") are nearest to the Rupert AgriMet station. ET data gathered at the Rupert station reasonably represents the climate conditions for A&B, BID, and Minidoka. American Falls Reservoir District No. 2 ("AFRD2"), Milner Irrigation District ("Milner"), North Side Canal Company ("NSCC"), and Twin Falls Canal Company ("TFCC") are nearest to the Twin Falls (Kimberly) AgriMet station. ET data gathered at the Twin Falls (Kimberly) station reasonably represents the climate conditions for AFRD2, Milner, NSCC, and TFCC. Ex. 8000, Vol. IV at AU-2, AU-8.

iv. Effective Precipitation

38. Effective precipitation ("W_e") is the amount of total precipitation held in the soil horizon available for crop root uptake. Effective precipitation will be estimated from total precipitation (W) employing the methodology presented in the USDA Technical Bulletin 1275. Ex. 8000, Vol. IV, Appdx. AU3, AU8. Total precipitation (W) data is published by the USBR as

[13] IDWR held a series of meetings in the winter of 2022-23 with the parties' technical consultants to discuss potential updates to the methodology order. During the meetings, IDWR discussed alternative methods of determining ET values, such as METRIC. However, the Director finds that the methods considered are not yet ready for incorporation into the administration of the SWC Delivery Call and will continue to rely on AgriMet ET data.

part of its Pacific Northwest Cooperative Agricultural Network, i.e. AgriMet.[14] Ex. 8000, Vol. IV, Appdx. AU3. W_e values derived from AgriMet based precipitation values are independent of crop type.

39. AgriMet precipitation (W) values are easy to understand and regularly used by the farming, water supply, and water management communities. Accordingly, the methodology will rely on AgriMet derived W values in the calculations of CWN and RISD.

40. As with ET data, AgriMet precipitation data are available from the Rupert and Twin Falls (Kimberly) stations. AgriMet data from the Rupert station reasonably represents climate conditions for A&B, BID, and Minidoka. AgriMet data from Twin Falls (Kimberly) reasonably represents climate conditions for AFRD2, Milner, NSCC, and TFCC. Ex. 8000, Vol. IV at AU-2, AU-8.

v. Summary of Reasonable In-Season Demand Calculation

41. At the start of the irrigation season, RISD is equal to the BD, or total season adjusted diversions for the BLY. When calculated in-season, RISD is calculated below.

$$RISD_{milestonex_x} = \sum_{j=1}^{m}\left(\frac{CWN_j}{E_{p,j}}\right) + \sum_{j=m+1}^{7} BD_j$$

Where:

$RISD_{milestone_x}$ = reasonable in season demand at specified evaluation milestones during the irrigation season,
CWN = crop water need for month j,
E_p = baseline project efficiency for month j,
BD = baseline demand for month j,
j = index variable, and
m = upper bound of summation, equal to the month calculation occurs, where April = 1, May =2, … October = 7.

42. April RISD Adjustment: In April, the calculated RISD, which is the quotient of CWN and Ep, can underestimate actual canal operation diversions. Under-estimation occurs when the actual CWN value for April is much smaller than the diversion of water into the canal system necessary to effectively operate the irrigation delivery system. Often, CWN in April is small due to precipitation, cool temperatures, and/or the immaturity of the crop. The diversion rate at the head gate necessary to push water into all laterals and field head gates throughout the delivery system often dwarfs the water necessary to strictly satisfy CWN. In addition, it is difficult for canal systems to be dynamically operated to match the frequent precipitation events in April, which also contributes to a diversion of water at the canal head gate that exceeds the diversion of water necessary to strictly satisfy CWN. To account for the conditions affecting the

[14] IDWR held a series of meetings in the winter of 2022-23 with the parties' technical consultants to discuss potential updates to the methodology order. During the meeting, IDWR discussed alternative methods to determine W values, such as PRISM. However, the Director finds that the methods considered are not yet ready for incorporation into the administration of the SWC Delivery Call and will continue to rely on AgriMet precipitation data.

usability of the calculated RISD value for April, the values may be adjusted for each individual irrigation delivery entity in the SWC as described below.

43. When the calculation of CWN/Ep results in a value for the month of April less than the average April diversion volume over a record of representative years in the recent past, the April RISD is set equal to the average April diversion volume. When the calculation of CWN/Ep results in a value greater than the average April diversion volume, the April RISD is equal to the calculated CWN/Ep volume.

44. October RISD Adjustment: In October, the calculated RISD, which is equal to the CWN divided by Ep, can both under-estimate and over-estimate actual canal operation diversions. The RISD may be underestimated when the actual CWN value for October is much smaller than the diversion of water into the canal system necessary to effectively operate the irrigation delivery system. The diversion rate at the head gate necessary to push water into all laterals and field head gates throughout the delivery system often dwarfs the water necessary to strictly satisfy CWN. In addition, it is difficult for canal systems to be dynamically operated to match the frequent precipitation events in October, which also contributes to a diversion of water at the canal head gate that exceeds the diversion of water necessary to strictly satisfy CWN. Furthermore, RISD may be underestimated in October when a farmer diverts water at the field head gate for farming practices other than strictly satisfying CWN. Examples of water diversion practices at the field head gate that sometimes occur in October include diverting water for soil salt leaching, diverting water to build up the soil moisture profile for the following irrigation season, and/or diverting water to wet-up bare soil to prevent wind-driven topsoil erosion.

45. Unlike the month of April, RISD can be over-estimated in October. RISD may be over-estimated in years when actual CWN in October is much greater than typical CWN over a record of representative years in the recent past due to low precipitation and/or warm temperatures. To account for the conditions affecting the usability of the RISD value calculated for October, the values may be adjusted for each individual irrigation delivery entity in the SWC as described below.

46. When the calculation of CWN/Ep results in a value for the month of October greater than the maximum October diversion volume from a record of recent representative years, or less than the minimum October diversion volume from the same record of recent representative years, the October RISD is set equal to the average October diversion volume over the same period of recent representative years. When the calculation of CWN/Ep results in a value between the maximum and minimum October diversion volumes from a record of recent representative years, the October RISD is equal to the calculated CWN/Ep volume.

D. Adjustment of Forecast Supply

47. As stated by the Hearing Officer, "There must be adjustments as conditions develop if any baseline supply concept is to be used." R. Vol. 37 at 7093. A prediction of the upcoming season's supply and demand is calculated at the beginning of the irrigation season and

adjusted at specified milestones during the irrigation season to address changes in water supply and demand conditions in response to actual climatic and water supply conditions.

i. April Forecast Supply

48. The FS is comprised of natural flow and stored water.

49. Typically, within the first week of April, the USBR and the USACE issue their Joint Forecast that predicts an unregulated inflow volume at the Heise Gage from April 1 to July 31 for the forthcoming year. The joint forecast ("Joint Forecast") issued by the United States Bureau of Reclamation ("USBR") and the United States Army Corp of Engineers ("USACE") for the period April 1 through July 31 "is generally as accurate a forecast as is possible using current data gathering and forecasting techniques." R. Vol. 8 at 1379, ¶ 98. Given current forecasting techniques, the earliest the Director can predict material injury "with reasonable certainty" is soon after the Joint Forecast is issued. R. Vol. 2 at 226. With data from 1990 through the irrigation year previous to the current year, a regression equation will be developed for each SWC member.[15] The regression equations for A&B and Milner will be developed by comparing the actual Heise natural flow to the natural flow diverted. *See e.g.* R. Vol. 8 at 1416-22. For AFRD2, BID, Minidoka, NSCC, and TFCC, multi-linear regression equations will be developed by comparing the actual Snake River near Heise natural flow and the flows at Box Canyon to the natural flow diverted. The regression equations will be used to predict the natural flow diverted for the upcoming irrigation season. *Id*. at 1380. The actual natural flow volume predicted in the Director's April FS for each SWC entity will be one standard error below the regression line, which underestimates the available supply. *Id*.; Tr. p. 65, lns. 6-25; p. 66, lns. 1-2. The purpose of the shift to one standard error below the regression line is to ensure senior water right holders do not bear the risk of under-prediction of supply. The forecasting techniques will be revised based on updated data and the forecasting techniques may be revised when improvements to the forecasting tools occur.

50. The storage allocation for each member of the SWC will be estimated by the Department following issuance of the Joint Forecast. The Department will forecast reservoir fill and storage allocation consistent with the methods established in the *Fifth Supplemental Order Amending Replacement Water Requirements Final 2006 & Estimated 2007.* R. Vol. 23 at 4294-97 as explained below. The Department will evaluate the current reservoir conditions and the current water supply outlook to determine a historical analogous year or years to predict reservoir fill. The Department may identify and use a combination of different analogous years to predict individual reservoir fill. Input variables for determining the individual storage water allocation for each SWC member are: (a) the analogous year's or years' total reservoir fill volume; (b) an estimated evaporation volume; and (c) the previous year's carryover volume. The FS (the combination of the forecast of natural flow supply and the storage allocation) for each SWC member will be determined by the Director shortly after the date of the Joint Forecast.

[15] IDWR held a series of meetings in the winter of 2022-23 with the parties' technical consultants to discuss potential updates to the methodology order. During the meetings, IDWR discussed updating the regression models used to forecast the SWC's water supplies in April. However, the Director finds that the current models still adequately forecast water supplies in April and will continue to rely on the existing regression models.

51. Any time prior to the Director's final determination of the April FS, if the Director can determine with certainty that any member of the SWC has diverted more natural flow than predicted, or has accrued more storage than predicted, the Director will revise his initial, projected shortfall determination.

ii. July Forecast Supply

52. Approximately halfway through the irrigation season, the FS will be adjusted. When adjusting the natural flow component of the FS, the Department's water rights accounting program will compute the year-to-date natural flow diverted by each member of the SWC. The natural flow diversion for the remainder of the irrigation season will be estimated based on the regression analyses.

53. The natural flow supplies for each SWC member are comprised of natural flow in the Snake River passing the near Blackfoot gage and gains that occur in the Snake River between the Blackfoot to Milner reach. Many different predictor variables were considered when developing the models used to predict the natural flow supplies for the remainder of the season, including those variables used in the April FS.[16] A step-wise statistical analysis was employed to help select the variables for each model. The following variables were selected to forecast water supplies halfway through the irrigation season: natural flow in the Snake River near Heise as reported by the U.S. Bureau of Reclamation; snow water equivalent (SWE) data at the Two Ocean Plateau SNOTEL site; Spring Creek discharge; and groundwater levels near American Falls Reservoir. The model predictors were optimized for each SWC member and are summarized in the sections below.

54. Linear regression equations for AFRD2, A&B, and Milner, will be developed by comparing the July 1 snow water equivalent (inches) at the Two Ocean Plateau SNOTEL site to the natural flow diversions. The regression equations for AFRD2, A&B, and Milner will be applied only in those years when the snow water equivalent at the Two Ocean Plateau SNOTEL site is greater than zero (0). Years when the snow water equivalent equals zero, the total natural flow prediction for the period July 1 to October 31 will be zero (0) AF.

55. Multiple linear regression equations for BID, Minidoka, and NSCC will be developed to predict natural flow diversions employing the following predictor variables: (1) Snake River near Heise natural flow (April – June), (2) March depth to water at well 05S 31E 27ABA1 and (3) the snow water equivalent at the Two Ocean Plateau SNOTEL site on June 15.

56. The multiple linear regression model for TFCC will be based on the following predictor variables: (1) Snake River near Heise natural flow (April – June), (2) Spring Creek total discharge (January – May) and (3) the snow water equivalent at the Two Ocean Plateau SNOTEL site on June 15.

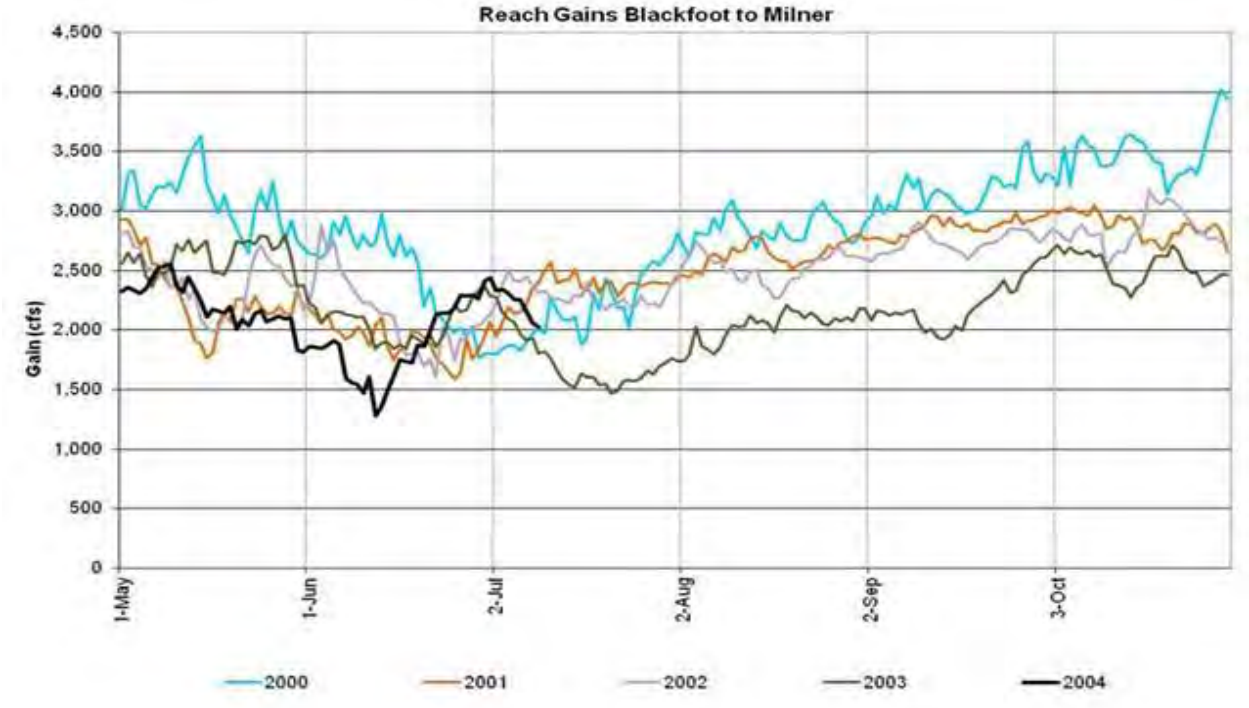
[16] IDWR held a series of meetings in the winter of 2022-23 with the parties' technical consultants to discuss potential updates to the methodology order. IDWR discussed updating the regression models used to forecast the SWC's water supplies in July. However, the Director finds that the current models still adequately forecast water supplies in July and will continue to rely on the existing regression models.

57. When adjusting the storage component of the FS, the Department must consider whether stored water has been allocated. In normal to dry years, the reservoirs will typically have filled to their peak capacity for the season and the storage water will have been allocated. If the BOR and Water District 01 have allocated stored water to spaceholders, the Department will use the actual preliminary storage allocations to the SWC. If the BOR and Water District 01 have not yet allocated stored water to spaceholders, the Department will predict the storage allocations based on the storage allocations from an analogous year or years.

iii. Time of Need

58. The FS will again be adjusted shortly before the Time of Need. The Time of Need is established by predicting the day in which the remaining storage allocation will be equal to reasonable carryover. The Time of Need will not be earlier than the Day of Allocation.

59. When adjusting the natural flow component of the FS, the Department's water rights accounting program will compute the natural flow diverted by each member of the SWC as of the new forecast date. The natural flow diversion for the remainder of the irrigation season will be estimated based on a historical year with similar reach gains in the Blackfoot to Milner reach. The following is an example of estimating reach gains from an analysis of historical years. Reach gains for the years 2000 – 2003 and a portion of year 2004 are graphed below. Considering 2004 as an example of a current year and comparing 2004 to the hydrographs for 2000 – 2003, year 2003 has similar reach gains and is appropriately conservative. Therefore, the natural flow diverted in 2003 would be used to predict the natural flow diversions for the remainder of the 2004 season.



Example Reach Gain Analysis for 2004.

60. When adjusting the storage component of the FS, the Department will use the actual preliminary storage allocations to the SWC.

61. The adjusted FS is the sum of the year-to-date natural flow diversions, the predicted natural flow diversions for the remainder of the season, and the storage allocation.

E. Calculation of In-Season Demand Shortfall

62. The equation below determines the amount of predicted demand shortfall during the irrigation season.

$$IDS = FS - RISD$$

Where:

IDS = demand shortfall for specified evaluation points throughout the season,
FS = forecasted supply adjusted for specified evaluation point during the season, and
RISD = reasonable in-season demand from above.

63. The amount calculated represents the volume that junior ground water users with approved mitigation plans for delivery of water will be required to have available for delivery to members of the SWC found to be materially injured by the Director to avoid curtailment. The amounts will be calculated in April, at the middle of the season, and at the Time of Need.

III. Methodology for Determining Material Injury to Reasonable Carryover

64. Conjunctive Management ("CM") Rule 42.01.g states the following guidance for determining reasonable carryover: "In determining a reasonable amount of carry-over storage water, the Director shall consider average annual rate of fill of storage reservoirs and the average annual carry-over for prior comparable water conditions and the projected water supply for the system." Carryover shortfall will be determined following the completion of the irrigation season.

A. Projected Water Supply

65. CM Rule 42.01.g states that the Director "shall consider . . . the projected water supply for the system." Because it is not possible to adequately forecast the irrigation supply or demand for the following irrigation season at the end of the current irrigation season, the Director must estimate the carryover water needed in future dry years when demand exceeds supply, creating a need for carryover storage. The Director projected the water supply using typical dry years and subtracted it from a projected future demand to determine a projected carryover need.

66. The Heise natural flow is a predictive indicator of total water supply. For the years 2002 and 2004, the Heise natural flows were well below the long term average (1992-2021), but were not the lowest years on record.[17] The average of the 2002 and 2004 supply will be the projected supply, representing a typical dry year. The 2002 and 2004 supply is computed as follows:

- 2002 supply = natural flow diverted + new storage fill
- 2004 supply = natural flow diverted + new storage fill
- Projected supply = average of 2002 supply and 2004 supply

Carryover from previous years is not included in the 2002 and 2004 new storage fill because it was not new water supplied during the 2002 or 2004 irrigation year.

	2002 Natural Flow Diverted	2002 New Storage Fill	2002 Total Supply	2004 Natural Flow Diverted	2004 New Storage Fill	2004 Total Supply	Projected Supply (Average 02/04)
	----------Acre-Feet----------						
A&B	853	45,603	46,456	1	36,535	36,536	41,496
AFRD2	25,749	381,451	407,200	4,562	309,698	314,260	360,730
BID	89,886	174,454	264,340	102,706	152,387	255,093	259,716
Milner	5,058	43,430	48,488	1,027	35,175	36,202	42,345
Minidoka	143,937	256,602	400,539	141,460	229,574	371,034	385,787
NSCC	363,960	667,799	1,031,759	315,942	479,068	795,010	913,385
TFCC	851,970	186,233	1,038,203	881,345	150,218	1,031,563	1,034,883

SWC water supplies 2002, 2004, and 2002/2004 average (acre-feet).

67. Similar to projecting supply, the Director must also project demand. Because it is not possible to adequately forecast the irrigation demand for the following irrigation season at the end of the current irrigation season, the Director must project demand. R. Vol. 37 at 7109. The 2018 BLY will be the projected demand.

[17] The Fourth Methodology Order included data for the period 1991 to 2014. This Fifth Methodology Order updates this chart with data for the period 1992 to 2021.

68. The maximum projected carryover need is defined as the difference between a BLY demand and projected typical dry year supply. The following equation computes the maximum projected carryover need:

Maximum Projected Carryover Need = Projected Demand (2018 BLY) – Projected Supply (Average 02/04)

	Projected Demand (2018 BLY)	Projected Supply (average 02/04)	Maximum Projected Carryover Need
	----------Acre-Feet----------		
A&B	64,192	41,496	22,696
AFRD2	453,890	360,730	93,160
BID	262,211	259,716	2,495
Milner	58,417	42,345	16,072
Minidoka	354,851	385,787	0
NSCC	1,026,661	913,385	113,277
TFCC	1,121,717	1,034,883	86,834

SWC Projected Demand, Projected Supply and Maximum Projected Carryover Need (acre-feet).[18]

B. Average Annual Rate of Fill

69. CM Rule 42.01.g states that the Director "shall consider the average annual rate of fill of storage reservoirs . . . ." The average annual rate of fill of the storage reservoirs is the average of annual percentages of fill of each entity's reservoir space. The average annual reservoir storage fill is a benchmark that can be compared to projected carryover need. For purposes of the table below, any water contributed to the rental pool from the previous year was added to the next year's fill volume so that it does not artificially lower the percent fill. R. Vol. 37 at 7108. Water that is supplied to the rental pool lowers carryover and could impact the following year's fill. The percent fill does not include water deducted for reservoir evaporation.

[18] This Fifth Methodology Order updates this chart with the new baseline year and calculates new maximum projected carryover need values.

The annual percent fill of storage volume by SWC entity is shown below:

Year	A&B	AFRD2	BID	Milner	Minidoka	NSCC	TFCC
1992	96%	100%	98%	93%	75%	76%	86%
1993	100%	100%	100%	100%	100%	93%	92%
1994	100%	100%	100%	100%	99%	99%	99%
1995	100%	100%	100%	100%	100%	100%	100%
1996	100%	100%	100%	100%	100%	100%	100%
1997	100%	100%	100%	100%	100%	100%	100%
1998	100%	100%	100%	100%	100%	100%	100%
1999	100%	100%	100%	96%	98%	98%	99%
2000	100%	99%	99%	98%	100%	97%	97%
2001	100%	100%	100%	100%	100%	91%	87%
2002	41%	100%	100%	79%	92%	84%	88%
2003	43%	100%	99%	66%	92%	94%	99%
2004	34%	82%	97%	48%	94%	78%	63%
2005	58%	100%	100%	76%	98%	100%	100%
2006	98%	100%	99%	98%	100%	99%	99%
2007	89%	100%	97%	92%	94%	95%	97%
2008	100%	100%	100%	100%	100%	99%	100%
2009	100%	100%	100%	100%	100%	100%	100%
2010	100%	100%	100%	100%	100%	100%	100%
2011	100%	100%	100%	100%	100%	100%	100%
2012	88%	100%	97%	91%	94%	94%	96%
2013	80%	100%	97%	90%	90%	97%	100%
2014	93%	100%	100%	100%	95%	100%	100%
2015	100%	100%	100%	100%	100%	100%	100%
2016	100%	100%	100%	100%	95%	100%	100%
2017	100%	100%	100%	100%	100%	100%	100%
2018	100%	100%	100%	100%	100%	100%	100%
2019	96%	100%	99%	97%	98%	98%	99%
2020	100%	100%	100%	100%	100%	100%	100%
2021	100%	100%	100%	100%	98%	100%	100%
Average	91%	99%	99%	94%	97%	96%	97%
Std Dev	19%	3%	1%	12%	5%	6%	8%

Annual Percent Fill of Storage Volume by Entity (1992-2021).[19]

[19] The Fourth Methodology Order included data from 1995 through 2014. This Fifth Methodology Order updates this chart with data from 1992 through 2021.

C. Average Annual Carryover

70. CM Rule 42.01.g states that the Director "shall consider the . . . average annual carry-over for prior comparable water conditions . . .." Actual carryover volumes are from annual storage reports published by Water District 1. Actual carryover from 1992 through 2021 are sorted into two categories – below average (dry) and above average (wet). The categories are based on Heise natural flow volumes from April through September.

The 1992 to 2021 average natural flow volume is 3,827 thousand acre-feet ("KAF").

Cat.	Year	Heise Apr–Sept (KAF)	A&B	AFRD2	BID	Milner	MID	NSCC	TFCC
			----------	----------	----------	Acre-Feet	----------	----------	----------
	2001	1,968	9,902	4,217	37,430	26,854	55,132	42,421	26,917
	1992	2,001	11,966	11,548	31,977	28,896	16,928	19,439	3,590
	1994	2,319	82,885	26,894	54,136	45,902	102,823	128,356	38,686
	2007	2,320	62,739	7,962	32,138	37,761	61,744	66,807	39,999
	2021	2,622	73,688	988	61,327	27,448	65,393	121,946	13,581
	2013	2,721	55,563	21,477	54,350	34,740	55,374	135,658	23,419
Below	2002	2,775	30,192	8,932	74,573	14,662	102,139	133,702	46,825
Avg	2004	2,833	0	18,617	48,809	8,735	99,199	54,141	58,813
(Dry)	2003	2,931	9,401	3,904	52,550	6,944	82,895	169,674	0
	2016	3,012	89,845	58,689	84,302	46,050	108,482	283,728	21,497
	2000	3,059	69,436	20,787	107,425	45,762	161,423	205,510	56,536
	2010	3,108	96,172	113,895	101,620	59,628	184,940	324,712	46,243
	2005	3,195	36,665	99,097	90,190	37,593	150,623	365,001	68,352
	2015	3,208	88,616	57,344	73,449	47,322	130,942	208,274	44,957
	2012	3,385	68,109	41,395	88,526	42,214	119,361	198,853	72,267
	Avg.	**2,764**	**52,345**	**33,050**	**66,187**	**34,034**	**99,827**	**163,881**	**37,446**
	2019	3,930	88,506	106,833	113,278	48,393	203,434	406,865	94,193
	2020	3,962	95,105	99,782	110,640	52,750	168,213	360,234	66,609
	2006	4,079	89,311	107,682	102,873	58,755	182,612	365,672	78,562
	1993	4,116	102,493	123,508	154,461	60,332	264,713	300,942	104,424
	2008	4,288	91,835	104,219	124,128	62,359	182,722	414,171	70,192
	1995	4,447	103,295	167,451	159,214	75,451	258,028	476,312	68,576
Above	1998	4,498	100,817	144,057	157,265	69,384	227,726	494,385	156,433
Avg	2014	4,594	78,917	96,756	154,382	57,305	207,834	448,682	130,086
(Wet)	2009	4,613	104,174	145,530	125,688	66,935	204,581	426,779	95,533
	2018	4,796	93,754	115,442	92,727	50,776	163,465	351,483	54,285
	1999	4,949	93,354	121,793	168,545	67,147	243,322	453,706	191,501
	1996	5,583	105,209	145,019	150,358	70,250	253,786	522,790	111,459
	2017	6,139	110,348	219,940	168,293	67,754	258,106	528,880	169,862
	2011	6,347	102,139	107,618	104,915	64,487	246,699	504,578	129,757
	1997	7,007	102,539	114,684	134,906	65,307	242,758	464,411	136,926
	Avg.	**4,890**	**97,453**	**128,021**	**134,778**	**62,492**	**220,533**	**434,659**	**110,560**

Actual Carryover Volumes by Entity, Sorted by Heise Natural Flow (1992-2021).[20]

[20] In the Fourth Methodology Order, this table summarized data for the period 1994 to 2014 and adjusted WD 01 carryover values to remove water received for mitigation or water rented by the SWC entity to augment their supplies. This Fifth Methodology Order updates this chart with data for the period 1992 to 2021 and uses raw

71. In considering the principles articulated in CM Rule 42.01.g, the Director will project reasonable carryover shortfalls for members of the SWC. The following table represents the 2018 BLY diversion volumes and total reservoir storage space by entity. By dividing the total reservoir space by the 2018 diversion volume, a metric is established that describes the total number of seasons the entity's reservoir space can supply water.

	A&B	AFRD2	BID	Milner	Minidoka	NSCC	TFCC
	----------Acre-Feet----------						
Projected Demand (2018 BLY)	64,192	453,890	262,211	58,417	354,851	1,026,661	1,121,717
Total Reservoir Space	137,626	393,550	226,487	90,591	366,554	859,898	245,930
Number of Seasons of Reservoir Space	2.1	0.9	0.9	1.6	1.0	0.8	0.2

Total Reservoir Space[21] in Comparison to Demand.[22]

D. Reasonable Carryover

i. A&B

72. A&B's reservoir space has the lowest average annual rate of fill with the highest variability in fill. *See* Finding of Fact 69. In dry years, the potential exists that A&B's actual carryover will be less than the maximum projected carryover need. *See* Finding of Fact 68 & 70. A&B has an approximate two-year water supply provided by its total available storage space. *See* Finding of Fact 71. Because of its lower rate of fill, it is likely A&B will experience carryover shortfalls in consecutive dry years. Based on the evaluation criteria in CM Rule 42.01.g, A&B's reasonable carryover should be the maximum projected carryover need of 22,700 AF. *See* Finding of Fact 78.

ii. AFRD2

73. AFRD2 has the highest and most consistent reservoir rate of fill of any member of the SWC. AFRD2's storage space fills 99% of the time and has a fill variability of 3%. As

carryover values reported by WD 01. Raw numbers were used because adjusted numbers reduced the SWC's potential entitlement to reasonable carryover.

[21] *See* R. Vol. 8 at 1373-74.

[22] This Fifth Methodology Order updates this chart with the new baseline year and calculates new number of seasons of reservoir space values.

shown in the Annual Percent Fill table in Finding of Fact 69 above, its space only failed to fill in 2004 (82%) and 2000 (99%). AFRD2 has a high likelihood of filling during multi-year droughts and after a dry year. *See* Finding of Fact 69. Therefore, any unfilled space in the fall will most likely fill. AFRD2 has an approximate one-year supply available in storage. *See* Finding of Fact 71. AFRD2's storage space only failed to fill in years when the natural flow volume at Heise was less than 3,100 KAF. In a dry year, AFRD2's historical carryover volume is often less than the maximum projected carryover need using the equation set forth in Finding of Fact 68 and 70. Based on the evaluation criteria for reasonable carryover in CM Rule 42.01.g, the reasonable carryover can be adjusted from the maximum projected carryover need without shifting the risk of shortage to the senior right holder. The historical average carryover of 16,700 AF in years when the natural flow volume at Heise was less than 3,100 KAF is the reasonable carryover for AFRD2. *See* Finding of Fact 78.

iii. BID & Minidoka

74. Historically, in dry years, BID's and Minidoka's carryover volumes have been well above the maximum projected carryover need and it is unlikely that they will have reasonable carryover shortfalls in the future. *See* Finding of Fact 68 & 70; *see also* R. Vol. 37 at 7105. Based on the evaluation criteria for reasonable carryover in CM Rule 42.01.g, the reasonable carryover can be adjusted downward from the maximum projected carryover need without shifting the risk of shortage to the senior right holder. The reasonable carryover for BID and Minidoka is 0 AF. *See* Finding of Fact 78; *see also* R. Vol. 37 at 7105.

iv. Milner

75. Similar to A&B, Milner's reservoir space has the second lowest average annual rate of fill of all entities and has a high degree of variability in fill. *See* Finding of Fact 69. In dry years, the potential exists that Milner's actual carryover will be less than the maximum projected carryover need. *See* Finding of Fact 68 & 70. Milner has an approximate one and one half water supply available in storage. *See* Finding of Fact 71. Because of its rate of fill, it is likely Milner will experience carryover shortfalls in consecutive dry years. Based on the evaluation criteria for reasonable carryover in CM Rule 42.01.g, the maximum projected carryover need of 16,100 AF is the reasonable carryover for Milner. *See* Finding of Fact 78.

v. NSCC

76. NSCC has a near-average annual rate of fill in comparison to all entities and an approximate one-year water supply available in storage. *See* Findings of Fact 69 & 71. In dry years, the potential exists that its maximum projected carryover need will be less than its actual carryover. *See* Finding of Fact 68 & 70. Based on the evaluation criteria in CM Rule 42.01.g, the reasonable carryover for NSCC is 113,300 AF. *See* Finding of Fact 77.

vi. TFCC

77. TFCC has a near average annual rate of fill in comparison to all entities, but only 20% of a single year's water supply is available in storage. TFCC's storage space fills 97% of

the time and has a fill variability of 8%. *See* Findings of Fact 69 & 71. In dry years, the potential exists that its maximum projected carryover need will be less than its actual carryover. *See* Finding of Fact 68 & 70. Based on the evaluation of the criteria in CM Rule 42.01.g, the reasonable carryover can be adjusted from the maximum projected carryover need without shifting the risk of shortage to the senior right holder. The historical average carryover in dry years of 37,400 AF is the reasonable carryover for TFCC. *See* Finding of Fact 78.

78. Reasonable carryover values for the SWC members are as follows:

	Reasonable Carryover (Acre-Feet)
A&B	22,700
AFRD2	16,700
BID	0
Milner	16,100
Minidoka	0
NSCC	113,300
TFCC	37,400

E. Reasonable Carryover Shortfall

79. Reasonable carryover shortfall is the numerical difference between reasonable carryover and actual carryover, calculated at the conclusion of the irrigation season. Actual carryover is defined as the storage allocation minus the total storage use plus or minus any adjustments. Examples of adjustments include SWC water placed in the rental pool and SWC private leases. Adjustments are unique to each irrigation season and will be evaluated each year. Any storage water deliveries to entities other than the SWC for purposes unrelated to the original right will be adjusted so that the water is not included as a part of the SWC carryover volume. Water that is purchased or leased by an SWC member may become part of the carryover shortfall obligation. *See e.g.* R. Vol. 38 at 7201, n. 11 (Eighth Supplemental Order). Conversely, actual carryover must be adjusted to assure that water supplied by a SWC member to private leases or to the rental pool will not increase the reasonable carryover shortfall obligation to the same SWC member.

80. Reasonable carryover shortfall is calculated as follows:

Reasonable Carryover Shortfall = Actual Carryover – Reasonable Carryover

F. Determination of Curtailment Date

81. The Eastern Snake Plain Aquifer Model ("ESPAM") is the best scientific tool available to simulate aquifer and Snake River responses to stresses applied to the aquifer, such as ground water pumping from a well. Curtailment of junior ground water pumpers in response to the SWC Delivery Call would result in a reduction in the withdrawal of groundwater and a corresponding reduction in aquifer stress. ESPAM simulates the effects of the reduction in

aquifer stress and calculates predicted increases in aquifer discharge to the Snake River resulting from the curtailment of ground water pumping from the ESPA.

82. ESPAM simulations can be either steady-state or transient.

83. Merriam-Webster's Dictionary defines steady-state as "a state or condition of a system or process … that does not change in time." *Steady state*, Merriam-Webster.com, https://www.merriam-webster.com/dictionary/steady-state (April 19, 2023). A steady-state ESPAM simulation can only model increases in aquifer discharge to the Snake River resulting from continuous curtailments of an identical magnitude and location until the impacts of curtailment are fully realized. For example, a steady-state analysis of the curtailment of 1,000 acres, assumes that irrigation of the same 1,000 acres is curtailed every year at the same rate of consumptive use, until the impacts of that curtailment reach a steady state, or no longer change from year to year.

84. Steady-state analysis does not calculate the time to reach steady-state conditions nor describe the seasonal timing of the impacts. For the benefits of curtailment predicted by steady-state analysis to be realized by the river, the curtailment must occur continuously until steady-state is achieved. The assumption of continuous curtailment does not reflect reality in the SWC Delivery Call. Curtailments ordered as prescribed in the methodology are neither continuous nor long-term. Irrigation with ground water does not occur at a constant rate throughout the year nor from year to year. It is important to predict what benefits to the river are realized during the irrigation season in which injury has been determined. A steady-state ESPAM simulation cannot predict what benefits are realized during the irrigation season. In contrast, a transient ESPAM simulation will predict the timing of changes in river reach gains.

85. ESPAM was calibrated using one-month stress periods and can simulate a single (or partial) irrigation season of curtailment and predict the resulting increase in aquifer discharge to the Snake River during the same irrigation season using a transient simulation. In the context of this proceeding, the transient approach identifies the junior ground water rights that must be curtailed to produce increases in Snake River flows sufficient to offset material injury in the current irrigation season.

86. Only 9% to 15% of the steady state response is predicted to accrue to the near Blackfoot to Minidoka reach between May 1 and September 30 of the same year.[23] Fifty percent of the steady-state response is predicted to accrue at the near Blackfoot to Minidoka reach within approximately four years. Ninety percent of the steady-state response is predicted to accrue at the near Blackfoot to Minidoka reach within approximately 24 years.

87. A curtailment to a priority date calculated by the steady state analysis method used in the Fourth Methodology Order will only offset 9% to 15% of the predicted IDS. In contrast, curtailment to a priority date calculated with a transient simulation of a single season curtailment will offset the full predicted IDS unless the shortfall exceeds the accruals to the near

[23] The near Blackfoot to Minidoka reach is the reach of the Snake River from which the SWC diverts.

Blackfoot to Minidoka reach by the end of the irrigation season with curtailment of all junior ground water rights.

88. Steady-state simulations are appropriate for evaluating the average annual impact of aquifer stresses that have been, or will be, applied for decades (i.e., ground water pumping year after year, or continuous curtailment to the same date every year). The steady-state simulation of continuous curtailment applied in the Fourth Amended Methodology Order does not simulate the short-term curtailments prescribed in the methodology. The methodology prescribes curtailment only in years with a predicted IDS or carryover shortfall and prescribes the determination of a curtailment priority date that varies with the magnitude of the predicted shortfall.

89. Transient simulations are necessary to evaluate the impacts of aquifer stresses applied for short periods of time (i.e. short-term curtailments with varying priority dates). Transient simulations are necessary to simulate the short-term curtailments prescribed in the methodology.

CONCLUSIONS OF LAW

1. This order contains the methodology by which the Director will determine material injury to RISD and reasonable carryover to members of the SWC.

2. "The agency's experience, technical competence, and specialized knowledge may be utilized in the evaluation of the evidence." Idaho Code § 67-5251(5); IDAPA 37.01.01.600.

3. Idaho Code § 42-602 states that, "The director of the department of water resources shall have discretion and control of the distribution of water from all natural sources . . . . The director of the department of water resources shall distribute water . . . in accordance with the prior appropriation doctrine." According to the Hearing Officer, "It is clear that the Legislature did not intend to grant the Director broad powers to do whatever the Director might think right. However, it is clear also that the Legislature [in Idaho Code § 42-602] did not intend to sum up water law in a single sentence of the Director's authority." R. Vol. 37 at 7085. "Given the nature of the decisions which must be made in determining how to respond to a delivery call, there must be some exercise of discretion by the Director." *American Falls Res. Dist. No. 2 v. Idaho Dept. Water Resources*, 143 Idaho 862, 875, 154 P.3d 433, 446 (2007).

4. "The prior appropriation doctrine is comprised of two bedrock principles—that the first appropriator in time is the first in right and that water must be placed to a beneficial use." *In Matter of Distribution of Water to Various Water Rights Held by or for the Benefit of A & B Irrigation Dist.*, 155 Idaho 640, 650, 315 P.3d 828, 838 (2012). "The concept that beneficial use acts as a measure and limit upon the extent of a water right is a consistent theme in Idaho water law." *Id.*; *American Falls*, 143 Idaho at 879, 154 P.3d at 450 (stating that while an appropriation for a beneficial use is "a valuable right entitled to protection . . . . Nevertheless, that property right is still subject to other requirements of the prior appropriation doctrine."); *Idaho Ground Water Assoc. v. Idaho Dep't of Water Res.*, 160 Idaho 119, 131, 369 P.3d 897, 909

(2016) (explaining the "policy of beneficial use" serves as a "limit on the prior appropriation doctrine.").

5. "Concurrent with the right to use water in Idaho 'first in time,' is the obligation to put that water to beneficial use." *American Falls*, 143 Idaho at 880, 154 P.3d at 451; *see In re Distribution of Water to Various Water Rights Held by or for the Ben. of A&B Irr. Dist.*, 155 Idaho at 652, 315 P.3d at 840 (quoting *American Falls*, 143 Idaho at 876, 154 P.3d at 447) (referring to "'the constitutional requirement that priority over water be extended only to those using the water'"). "'It is the settled law of this state that no person can, by virtue of a prior appropriation, claim or hold more water than is necessary for the purpose of the appropriation, and the amount of water necessary for the purpose of irrigation of the lands in question and the condition of the land to be irrigated should be taken into account.'" *In re Distribution of Water to Various Water Rights Held by or for the Ben. of A&B Irr. Dist.*, 155 Idaho at 650, 315 P.3d at 838 (quoting *Washington State Sugar v. Goodrich*, 27 Idaho 26, 44, 147 P. 1073, 1079 (1915)).

6. "[T]he policy of securing the maximum use and benefit, and least wasteful use of Idaho's water resources, has long been the policy in Idaho." *Idaho Ground Water Assoc.*, 160 Idaho at 131, 369 P.3d at 909 (citing *Clear Springs Foods, Inc. v. Spackman*, 150 Idaho 790, 808, 252 P.3d 71, 89 (2011)). The Idaho Constitution enunciates a policy of promoting "optimum development of water resources in the public interest." Idaho Const. Art. XV, § 7; *Baker v. Ore-Ida Foods, Inc.,* 95 Idaho 575, 584, 513 P.2d 627, 636 (1973). "There is no difference between securing the maximum use and benefit and least wasteful use of this State's water resources and the optimum development of water resources in the public interest. Likewise, there is no material difference between 'full economic development' and the 'optimum development of water resources in the public interest.' They are two sides of the same coin. Full economic development is the result of the optimum development of water resources in the public interest." *Clear Springs*, 150 Idaho at 809, 252 P.3d at 90. "The policy of securing the maximum use and benefit, and least wasteful use, of the State's water resources applies to both surface and ground waters, and it requires that they be managed conjunctively." *Id.*

7. "Conjunctive administration 'requires knowledge by the [Department] of the relative priorities of the ground and surface water rights, how the various ground and surface water sources are interconnected, and how, when, where and to what extent the diversion and use of water from one source impacts the water flows in that source and other sources.' . . . . That is precisely the reason for the CM Rules and the need for analysis and administration by the Director." *American Falls,* 143 Idaho at 877, 154 P.3d at 448.

8. The CM Rules incorporate all principles of the prior appropriation doctrine as established by Idaho law. *American Falls*, 143 Idaho at 873, 154 P.3d at 444; CM Rule 20.02, 10.12.

9. While the presumption under Idaho law is that an appropriator is entitled to his decreed water right and the CM Rules may not be applied to require a senior appropriator to demonstrate an entitlement to the water in the first place, there may be post-adjudication factors relevant to the determination of how much water is actually needed in responding to a delivery call. *American Falls*, 143 Idaho at 877-78, 154 P.3d at 448-49. Under the CM Rules and Idaho law, the Director has the "authority and responsibility to investigate claims when delivery calls

are made," and the "authority to evaluate the issue of beneficial use in the administration context." *In re Distribution of Water to Various Water Rights Held by or for the Ben. of A&B Irr. Dist.*, 155 Idaho at 652, 315 P.3d at 840. As the Idaho Supreme Court stated, "'[w]hile the prior appropriation doctrine certainly gives pre-eminent rights to those who put water to beneficial use first in time, this is not an absolute rule without exception . . . the Idaho Constitution and statutes do not permit waste and require water to be put to beneficial use or be lost.'" *Idaho Ground Water Assoc.*, 160 Idaho at 131, 369 P.3d at 909 (quoting *American Falls*, 143 Idaho at 880, 154 P.3d at 433). "[T]he Director must have some discretion to balance these countervailing considerations in a delivery call." *Id*. "'If this Court were to rule the Director lacks the power in a delivery call to evaluate whether the senior is putting the water to beneficial use, we would be ignoring the constitutional requirement that priority over water be extended only to those using the water.'" *In re Distribution of Water to Various Water Rights Held by or for the Ben. of A&B Irr. Dist.*, 155 Idaho at 652, 315 P.3d at 840 (quoting *American Falls*, 143 Idaho at 876, 154 P.3d at 447).

10. In responding to a delivery call under the CM Rules, the Director "may employ a baseline methodology as a starting point for considering material injury," provided the baseline methodology otherwise comports with the prior appropriation doctrine as established by Idaho law. *In re Distribution of Water to Various Water Rights Held by or for the Ben. of A&B Irr. Dist.*, 155 Idaho at 653, 315 P.3d at 841; *see Methodology Remand Order* at 17.

11. Once the Director determines "that material injury is occurring or will occur," junior appropriators subject to the delivery call bear "the burden of proving that the call would be futile or to challenge, in some other constitutionally permissible way, the senior's call." *American Falls*, 143 Idaho at 878, 154 P.3d at 449; *Methodology Remand Order* at 31. Junior appropriators have the burden of proving by clear and convincing evidence that the delivery call is futile or otherwise unfounded. *In re Distribution of Water to Various Water Rights Held by or for the Ben. of A&B Irr. Dist.*, 155 Idaho at 653, 315 P.3d at 841.

12. "This case illustrates the tension between the first in time and beneficial use aspects of the prior appropriation doctrine." *In re Distribution of Water to Various Water Rights Held by or for the Ben. of A&B Irr. Dist.*, 155 Idaho at 650, 315 P.3d at 838. The Idaho Supreme Court has in this case "recognized the critical role of the Director in managing the water resources to accommodate both first in time and beneficial use aspects: 'Somewhere between the absolute right to use a decreed water right and an obligation not to waste it and to protect the public's interest in this valuable commodity, lies an area for the exercise of discretion by the Director.'" *Id.* at 651, 315 P.3d at 839 (quoting *American Falls*, 143 Idaho at 880, 154 P.3d at 451). Thus, in this case the Director may use "a baseline methodology, both as a starting point for consideration of the Coalition's call and in determining the issue of material injury." *Id.* at 650-51, 315 P.3d at 838-39. However, "[i]f changing conditions establish that material injury is greater than originally determined pursuant to the baseline analysis, then adjustments to the mitigation obligation of the juniors must be made when the Director undertakes his mid-season calculations." *Methodology Remand Order* at 18.

13. In the context of conjunctive administration, the Director's methodology for projecting material injury does not impose an obligation upon members of the SWC to reprove

their water rights. To the extent water is available, members of the SWC are authorized to divert and store water in accordance with the terms of their licenses or decrees. Nothing established herein reduces that authorization. The question that the CM Rules require the Director to answer in this proceeding is, when water is not available to fill the water rights of the SWC, how much water is reasonably necessary for the SWC to accomplish the beneficial purpose of raising crops; because what is needed to irrigate crops may be less than the decreed or licensed quantities. *American Falls*, 143 Idaho at 880, 154 P.3d at 451; *see In re Distribution of Water to Various Water Rights Held by or for the Ben. of A&B Irr. Dist.*, 155 Idaho at 650, 315 P.3d at 838 (quoting *Washington State Sugar*, 27 Idaho at 44, 147 P. at 1079) ("'[i]t is the settled law of this state that no person can, by virtue of a prior appropriation, claim or hold more water than is necessary for the purpose of the appropriation"). Again, "[t]he concept that beneficial use acts as a measure and limit upon the extent of a water right is a consistent theme in Idaho water law." *Id.*

14. Holders of senior-priority water rights may receive less than their licensed or decreed quantities and not suffer material injury within the meaning of the CM Rules. As a result, in-season demand should be viewed in light of reasonableness and optimum development of water resources in the public interest. CM Rules 20 and 42; *American Falls*, 143 Idaho at 876-80, 154 P.3d at 447-51; *In re Distribution of Water to Various Water Rights Held by or for the Ben. of A&B Irr. Dist.*, 155 Idaho at 650-652, 315 P.3d at 838-40.

15. Here, the Director has established a methodology for determining material injury to members of the SWC. The methodology predicts material injury to RISD by taking the difference between RISD and the FS. The years 2000 through 2021 were analyzed to select the BLY because the period of years captured current irrigation practices in a dry climate. Based upon evaluation of the record, members of the SWC were exercising more reasonable efficiencies during this time period than during the 1990s when supplies were more plentiful. During periods of drought when junior ground water users are subject to curtailment, members of the SWC should exercise reasonable efficiencies to promote the optimum utilization of the State's water resources. CM Rules 20 and 42; *American Falls,* 143 Idaho at 876-80, 154 P.3d at 447-51; *Clear Springs*, 150 Idaho at 807-10; 252 P.3d at 88-91; *In re Distribution of Water to Various Water Rights Held by or for the Ben. of A&B Irr. Dist.*, 155 Idaho at 650-652, 315 P.3d at 838-40.

16. At this time, with the recognition that the methodology is subject to adjustment and refinement, RISD will be equal to the historic demands associated with the BLY (2018) and will be corrected during the season to account for variations in climate and water supply between the BLY and actual conditions.

17. Recognizing that climate and surface water supplies (natural flow and storage) are inherently variable, the Director's predictions of material injury to RISD and reasonable carryover are based upon the best available information and the best available science, in conjunction with the Director's professional judgment as the manager of the State's water resources. Recognizing his ongoing duty to administer the State's water resources, the Director should use available data, and consider new analytical methods or modeling concepts, to evaluate the methodology. As more data is gathered and analyzed, the Director will continue to

review and refine the process of predicting and evaluating material injury. The methodology will continue to be adjusted if the data supports a change.

18. If the Director predicts that the SWC will be materially injured because of a demand shortfall prediction, either in the preseason or in the midseason, the demand shortfall represents a mitigation obligation that must be borne by junior ground water users. If mitigation water in the amount of the projected RISD shortfall cannot be secured or optioned by junior ground water users to the satisfaction of the Director, the Director will curtail junior ground water users to make up any deficit. *See* Order on Pet. for Jud. Rev., at 19, *A&B Irrigation District v. Idaho Dairymen's Association, Inc.*, No. 2008-0000551 (Gooding Cnty. Dist. Ct. Idaho July 24, 2009),

19. In previous years, the Director used steady-state modeling when determining the curtailment priority date. The Department now has multiple years of experience with the methodology to better understand the impact of applying steady-state modeling versus transient modeling to determine a curtailment priority date that would supply adequate water to the senior water right holders. While the first version of the ESPA groundwater flow model was not calibrated at a time-scale that supported in-season transient modeling, the current version was calibrated using monthly stress periods and half-month time steps, a refinement that facilitates in-season transient modeling for calculating the response to curtailment of groundwater use. As part of the Director's ongoing obligation to evaluate the methodology, the Director must evaluate whether the use of steady-state continues to be supportable.

20. In surface water administration, uses by holders of junior priority surface water rights are curtailed until the senior surface water rights are fully satisfied, absent a futile call and if the senior surface water users need the water to accomplish a beneficial use. In other words, under surface water administration, junior surface water rights are generally curtailed unless the senior gets water in the quantity and at the time and place required.

21. Rule 43 of the CM Rules mandates that when the Director evaluates a mitigation plan, the mitigation plan must ensure that water is delivered to holders of senior priority surface water rights in both the quantity and at the time and place required by the senior. In considering a proposed mitigation plan pursuant to Rule 43, the Director must evaluate:

> **b.** Whether the mitigation plan will provide replacement water, *at the time and place required by the senior-priority water right*, sufficient to offset the depletive effect of ground water withdrawal on the water available in the surface or ground water source *at such time and place as necessary* to satisfy the rights of diversion from the surface or ground water source. Consideration will be given to the history and seasonal availability of water for diversion so as not to require replacement water at times when the surface right historically has not received a full supply, such as during annual low-flow periods and extended drought periods.
> **c.** Whether the mitigation plan provides replacement water supplies or other appropriate compensation to the senior-priority water right *when needed during a time of shortage* even if the effect of pumping is spread over many years and will continue for years after pumping is curtailed. A mitigation plan may allow for

> multi-season accounting of ground water withdrawals and provide for replacement water to take advantage of variability in seasonal water supply. The mitigation plan must include contingency provisions to assure protection of the senior-priority right in the event the mitigation water source becomes unavailable.

IDAPA 37.01.03.11.043.b-c (emphasis added). In other words, there is an assumption that senior water right holders calling for delivery of water under the CM Rules will receive, by curtailment or by mitigation, "replacement water at the time and place required by the senior-priority water right, sufficient to offset the depletive effect of ground water withdrawal . . . ." Only in a mitigation plan can "multi-season accounting of ground water withdrawals" be employed, and even then, the plan must "assure protection of the senior-priority right in the event the mitigation water source becomes unavailable."

22. The Director has an obligation to address a mitigation deficiency in the year it occurs. Mem. Decision & Order on Pet. for Jud. Rev., at 10, *Rangen, Inc. v. Idaho Dep't of Water Res.*, No. CV-2014-2446 (Twin Falls Cnty. Dist. Ct. Idaho Dec. 3, 2014); Mem. Decision & Order, at 8–9, *Rangen, Inc. v. Idaho Dep't of Water Res.*, No. CV-2014-4970 (Twin Falls Cnty. Dist. Ct. Idaho June 1, 2015).

23. As described in Finding of Fact 87, curtailment to a priority date calculated by the steady state analysis method used in the Fourth Methodology Order will only offset 9% to 15% of the predicted IDS. In contrast, curtailment to a priority date calculated with a transient simulation of a single season curtailment will offset the *full* predicted IDS unless the shortfall exceeds the accruals to the near Blackfoot to Minidoka reach by the end of the irrigation season with curtailment of all junior ground water rights. This methodology order depends on an annual evaluation of material injury and should also employ curtailment and or mitigation that supplies replacement water at the time and place required by the senior-priority water right in a quantity sufficient to offset the depletive effect of ground water withdrawal and to assure protection of the senior-priority right. Curtailment dates, periodically determined at time of recalculating in-season demand shortfall (IDS), should be calculated by a transient model simulation that will return the full quantity of water to the senior priority rights at the time and place required.

24. As described in Conclusion of Law 18, junior ground water users with approved mitigation plans to deliver storage water as mitigation must, to the satisfaction of the Director, secure or option mitigation water to avoid curtailment. By requiring that junior ground water users secure mitigation water or have options to acquire water in place during the season of need, the Director ensures that the SWC does not carry the risk of shortage to their supply. By not requiring junior ground water users to deliver or assign mitigation water until the Time of Need, the Director ensures that junior ground water users supply only the amount of mitigation water necessary to satisfy the RISD. All approved methods of mitigation shall be considered in the Director's review of projected RISD shortfall.

25. Unless there is reasonable certainty that junior ground water users can secure the predicted volume of water and provide that water at the Time of Need, the protection afforded to the senior water right holders is compromised. The risk of shortage is then impermissibly shouldered by the SWC. Members of the SWC should have certainty entering the irrigation

season and at midseason that mitigation water will be delivered or assigned at the Time of Need, or curtailment of junior ground water rights will be ordered.

26. Because climate and the supply that the SWC appropriated (natural flow and storage) are inherently variable, the Director cannot and should not insulate the SWC against all shortages. The Director can, however, protect the SWC against reasonably predicted shortages to RISD.

27. Currently, the USBR and USACE's Joint Forecast is an indispensable predictive tool at the Director's disposal for predicting material injury to RISD. Given current forecasting techniques, the earliest the Director can predict material injury to RISD with reasonable certainty is soon after the Joint Forecast is issued in early April. The pre-irrigation season supply forecast for A&B and Milner can be predicted solely from the Joint Forecast. To improve the accuracy of prediction, the pre-irrigation season supply forecast for AFRD2, BID, Minidoka, NSCC, and TFCC will currently be predicted from both the Joint Forecast and from flow data at Box Canyon.[24]

28. By shifting the April Forecast Supply prediction curve down one standard error of estimate, the Director purposely underestimates the water supply that is predicted. The Director further guards against RISD shortage by using the 2018 BLY, which has above average diversions, above average ET, below average in-season precipitation, and above average growing degree days. The 2018 BLY represents a year in which water supply did not limit diversions. The Director's prediction of material injury to RISD is purposely conservative. While it may ultimately be determined after final accounting that less mitigation water was owed than was provided, this is an appropriate burden for junior appropriators to carry. Idaho Cost. Art. XV, § 3; Idaho Code § 42-106. Shifting the prediction curve down one standard error of estimate and adoption of a BLY that uses above average diversions, above average temperatures and ET and below average precipitation is necessary to protect senior rights if the Director administers to an amount less than the full decreed quantity of the SWC's rights. *Methodology Remand Order* at 33, 35.

29. The Director will review, at the end of the season, the volume and efficiencies of application of surface water, the amount of mitigation water provided by junior ground water users, and may, in the exercise of his professional judgment, readjust the reasonable carryover shortfalls to reflect these considerations.

30. "Storage water is water held in a reservoir and is intended to assist the holder of the water right in meeting their decreed needs." *American Falls*, 143 Idaho at 878, 154 P.3d at 449. "Carryover is the unused water in a reservoir at the end of the irrigation year which is retained or stored for future use in years of drought or low-water." *Id.* Under Idaho Code, "[o]ne may acquire storage water rights and receive a vested priority date and quantity, just as with any other water right," but "[t]here is no statutory provision for obtaining a decreed right to 'carryover' water." *Id.* Rather, carryover is a "component of the storage right." Order on Pet. for Jud. Rev., at 20, *A&B Irrigation District v. Idaho Dairymen's Association, Inc.*, No. 2008-

[24] The method for predicting the natural flow supply may be subject change based upon improved predictive models.

0000551 (Gooding Cnty. Dist. Ct. Idaho July 24, 2009). Storage carryover is "permissible . . . absent abuse." *American Falls*, 143 Idaho at 880, 154 P.3d at 451.

31. The storage reservoirs implicated in this proceeding were intended to provide supplemental supplies of water "to create a buffer against the uncertainty of the weather." *Opinion Constituting Findings of Fact, Conclusions of Law and Recommendation* (April 29, 2008) at 6. "The history of the development of the reservoir system, most recently Palisades, makes it clear that storage of water was a primary purpose to prevent disaster during periods of shortage as have been experienced in the recent past." *Id*. at 60. The purpose of carryover also is "insurance against the risk of future shortage." Order on Pet. for Jud. Rev., at 20, *A&B Irrigation District v. Idaho Dairymen's Association, Inc.*, No. 2008-0000551 (Gooding Cnty. Dist. Ct. Idaho July 24, 2009).

32. CM Rule 42.01 sets forth factors the Director "may consider in determining whether the holders of water rights are suffering material injury and using water efficiently and without waste." CM Rule 42.01 does not limit the Director's determination of reasonable carryover to consideration of the factors enumerated in CM Rule 42.01g, but only requires that the Director consider those enumerated factors. One such factor is "[t]he extent to which the requirements of the holder of a senior priority water right could be met with the user's existing facilities and water supplies." CM Rule 42.01g. This factor is qualified, however, by the provision that "the holder of a surface water storage right shall be entitled to maintain a reasonable amount of carry-over storage to assure water supplies for future dry years." CM Rule 42.01g. Thus, CM Rule 42.01g does not require water right holders to exhaust their storage water supplies prior to making a delivery call under the CM Rules. This is consistent with the purposes of the storage reservoirs and the carryover components of the storage water rights.

33. In considering CM Rule 42.01g in *American Falls*, the Idaho Supreme Court framed the SWC's challenge to the "reasonable carryover" provision as presenting the question of whether the holders of storage water rights are "entitled to insist on all available water to carryover for future years in order to assure that their full storage water is met (regardless of need)," *American Falls,* 143 Idaho at 879, 154 P.3d at 450, and answered this question in the negative:

> At oral argument, one of the irrigation district attorneys candidly admitted that their position was that they should be permitted to fill their entire storage water right, regardless of whether there was any indication that it was necessary to fulfill current or future needs and even though the irrigation districts routinely sell or lease the water for uses unrelated to the original rights. This is simply not the law of Idaho. While the prior appropriation doctrine certainly gives pre-eminent rights to those who put water to beneficial use first in time, this is not an absolute rule without exception. As previously discussed, the Idaho Constitution and statutes do not permit waste and require water to be put to beneficial use or be lost. Supra, paragraph 11.

Id. at 880, 154 P.3d at 451.

34. As discussed in the Findings of Fact, reasonable carryover is determined by projecting the water supply for the system. This is accomplished by projecting the 2002/2004 natural flow and average annual storage fill and the 2018 demand. Next, the Director examines the average annual rate of fill of each SWC entity's reservoir space to determine each entity's relative probability of fill. Finally, the Director examines the average annual carryover for prior comparable water conditions by reviewing Heise natural flow.

35. On or before November 30, the Department will issue estimates of actual carryover and reasonable carryover shortfall volumes for all members of the SWC. These estimates will establish the obligation of junior ground water users in providing water to the SWC for reasonable carryover shortfall. Fourteen (14) days following the issuance by the Department of reasonable carryover short fall obligations, junior ground water users will be required to establish, to the satisfaction of the Director, their ability to supply a volume of storage water or to conduct other approved mitigation activities that will provide water to the injured members of the SWC equal to the reasonable carryover shortfall for all injured members of the SWC. If junior ground water users cannot provide this information, the Director will issue an order curtailing junior ground water rights.

36. Recognizing that reservoir space held by members of the SWC may fill, and to prevent the waste of water, junior ground water users are not required to deliver or assign the volume of reasonable carryover until after the Day of Allocation (defined in footnote 27, *infra*). Junior ground water users are obligated to hold the secured or optioned mitigation water until reservoir space held by the SWC fills. If the reservoir space does not fill, junior ground water right holders must deliver or assign the secured or optioned mitigation water to the senior water right holders up to the amount of storage space that did not fill.

ORDER

Consistent with the forgoing, the Director HEREBY ORDERS that, for purposes of determining material injury to RISD and reasonable carryover, the following steps will be taken:

1. Step 1: By April 1, members of the SWC will submit electronic shape files to the Department delineating the total anticipated irrigated acres for the upcoming year within their water delivery boundary or confirm in writing that the existing electronic shape file submitted by SWC has not varied by more than five percent. Department staff will review submitted shapefiles and modify them as necessary to ensure that: (1) the total acreage count does not exceed the decreed number of acres; (2) all of the irrigated land is located within the decreed place of use; and (3) acres are not counted more than once due to overlapping polygons within a shape file or between shape files submitted by different SWC members. Because the SWC members can best determine the irrigated acres within their service area, the SWC should be responsible for submitting the information to the Department. If this information is not timely submitted, the Department will determine the total irrigated acres based upon past cropping patterns and current satellite and/or aerial imagery. If a SWC member fails or refuses to identify the number of irrigated acres within its service area by April 1, the Department will be cautious about recognizing acres as being irrigated if there is uncertainty about whether the acres are or will be irrigated during the upcoming irrigation season. The Department will electronically post

electronic shape files for each member of the SWC for the current water year for review by the parties. In determining the total irrigated acreage, the Department may account for supplemental ground water use. The Department currently does not have sufficient information to accurately determine the contribution of supplemental ground water to lands irrigated with surface water by the SWC. If and when reliable data is available to the Department, the methodology will be amended to account for the supplemental ground water use.

2. If the acreage count is under reported by more than five percent of the irrigated acreage limit of the water right, then the Department will assess the impact of this reduction in use of the water right on any mitigation requirement.

3. Step 2: Typically within the first two weeks of April, the USBR and USACE issue their Joint Forecast that predicts an unregulated inflow volume at the Heise Gage for the period April 1 through July 31. Within fourteen (14) days after issuance of the Joint Forecast, the Director will issue a final order predicting the April FS for the water year for each SWC entity. The Director will compare the April FS for each SWC entity to the BD for each SWC entity to determine if an in-season demand shortfall ("IDS") is anticipated for the upcoming irrigation season. The April FS for each SWC entity is the sum of the forecasted natural flow supply and the forecasted storage allocation for each SWC entity. The forecasted natural flow supply will be computed with regression algorithms. The forecasted storage allocation will be determined by comparing storage accruals in an analogous year(s). A transient ESPAM simulation will be run to calculate the curtailment priority date predicted to produce a volume of water equal to the IDS in the near Blackfoot to Minidoka reach between May 1 and September 30 of the current year. Curtailment will be simulated within the area of common ground water supply as described by CM Rule 50.01.

4. Step 3: By May 1, or within fourteen (14) days from issuance of the final order predicting the April FS, whichever is later in time, junior ground water users with approved mitigation plans for delivery of water must secure, to the satisfaction of the Director, a volume of water equal to their proportionate share of the April IDS unless the April IDS is revised as explained below in paragraph 6. If junior ground water users secured water for a reasonable carryover shortfall to an individual SWC member in the previous year, the current-year mitigation obligation to the individual SWC member will be reduced by the quantity of water secured for the reasonable carryover shortfall. The secured water will not be required to be delivered to the injured members of the SWC until the Time of Need.

5. Step 4: As soon as practical after the deadline for junior ground water users with approved mitigation plans to provide notice of secured water, the Director will issue an order curtailing junior ground water users who: (1) do not have approved mitigation plans; (2) fail to secure the required water consistent with their approved mitigation plans; or (3) otherwise fail to comply with their approved mitigation plans.[25]

[25] This presumes that any reasonable carryover obligation has been met, and that junior ground water users are not already under prior curtailment from deficiencies in meeting the previous year's obligation.

6. If, at any time prior to the Director's final determination of the April FS, the Director can determine with certainty that any member of the SWC has diverted more natural flow than predicted, or has accrued more storage than predicted, the Director will revise his initial, projected demand shortfall determination.

7. Step 5: If the storage allocations held by members of the SWC fill, there is no reasonable carryover shortfall. If the storage allocations held by members of the SWC do not fill, within fourteen (14) days following the publication of Water District 01's initial storage report, which typically occurs soon after the Day of Allocation,[26] the volume of water secured by junior ground water users to fulfill the reasonable carryover shortfall shall be made available to injured members of the SWC. The amount of reasonable carryover to be provided shall not exceed the empty storage space on the Day of Allocation for that entity. If water is owed in addition to the reasonable carryover shortfall volume, this water shall be delivered or assigned to members of the SWC at the Time of Need, described below. The Time of Need will be no earlier than the Day of Allocation.

8. Step 6: Approximately halfway through the irrigation season, but following the events described in Step 5, the Director will, for each member of the SWC: (1) recalculate RISD; (2) issue a revised FS and (3) estimate the Time of Need date.[27]

9. RISD will be calculated utilizing the project efficiency, BD, and the cumulative actual CWN determined up to that point in the irrigation season. The cumulative CWN volume will be calculated for all land irrigated with surface water within the boundaries of each member of the SWC. Volumetric values of CWN will be calculated using ET and precipitation values from the USBR's AgriMet program, irrigated areas provided by each entity, and crop distributions based on NASS data.

10. The FS for each SWC is the sum of the year-to-date actual natural flow diversions, the forecasted natural flow supply for the remainder of the season, and the storage allocation for each member of the SWC. The forecasted natural flow supply for the remainder of the season will be based on regression analysis. The storage allocation will be based on the actual preliminary storage allocations issued by the BOR and Water District 01. If the BOR and Water District 01 have not yet allocated stored water to spaceholders, the Department will predict the storage allocations based on an analogous year(s).

11. The calendar day determined to be the Time of Need is established by predicting the day in which the remaining storage allocation will be equal to reasonable carryover. The Time of Need will not be earlier than the Day of Allocation.

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[26] The Day of Allocation is the time in the irrigation season when the Water District 01 watermaster can issue allocations to storage space holders after the reservoir system has achieved its maximum physical fill, maximum water right accrual, and any excess spill past Milner Dam has ceased. Tr. p. 902, lns. 7-25; p. 903, lns. 1-10.

[27] At the earliest established Time of Need for any member of the SWC, junior ground water users are required to provide remaining mitigation to all materially injured members of the SWC.

12. This information will be used to recalculate RISD and adjust the projected IDS for each member of the SWC. The Director will then issue revised RISD and DS values. Any increase to the projected IDS for each SWC entity is an additional mitigation obligation of the junior ground water users.

13. Upon a determination of an additional mitigation obligation, junior ground water users will be required to establish, to the satisfaction of the Director, their ability to secure a volume of storage water or to conduct other approved activities pursuant to an approved mitigation plan that will deliver the additional mitigation obligation water to the injured members of the SWC at the Time of Need. If junior ground water users fail or refuse to submit this information within fourteen (14) days from issuance of a Step 6 order, the Director will issue an order curtailing junior ground water users.[28] A transient ESPAM simulation will be run to determine the priority date to produce the necessary additional mitigation obligation volume by September 30 of the same year. Curtailment will be simulated within the area of common ground water supply, as described by CM Rule 50.01.

14. Step 7: Shortly before the estimated Time of Need, but following the events described in Steps 5 and 6, the Director will, for each member of the SWC: (1) recalculate RISD; (2) issue a revised FS; and (3) establish the Time of Need. The revised FS for each SWC entity is the sum of the year-to-date actual natural flow diversions, the forecasted natural flow supply for the remainder of the season, and the storage allocation for each member of the SWC. The forecasted natural flow supply for the remainder of the season will be based on analogous year(s) with similar Blackfoot to Milner reach gains. The storage allocation will be based on the actual preliminary storage allocations issued by the BOR and Water District 01.

15. This information will be used to recalculate RISD and adjust the projected IDS for each member of the SWC. RISD will be calculated utilizing the project efficiency, BD, and the cumulative actual CWN determined up to that point in the irrigation season. The Director will then issue revised RISD and IDS values.

16. A transient ESPAM simulation will be run to determine the priority date of water rights that must be curtailed to produce the demand shortfall volume by September 30 of the same year. Curtailment will be simulated within the area of common ground water supply, as described by CM Rule 50.01.

17. Step 8: At the Time of Need, junior ground water users are required to deliver to each injured member of the SWC the Step 7 revised IDS calculated at the Time of Need. Alternatively, any additional mitigation obligation calculated in Step 6 and Step 7 can be satisfied from each SWC member's reasonable carryover if (a) the reasonable carryover exceeds the additional mitigation obligation, and (b) the junior ground water users secure sufficient water to replace the reasonable carryover pursuant to an approved mitigation plan.

[28] This presumes that any reasonable carryover obligation has been met, and that junior ground water users are not already under prior curtailment from deficiencies in meeting the previous year's obligation.

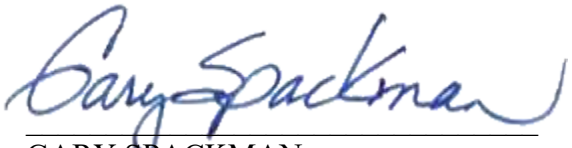
18. The Director will review, at the end of the season, the volume and efficiencies of application of surface water, the amount of mitigation water delivered by junior ground water users, and may, in the exercise of his professional judgment, readjust the reasonable carryover shortfalls to reflect these considerations.

19. Step 9: Following the end of the irrigation season (on or before November 30), the Department will determine the total actual volumetric demand and total actual CWN for the entire irrigation season. This information will be used for the analysis of reasonable carryover shortfall, selection of future BLY, and for the refinement and continuing improvement of the method for future use.

20. On or before November 30, the Department will issue estimates of actual carryover and reasonable carryover shortfall volumes for all members of SWC. These estimates will be based on, but not limited to, the consideration of the best available water diversion and storage data from Water District 01, return flow monitoring, comparative years, and RISD. These estimates will establish the obligation of junior ground water users in providing water to the SWC for reasonable carryover shortfall. Fourteen (14) days following the issuance by the Department of reasonable carryover short fall obligations, junior ground water users will be required to establish, to the satisfaction of the Director, their ability to supply a volume of storage water or to conduct other approved mitigation activities that will provide water to the injured members of the SWC equal to the reasonable carryover shortfall for all injured members of the SWC. If junior ground water users cannot provide this information, the Director will issue an order curtailing junior ground water rights. A transient ESPAM simulation will be run to determine the priority date of water rights that must be curtailed to produce the reasonable carryover shortfall volume by September 30 of the following year. Curtailment will be simulated within the area of common ground water supply, as described by CM Rule 50.01.

IT IS FURTHER ORDERED that this Fifth Methodology Order supersedes all previously issued methodology orders in this matter.

Dated this _21st_ day of April 2023.



GARY SPACKMAN
Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 21st day of April 2023, the above and foregoing, was served by the method indicated below, and addressed to the following:

John K. Simpson MARTEN LAW LLP P.O. Box 2139 Boise, ID 83701-2139 jsimpson@martenlaw.com	☒ U.S. Mail, postage prepaid ☒ Email
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Kathleen Marion Carr US Dept. Interior 960 Broadway Ste 400 Boise, ID 83706 kathleenmarion.carr@sol.doi.gov	☒ U.S. Mail, postage prepaid ☒ Email
David W. Gehlert Natural Resources Section Environment and Natural Resources Division U.S. Department of Justice 999 18th St., South Terrace, Suite 370 Denver, CO 80202 david.gehlert@usdoj.gov	☒ U.S. Mail, postage prepaid ☒ Email
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Megan Jenkins
Administrative Assistant II

EXPLANATORY INFORMATION TO ACCOMPANY A FINAL ORDER

(To be used in connection with actions when a hearing was **not** held)

(Required by Rule of Procedure 740.02)

The accompanying order is a "**Final Order**" issued by the department pursuant to section 67-5246, 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 67-5246(4), Idaho Code.

REQUEST FOR HEARING

Unless the right to a hearing before the director or the water resource board is otherwise provided by statute, any person who is aggrieved by the action of the director, and who has not previously been afforded an opportunity for a hearing on the matter shall be entitled to a hearing before the director to contest the action. The person shall file with the director, within fifteen (15) days after receipt of written notice of the action issued by the director, or receipt of actual notice, a written petition stating the grounds for contesting the action by the director and requesting a hearing. See section 42-1701A(3), Idaho Code. **Note: The request must be received by the Department within this fifteen (15) day period.**

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 of: a) the service date of the final order, b) the service date 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.

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY OR FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY	Docket No. CM-DC-2010-001 **NOTICE OF HEARING, NOTICE OF PREHEARING CONFERENCE, AND ORDER AUTHORIZING DISCOVERY**

On April 21, 2023, the Director of the Idaho Department of Water Resources ("Department") issued his *Fifth Amended Final Order Regarding Methodology for Determining Material Injury to Reasonable In-Season Demand and Reasonable Carryover* ("Methodology Order") as well as his *Final Order Regarding April 2023 Forecast Supply* ("As-Applied Order"). The Methodology Order revises the nine steps used to determine material injury to members of the Surface Water Coalition ("SWC"). The As-Applied Order predicts a shortfall for the 2023 irrigation season, which will result in mitigation requirements or curtailment for ground water rights with priority dates junior to December 30, 1953.

The Director anticipates that one or more parties will request a hearing pursuant to Idaho Code § 42-1701A(3) in response to one or both of the orders. Normally, a party has 15 days to request a hearing. However, time is of the essence because the irrigation season has commenced for many water users. Idaho's Constitutional Convention intended that there be no unnecessary delays in the delivery of water pursuant to a valid water right. *Am. Falls Reservoir Dist. No. 2 v. Idaho Dep't of Water Res.*, 143 Idaho 862, 874, 154 P.3d 433, 445 (2007). "Clearly, a timely response is required when a delivery call is made and water is necessary to respond to that call." *Id*. Accordingly, the Director, consistent with the obligation to timely administer water rights, will take the proactive step of setting the matter for hearing, will set a prehearing conference, and will authorize discovery. Should the parties mutually agree that a hearing is unwarranted, the parties may file a stipulated motion to vacate.

NOTICE OF HEARING

NOTICE IS HEREBY GIVEN that the Department will hold a hearing on the Methodology Order and As-Applied Order on **June 6–10, 2023. The hearing will begin on June 6 at 9:00 a.m. (MST).** Subsequent starting and ending times will be scheduled during the hearing. The last day of the hearing, June 10, is a Saturday. The day is reserved if needed to complete the hearing.

The hearing will take place at the Department's State Office, located at **322 E. Front Street, 6th Floor, Conference Rooms 602A–D, Boise, Idaho**.

All parties wishing to participate in the hearing shall be present in person. Remote participation will be allowed for those who wish to observe the hearing. To request remote participation information, contact Sarah Tschohl at the phone number or email listed below.

The hearing will be held in accordance with the provisions of Chapters 2 and 17, Title 42 and Chapter 52, Title 67, Idaho Code, as well as the Department's Rules of Procedure, IDAPA 37.01.01. A copy of the Rules of Procedure may be obtained from the Department upon request or at: https://adminrules.idaho.gov/rules/current/37/370101.pdf.

The hearing will be conducted in a facility that meets the accessibility requirements of the Americans with Disabilities Act. If you require special accommodation to attend, participate in, or understand the hearing, please advise the Department no later than five (5) days prior to the hearing. Inquiries for special accommodations should be directed to Sarah Tschohl, Idaho Department of Water Resources, P.O. Box 83720, Boise, Idaho 83720-0098, telephone: (208) 287-4815, email sarah.tschohl@idwr.idaho.gov.

NOTICE OF PREHEARING CONFERENCE

NOTICE IS HEREBY GIVEN that the Department will hold a prehearing conference on the Methodology Order and As-Applied Order on **April 28, 2023, at 1:30 p.m. (MST)**. The conference will take place at the Department's State Office, located at **322 E. Front Street, 6th Floor, Conference Rooms 602B–D, Boise, Idaho**. All parties wishing to participate in the prehearing conference must appear in person or by video conferencing. The parties shall come prepared to identify the issues to be addressed at the hearing.

To attend the conference via computer or smartphone, please click the following Webex link, follow the prompts, and wait to be admitted by the meeting host: https://idahogov.webex.com/idahogov/j.php?MTID=mb39d4fed7de1bfefe8462aaefafd3dbb.

To join the conference via telephone, please dial 1(415) 655-0001 (US Toll) and enter the following meeting access code when prompted: 2450 253 0090.

The prehearing conference will be held in accordance with the provisions of Chapter 17, Title 42, and Chapter 52, Title 67, Idaho Code, and the Department's Rules of Procedure, IDAPA 37.01.01. A copy of the Rules of Procedure may be obtained from the Department upon request or at https://adminrules.idaho.gov/rules/current/37/370101.pdf.

The conference will be conducted in a facility that meets the accessibility requirements of the Americans with Disabilities Act. If you require special accommodation to attend, participate in, or understand the conference, please advise the Department no later than one (1) day before the conference. Inquiries for special accommodations should be directed to Sarah Tschohl, Idaho Department of Water Resources, P.O. Box 83720, Boise, Idaho 83720-0098, telephone: (208) 287-4815, email sarah.tschohl@idwr.idaho.gov.

ORDER AUTHORIZING DISCOVERY

IT IS HEREBY ORDERED that the parties are authorized to immediately conduct and engage in discovery pursuant to IDAPA 37.01.01.521.

IT IS FURTHER ORDERED that, pursuant to IDAPA 37.01.01.053, documents filed in this proceeding may be served on the parties and the Department via email. Service on the Department shall be made by email to file@idwr.idaho.gov. Service on the parties shall be made by email to the email addresses listed in the Certificate of Service below.

Dated this 21st day of April 2023.

GARY SPACKMAN
Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 21st day of April 2023, the above and foregoing, was served by the method indicated below, and addressed to the following:

John K. Simpson MARTEN LAW LLP P.O. Box 2139 Boise, ID 83701-2139 jsimpson@martenlaw.com	☒ U.S. Mail, postage prepaid ☒ Email
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Matt Howard US Bureau of Reclamation 1150 N Curtis Road Boise, ID 83706-1234 mhoward@usbr.gov	☒ U.S. Mail, postage prepaid ☒ Email

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Corey Skinner IDWR—Southern Region 1341 Fillmore St., Ste. 200 Twin Falls, ID 83301-3033 corey.skinner@idwr.idaho.gov	☒ Email
COURTESY COPY TO: William A. Parsons PARSONS SMITH & STONE P.O. Box 910 Burley, ID 83318 wparsons@pmt.org	☒ Email

Sarah Tschohl
Paralegal

IDAHO DEPARTMENT OF
WATER RESOURCES

322 E Front Street, Suite 648, Boise ID 83702 • PO Box 83720, Boise ID 83720-0098
Phone: 208-287-4800 • Fax: 208-287-6700 • Email: idwrinfo@idwr.idaho.gov • Website: idwr.idaho.gov

Governor Brad Little

Director Gary Spackman

May 1, 2023

RE: Notice of Possible Curtailment of Ground Water Rights with Priority Dates Junior to December 30, 1953 - Surface Water Coalition Delivery Call

Dear Water Right Holder,

You are receiving this letter because, according to the records of the Idaho Department of Water Resources ("Department"), you are the holder of one or more water rights authorizing diversion of ground water from the Eastern Snake Plain Aquifer Area of Common Ground Water Supply ("ESPA") that are not covered by an approved and effectively operating mitigation plan. Because your water right(s) are not currently covered by an approved and effectively operating mitigation plan, **your water right(s) *may* be subject to curtailment this 2023 irrigation season.**

On April 21, 2023, the Director of the Department issued the *Final Order Regarding April 2023 Forecast Supply (Methodology Steps 1-3)* ("As-Applied Order"). The As-Applied Order predicts a shortfall in the water supply for senior priority Snake River water rights during the 2023 irrigation season, which will result in mitigation requirements or curtailment for ground water rights with priority dates junior to (later than) **December 30, 1953**.

The Department scheduled a hearing for the parties to the As-Applied Order on **June 6–10, 2023.** After the hearing the Director will decide whether to issue a curtailment order. If the Director issues a curtailment order, ground water rights junior to December 30, 1953, could be subject to curtailment unless the holders of junior priority ground water rights mitigate for ground water diverted pursuant to an approved mitigation plan.

Holders of ground water rights affected by a curtailment order may participate in an approved mitigation plan. See Idaho Code § 42-5259. If you are already a member of a ground water district, please contact and work with the district to ensure the district's records are up to date. If you are not a member of a ground water district, you may want to contact the nearest ground water district to inquire if the district will allow you to join.

Holders of ground water rights potentially subject to curtailment may also submit a proposed mitigation plan to the Director in accordance with Conjunctive Management Rule 43.[1] See IDAPA 37.03.11.043. However, please be aware the approval process for a mitigation plan is time-consuming. A proposed mitigation plan submitted now may not be approved in time for the 2023 irrigation season. Upon receipt of a proposed mitigation plan, the Director will publish notice for two successive weeks, after which ten days will be allowed for the filing of protests. The Director may hold a hearing if necessary to determine whether a proposed mitigation plan will mitigate injury to the SWC caused by diversions of ground water authorized by junior priority ground water rights. If the proposed mitigation plan is protested, the Director will hold a hearing. Please be advised that a curtailment order is not stayed pending evaluation of a mitigation plan.

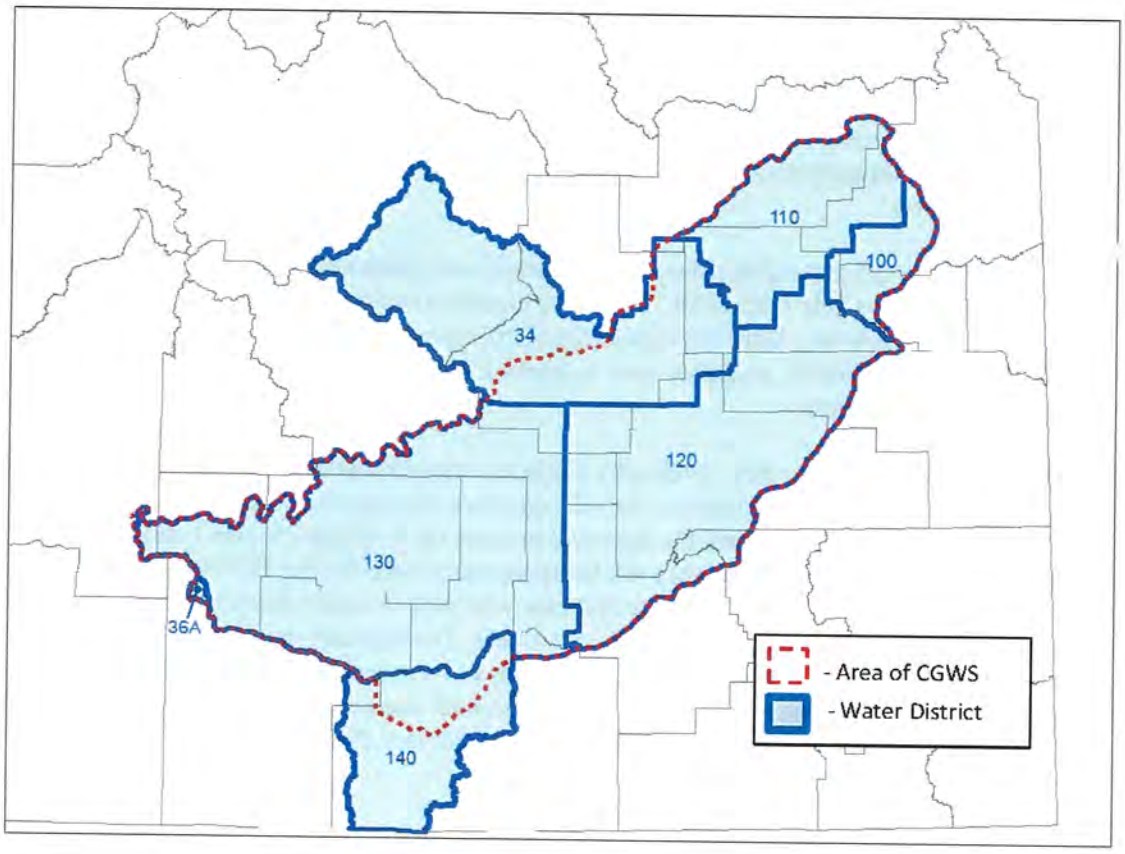
[1] For example, a copy of the proposed mitigation plan submitted by the SWC & IGWA can be found here: https://idwr.idaho.gov/wp-content/uploads/sites/2/legal/CM-MP-2016-001/CM-MP-2016-001-20160309-SWCs-and-IGWAs-Stipulated-Mitigation-Plan-and-Request-for-Order.pdf

Information regarding the ongoing status of this matter may be found under the Current Topics section of the Department's website at: https://idwr.idaho.gov/ If you have questions concerning this notice, please contact the Department's State Office in Boise at 208-287-4800, or the water district watermaster in your area who regulates ground water within the ESPA and copied below. Water district boundaries can be found on the web at https://idwr.idaho.gov/water-rights/water-districts/map/, and Watermaster contact information can be found on the web at https://research.idwr.idaho.gov/files/ExternalReports/wdcontactsrpt.pdf

Respectfully,

GARY SPACKMAN
Director

c. Blake Jordan, Watermaster, Water Districts 100, 110 and 120
Brian Ragan, Watermaster, Water District 130
Jaxon Higgs, Watermaster, Water District 140
Greg Shenton, Watermaster, Water District 31
Preston Marcroft, Watermaster, Water District 34



Attachment A
List of Ground Water Rights Junior to 12/30/1953
Sorted by Owner

Owner	Water Right No.	Basis	Priority Date	Water Use List	Diversion Rate	Total Acres	Enlargement
1523 LLC	35-14566	Decreed	11/3/1972	IRRIGATION	0.05	2.6	
2 K FARMS	35-8766	License	6/1/1989	COMMERCIAL, DOMESTIC	0.02		
288S 500W LLC	36-17158	Decreed	2/1/1961	DOMESTIC, IRRIGATION, STOCKWATER	0.03	1.0	
2B LEGACY LLC	31-7043A	Decreed	11/12/1970	COMMERCIAL, STOCKWATER	0.28		
2-K FARMS	35-8767	License	6/9/1989	COMMERCIAL	0.01		
3 STRING CATTLE OF IDAHO LLC	37-23203	Decreed	7/24/1973	COMMERCIAL, STOCKWATER	0.16		
4 BROS DAIRY INC	37-2622	Decreed	10/6/1959	IRRIGATION	1.39	80.0	
A & B IRRIGATION DISTRICT	36-16749	Decreed	4/1/1956	IRRIGATION	0.45	26.0	
A & B IRRIGATION DISTRICT / US BUREAU OF RECLAMATION	36-15127A	Decreed	4/1/1962	IRRIGATION	31.12		
A & B IRRIGATION DISTRICT / US BUREAU OF RECLAMATION	36-15192	Decreed	4/1/1962	IRRIGATION	0.60		
A & B IRRIGATION DISTRICT / US BUREAU OF RECLAMATION	36-15193A	Decreed	4/1/1962	IRRIGATION	0.21		
A & B IRRIGATION DISTRICT / US BUREAU OF RECLAMATION	36-15194A	Decreed	4/1/1962	IRRIGATION	0.23		
A & B IRRIGATION DISTRICT / US BUREAU OF RECLAMATION	36-15195A	Decreed	4/1/1962	IRRIGATION	0.87		
A & B IRRIGATION DISTRICT / US BUREAU OF RECLAMATION	36-15196A	Decreed	4/1/1962	IRRIGATION	0.29		
A & B IRRIGATION DISTRICT / US BUREAU OF RECLAMATION	36-15193B	Decreed	4/1/1965	IRRIGATION	0.31		Yes
A & B IRRIGATION DISTRICT / US BUREAU OF RECLAMATION	36-15194B	Decreed	4/1/1968	IRRIGATION	2.51		Yes
A & B IRRIGATION DISTRICT / US BUREAU OF RECLAMATION	36-15195B	Decreed	4/1/1978	IRRIGATION	2.24		Yes
A & B IRRIGATION DISTRICT / US BUREAU OF RECLAMATION	36-15196B	Decreed	4/1/1981	IRRIGATION	0.08		Yes
A & B IRRIGATION DISTRICT / US BUREAU OF RECLAMATION	36-15127B	Decreed	4/1/1984	IRRIGATION	28.89		Yes
ABERDEEN SPRINGFIELD CANAL CO	35-2543	Decreed	8/7/1958	IRRIGATION	6.00		
ADAMS, CHERYL L; ADAMS, H LYLE; ADAMS, RODDY L	37-7078	Decreed	10/12/1970	COMMERCIAL, DOMESTIC, STOCKWATER	0.08		
AEI CORP	29-8037	License	11/13/1990	DOMESTIC, INDUSTRIAL	0.06		
AGEQUITY HOLDINGS LLC	36-17208	Decreed	4/13/1976	IRRIGATION	0.20	10.0	
AGRI BEEF CO	29-7104	Decreed	10/25/1972	STOCKWATER	0.67		
AGRICULTURAL SERVICES INC	35-8857	License	9/6/1989	COMMERCIAL	0.04		
AKL PROPERTIES LLC	36-8416	License	3/30/1989	COMMERCIAL	0.04		
ALLEN, CECIL; ALLEN, FLORENCE I	31-7398	Decreed	6/16/1983	COMMERCIAL, DOMESTIC	0.06		
AMALGAMATED SUGAR CO LLC	36-4178	Decreed	6/1/1959	COMMERCIAL	0.01		
AMERICAN FALLS RESERVOIR DISTRICT #2	36-11120	Decreed	11/27/1962	DOMESTIC, IRRIGATION	0.07	1.5	
ANDERLAND LLC	45-14554	Decreed	9/27/1972	IRRIGATION, STOCKWATER	0.43	33.0	
ANDERSON, CHAD ALLEN; ANDERSON, JASHELLE HEATHER	45-7650	License	6/21/1989	DOMESTIC, IRRIGATION	0.06	1.0	
ANDERSON, SAM; ANDERSON, STACIE	25-7490	License	3/15/1989	COMMERCIAL	0.04		
ANGIELEN LLC	32-13351	Decreed	11/12/1974	STOCKWATER	0.06		
ARD, CHARLES BRUCE	22-7555	License	8/24/1988	COMMERCIAL, DOMESTIC	0.04		
ARLENCO INC	22-7423	Decreed	2/24/1983	COMMERCIAL	0.01		
ARROWSMITH, JOSEPH GLENN	25-7073D	Decreed	8/1/1975	IRRIGATION	0.25	12.3	
ARTCO INC	22-7473	License	12/23/1983	INDUSTRIAL, IRRIGATION	0.84	17.0	
ATKINSON, ANDREW ; ATKINSON, MARY	29-13736	License	2/21/2006	DOMESTIC	0.08		
B & F DISTRIBUTING CO	25-7555	License	10/12/1989	COMMERCIAL	0.04		
BABEL, PAUL; HAMPTON, WALLACE; PARKS, FRED A	25-7083	License	1/28/1976	DOMESTIC	0.06		
BAH REXBURG AC PROPERTY LLC	22-11451	Decreed	8/31/1960	IRRIGATION	0.04	2.0	
BAILEY OIL CO INC	36-13218	Decreed	1/1/1960	COMMERCIAL	0.05		
BAISCH, ROBERT L	35-7481	License	2/21/1975	DOMESTIC	0.08		
BARBEN, GORDON E; SAMPSON, KEN	27-7025	License	4/2/1973	DOMESTIC	0.08		
BARBER, BETH; BARBER, KENT	25-7017B	Decreed	3/20/1972	IRRIGATION	0.92	45.3	
BARBER, BETH; BARBER, KENT	25-7073A	Decreed	8/1/1975	IRRIGATION	1.50	75.0	

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BARRUS, KEITH; MINKS, ROY; PLOCK, STEPHEN R; SCHNEIDER, SCOT L	25-7080	Decreed	1/28/1976	DOMESTIC	0.11		
BARTLETT, ERWIN; BARTLETT, JANICE	45-7653	License	6/6/1989	COMMERCIAL	0.04	0.0	
BASIC AMERICAN POTATO CO INC	35-12062	Decreed	12/31/1957	COMMERCIAL	1.00		
BATES, ROBERT W; BATES, SHARON H; WILKINS, ELMA; WILKINS, LLOYD	25-7357	Decreed	6/16/1983	DOMESTIC	0.06		
BEAR CREST LTD LLC	22-14439	Decreed	4/22/1979	IRRIGATION, COMMERCIAL	0.04	1.8	
BEAR CREST LTD LLC	22-14440		12/6/2021	COMMERCIAL	1.22		
BEAR ISLAND WATER ASSN INC	35-8672	License	9/6/1988	DOMESTIC	0.20		
BECK, DAVID; BECK, SUSAN K	45-11122	Decreed	1/9/1975	DOMESTIC, STOCKWATER	0.07	0.0	
BENNETT, UDO	29-13940	Decreed	10/3/1977	IRRIGATION	0.13	7.5	
BENSON, CLIFFORD; BENSON, LADAWN C	35-8124		3/25/1983	IRRIGATION	6.40	320.0	
BERGMANN, LARRY	35-14739	Decreed	4/22/1979	DIVERSION TO STORAGE, IRRIGATION, RECREATION STORAGE	0.09	2.0	
BEVAN, DONNA; BEVAN, THOMAS	35-14773	Decreed	4/27/1964	IRRIGATION	0.08	2.0	
BEYER, PATRICK	25-7313	Decreed	4/11/1983	DOMESTIC, IRRIGATION	0.05	0.7	
BIG FIVE WATER ASSN	25-7199	Decreed	7/24/1980	DOMESTIC	0.11		
BIG SKY DAIRY	37-20858	Decreed	1/1/1971	STOCKWATER	0.04		
BIG SKY DAIRY	37-20859	Decreed	1/1/1974	STOCKWATER	0.04		
BIG SKY DAIRY	37-20860	Decreed	1/1/1975	STOCKWATER	0.04		
BIG SKY DAIRY	37-12833	Decreed	1/1/1977	DOMESTIC, STOCKWATER	0.17		
BIGGS, DONALD; BIGGS, HELEN ; BUSH, ROBERT; OCKERMAN, JOY ; WINGERT, JEAN M	25-7082	Decreed	1/28/1976	DOMESTIC	0.16		
BILLINGTON, ROBERT D; PUGH, CAROL; PUGH, HOYT; RILEY, KATHERINE; RILEY, RODNEY	37-4373	Decreed	12/21/1955	DOMESTIC, STOCKWATER	0.04		
BINGHAM INVESTMENTS	29-14017	Decreed	12/31/1953	IRRIGATION	0.55	42.1	
BINGHAM INVESTMENTS	29-14018	Decreed	12/31/1953	INDUSTRIAL	0.11		
BINGHAM, BOYD A; BINGHAM, SHERRY R	36-8425	License	6/23/1989	IRRIGATION	0.88	105.0	
BINGHAM, JENNIFER; BINGHAM, JOSEPH	37-23385	Decreed	11/30/1965	IRRIGATION	0.31	30.0	
BINGHAM, JENNIFER; BINGHAM, JOSEPH	37-23384	Decreed	2/4/1976	IRRIGATION	0.24	30.0	
BINGHAM, JERRY D; BINGHAM, VALERIE H	35-12226	Decreed	4/1/1987	IRRIGATION	0.59	285.0	Yes
BIRD, WARREN A; FARNES, LYLE R; RICKS, RICHARD; TOMCHAK, TYE	25-7375	Decreed	6/29/1983	DOMESTIC	0.10		
BLACK, KENNETH S; BLACK, NINA E	45-12776	Decreed	10/30/1960	DOMESTIC, STOCKWATER	0.23	0.0	
BLACKER, LOVEL L; BLACKER, MARVIN L	45-14141	Decreed	7/19/1954	IRRIGATION	0.07	3.7	
BLAINE COUNTY SCHOOL DISTRICT #61	37-22205	Decreed	7/21/1961	MITIGATION	0.30		
BLAINE COUNTY SCHOOL DISTRICT #61	37-22931	Decreed	11/25/1962	IRRIGATION	0.05	2.3	
BLEDSOE, HELEN M; HACKMAN, ERNEST A	35-7916	License	9/16/1980	DOMESTIC	0.08		
BLUE SAGE PROPERTIES LLC	36-14759	Decreed	7/15/1955	DOMESTIC, STOCKWATER	0.04		
BLUE SAGE PROPERTIES LLC	36-17171	Decreed	8/10/1973	IRRIGATION	0.07	5.3	
BOISE PACKAGING & NEWSPRINT LLC	45-2568	Decreed	4/1/1958	DOMESTIC, FIRE PROTECTION FROM STORAGE, FIRE PROTECTION STORAGE, FIRE PROTECTION	0.09	0.0	
BOLINDER, CATHERINE L	27-7322	License	6/8/1982	DOMESTIC	0.06		
BONNEVILLE ACRES WATER USERS ASSN INC	25-2135	Decreed	7/28/1961	COMMERCIAL, DOMESTIC	0.81		
BONNEVILLE ACRES WATER USERS ASSN INC	25-2150	Decreed	12/24/1965	COMMERCIAL, DOMESTIC	0.28		
BORAN , MICHAEL J	35-8635B	Decreed	12/17/1986	FISH PROPAGATION	0.72		
BORAN , MICHAEL J	35-8782	License	5/23/1989	FISH PROPAGATION	4.64		

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BORDEAUX, DARREN	35-14702	Decreed	1/26/1962	IRRIGATION	0.03	2.5	
BOWEN PETROLEUM	22-7464	License	6/29/1983	COMMERCIAL	0.04		
BRADY, LANCE; BRADY, SHANNON; HAGAN, DANNY D; HAGAN, MARILYNN J ; HOLMES, BILL; HOLMES, LINDA	25-7330	Decreed	6/14/1983	DOMESTIC, IRRIGATION	0.08	0.4	
BRAGA, ROBERT; VAUGHAN, LONNIE	34-14685	Decreed	12/31/1955	DOMESTIC, IRRIGATION	0.04	2.0	
BRAY VALLEY RANCH LLC	37-7942	Decreed	9/22/1981	DOMESTIC, IRRIGATION, STOCKWATER	1.11	141.0	
BRIGGS, DAVID L; BRIGGS, JEANIE K	25-7466	License	11/17/1988	COMMERCIAL	0.04		
BRIGGS, JOYCE; BRIGGS, VAN W	22-7656	License	11/21/1989	COMMERCIAL	0.04		
BRINKMANN, GEORGE	35-8893	License	3/29/1990	COMMERCIAL	0.01		
BROADHEAD, LYNN	35-8765	License	5/23/1989	COMMERCIAL	0.05		
BROWN, HAROLD	31-7513	License	11/23/1988	COMMERCIAL, DOMESTIC	0.07		
BROWN, HEATHER; BROWN, WAYNE W	36-14878	Decreed	12/31/1956	DOMESTIC, STOCKWATER	0.06		
BROWN, JAN A; BROWN, SID E; MOMBERGER, JESSE C	31-7510	License	11/14/1988	DOMESTIC, IRRIGATION, STOCKWATER	0.11	2.0	
BRP INC	25-7622	License	9/23/1998	DOMESTIC	0.23		
BRP INC	25-14504		10/12/2021	DOMESTIC	0.26		
BRUMFIELD, DALE	35-13320	License	8/7/2001	DOMESTIC	0.10		
BURDETTE INC	25-7532	License	9/20/1989	COMMERCIAL	0.04		
BURGESS SUBDIVISION WATER ASSN INC	25-7457	License	10/27/1988	DOMESTIC	0.11		
BURNS CONCRETE INC	25-13982	License	12/18/2002	COMMERCIAL	3.53		
BURNS, KIRK E; SZIMHARDT, LINDA J	25-7426	License	6/6/1988	IRRIGATION	0.08	5.6	
BURRELL, GEORGE W; BURRELL, LURANA J; KEETCH, SHYANN; KEETCH, STETSON	29-13900	License	4/3/2009	DOMESTIC	0.08		
BURRUP, JOHN R; BURRUP, JON R	25-13085	Decreed	7/6/1958	COMMERCIAL, STOCKWATER	0.12		
C7 FARMS LLC	36-7460AG	Decreed	3/25/1974	COMMERCIAL, STOCKWATER	0.18		
CAMPBELL, ALTA	25-4136	Decreed	6/1/1955	IRRIGATION	0.02	0.3	
CANNERS SEED CORP	25-7449	License	10/13/1988	COMMERCIAL, DOMESTIC	0.04		
CARLSON, LESA J	29-13829	Decreed	6/27/1966	IRRIGATION	0.05	2.4	
CARPENTER, BARBARA; CARPENTER, MAURICE	25-7193B	Decreed	4/30/1980	DOMESTIC, IRRIGATION, STOCKWATER	0.02	2.5	
CARRENO, OSCAR	36-15669	Decreed	2/18/1971	COMMERCIAL, STOCKWATER	0.02		
CARRENO, OSCAR	36-16240	Decreed	1/7/1974	COMMERCIAL, STOCKWATER	0.01		
CARSTENS, JULIUS M J	25-7481	License	12/22/1988	IRRIGATION	0.04	1.4	
CASA DEL NORTE LP	37-7081	Decreed	12/8/1970	IRRIGATION	1.67	840.0	
CASSIDY, FRANCIS J; HOFFMAN, RICHARD P; MEYER, DAVID DANIEL; MEYER, JENNY CLUFF; TANNER, TOMMY C	25-7638	License	4/25/1995	DOMESTIC	0.10		
CEYNAR, MARCENE; FANN, LAVEDA A; FANN, R E; FARNSWORTH, BETH; FARNSWORTH, JAY; PICKERING, CRAIG; PICKERING, VICKY	25-7272	Decreed	2/4/1982	DOMESTIC	0.10		
CHALLENGER PALLET & SUPPLY	25-7451	License	12/1/1988	COMMERCIAL	0.04		
CHAMBERS, BOYD; HARRIS, JAMES; HARRIS, MARI; LOREN, RICHAN; STUEVE, KENNETH; SWEARINGER, ALDON; WADE, BILL	25-4210	Decreed	3/21/1960	DOMESTIC, IRRIGATION	0.19	2.4	
CHAMBERS, RALEIGH R	25-7343	License	6/27/1983	DOMESTIC	0.06		
CHAPMAN, GARY RAY; CHAPMAN, REBECCA LYNN	22-14405	Decreed	4/22/1979	IRRIGATION	0.04	2.0	
CHERRY, MARY ANN; CHERRY, ROBERT	25-14402	Decreed	7/19/1973	IRRIGATION	0.02	1.2	
CHEVRON PIPE LINE CO	29-2488	Decreed	1/28/1964	DOMESTIC, FIRE PROTECTION	1.00		
CHRISTENSEN, ADAM W; NELSON, DIANE K	37-23133	Decreed	9/20/1974	IRRIGATION	0.02	0.8	
CHURCH OF JESUS CHRIST OF LATTER DAY SAINTS	25-12186	Decreed	4/1/1962	IRRIGATION	0.17	8.5	
CHURCH OF JESUS CHRIST OF LATTER DAY SAINTS	22-13745	License	7/23/2007	DOMESTIC	0.11		

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CITY OF BUTTE CITY	34-4027	Decreed	6/20/1960	FIRE PROTECTION, MUNICIPAL	0.23	0.0	
CITY OF DUBOIS	31-7011	Decreed	5/29/1968	MUNICIPAL	1.35		
CITY OF EDEN	36-4212	Decreed	1/1/1956	MUNICIPAL	0.07		
CITY OF MUD LAKE	31-10379	Decreed	2/7/1956	MUNICIPAL	1.00		
CITY OF MUD LAKE	31-7146	Decreed	11/15/1974	FIRE PROTECTION, MUNICIPAL	2.23		
CLARK, COLE	35-14758	Decreed	7/2/1965	IRRIGATION	3.03	192.0	
CLAYSON, CASEY; CLAYSON, SHANE	45-7496	Decreed	1/27/1982	DOMESTIC, IRRIGATION	0.06	0.7	
CLOSE, ROBERT; CLOSE, SALLY	25-11547	Decreed	1/31/1959	DOMESTIC, IRRIGATION	0.07	1.0	
COMMUNITY WELL PROJECT; VAUGHN, BILL	25-4103	Decreed	12/31/1958	DOMESTIC	0.11		
COOK, CLYDE A; COOK, LA RAE L; LOVELL, RONALD L; LOVELL, TAMMY	25-14064	Decreed	5/20/1955	IRRIGATION	3.76	1120.1	
COOK, CLYDE A; COOK, LA RAE L; LOVELL, RONALD L; LOVELL, TAMMY	25-14066	Decreed	4/1/1961	IRRIGATION	7.56	1120.1	
COOK, CLYDE A; COOK, LA RAE L; LOVELL, RONALD L; LOVELL, TAMMY	25-14060	Decreed	12/22/1971	IRRIGATION	1.78	1120.1	
COOK, DANNY; COOK, DARRELL L	35-7979	License	5/5/1981	DOMESTIC	0.06		
COOK, DONALD J	35-7362	License	12/27/1973	DOMESTIC, STOCKWATER	0.05		
CORDES, RONALD A	25-7488	License	2/14/1989	DOMESTIC, IRRIGATION	0.10	3.0	
CORDON TRAILER COURT	25-10195	Decreed	3/11/1960	COMMERCIAL	0.13		
COUNTRY CLUB ESTATES WATER ASSN INC	36-8607	License	11/18/1991	DOMESTIC, FIRE PROTECTION, STOCKWATER	0.50		
COUNTRY CLUB WATER	25-14447	Decreed	1/27/1976	IRRIGATION	0.03	18.7	
COUNTRY CLUB WATER	25-14448	Decreed	10/31/1986	IRRIGATION	0.01	18.7	Yes
COUNTRY LIFE ESTATES WATER USERS ASSN	25-7033	Decreed	3/27/1973	DOMESTIC	0.20		
COUNTRY LIFE ESTATES WATER USERS ASSN	25-7046	Decreed	3/8/1974	DOMESTIC	0.73		
COUNTY OF JEFFERSON	25-13985	License	5/13/2003	RECREATION STORAGE			
COUNTY OF JEROME AIRPORT	36-14477	Decreed	1/13/1954	COMMERCIAL, DOMESTIC	0.08		
COUNTY OF MINIDOKA	36-13721	Decreed	10/2/1962	COMMERCIAL, DOMESTIC	0.12		
CRANDALL, JEFF; CRANDALL, SUSAN	35-8658	License	11/2/1985	DOMESTIC	0.06		
CRANE, CALVIN C	45-7303	Decreed	5/10/1977	IRRIGATION, STOCKWATER	1.28	62.0	
CRANE, KARI L; CRANE, TROY W	45-4067B	Decreed	8/1/1962	IRRIGATION	1.46	73.0	
CRANER, DAVID A; CRANER, HELEN B	45-7442	Decreed	4/4/1980	IRRIGATION	0.12	4.0	
CREG & LETA HANSEN FAMILY LTD PARTNERSHIP	37-23353	Decreed	6/7/1977	IRRIGATION	0.73	37.0	
CRESPO TRUCKING INC	37-8355	License	8/9/1988	COMMERCIAL, DOMESTIC	0.04		
CRESTVIEW CALVES LLC	36-17207	License	12/11/1973	COMMERCIAL, STOCKWATER	0.12		
CRM CO	25-7554	License	9/8/1989	COMMERCIAL	0.04		
CROMWELL, VERNAL D	25-7446	License	10/21/1988	DOMESTIC	0.06		
CROP PRODUCTION SERVICES	25-4250	Decreed	3/8/1963	COMMERCIAL	0.10		
CROP PRODUCTION SERVICES	27-7371	Decreed	6/29/1983	COMMERCIAL	0.04		
CROP PRODUCTION SERVICES	35-8627	Decreed	4/4/1989	COMMERCIAL	0.16		
CROWN OF LIFE LUTHERAN CHURCH	25-7434	License	8/30/1988	COMMERCIAL	0.04		
CRUMRINE, ERIC R; CRUMRINE, SAMANTHA MARIE	36-11149	Decreed	5/20/1965	DOMESTIC, STOCKWATER	0.04		
CRYSTAL POND ANGLERS ASSN INC	22-7577	License	8/24/1988	RECREATION STORAGE			
CURT & SUSAN DANIGER FAMILY REVOCABLE TRUST	25-14339	Decreed	2/18/1958	IRRIGATION	0.27	9.5	
CVRH FARM LLC	27-12324	Decreed	5/14/1970	IRRIGATION	0.10	41.0	
D & M WATER ASSN	29-7281	Decreed	8/4/1975	DOMESTIC	0.26		
D & M WATER ASSN	29-7367	Decreed	2/7/1977	DOMESTIC	0.40		

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Owner	Water Right No.	Basis	Priority Date	Water Use List	Diversion Rate	Total Acres	Enlargement
DALTON, DOUG	29-7858	License	2/22/1989	COMMERCIAL	0.08		
DANCE, DAVID P; DANCE, KARAN D	35-8822	License	7/3/1989	COMMERCIAL	0.01		
DANCING DRAGONFLY LLC	25-4165	Decreed	6/19/1959	DOMESTIC, IRRIGATION	0.16	2.0	
DANIEL, BRENDA	25-7447	License	10/25/1988	IRRIGATION	0.02	1.0	
DANIEL, BRENDA; DANIEL, DAVID S	25-7261	Decreed	10/8/1981	DOMESTIC, IRRIGATION, STOCKWATER	0.04	2.0	
DANIEL, MELVIN R JR	25-7538	License	9/19/1989	COMMERCIAL	0.07		
DANSIE, CAROL L; DANSIE, CHARLES N	27-12318	Decreed	5/18/1982	IRRIGATION	3.45	215.0	
DASCANIO, ELIZABETH; DASCANIO, JUSTIN	35-14589	Decreed	9/28/1981	IRRIGATION	0.01	15.0	
DAVIS, ERNIE; DAVIS, RHONDA	35-8814	License	9/5/1989	COMMERCIAL	0.04		
DAVISON, NANCY; DAVISON, RANDY LEE	25-7017A	Decreed	3/20/1972	IRRIGATION	0.42	21.0	
DE MOSS, GARY A; DE MOSS, HELEN	37-22168	Decreed	9/20/1974	IRRIGATION, STOCKWATER	1.61	802.0	
DE MOTT, WILLIAM J; GROVER, LA VAR; RIGBY, WILLIAM F	25-7537	License	9/20/1989	COMMERCIAL	0.08		
DEES, ELDON G; DEES, KATHALINE; DEES, RONALD K; DEES, SHIRLEY	25-7351	Decreed	6/24/1983	DOMESTIC, STOCKWATER	0.06		
DERBYHAWK LLC	25-7553	License	9/27/1989	DOMESTIC	0.11		
DIAMOND A LIVESTOCK INC	37-21492	Decreed	6/1/1971	COMMERCIAL	0.04		
DIXON, ANNIE; JAHN, ROBERT	35-7823	License	11/22/1978	DOMESTIC, STOCKWATER	0.05		
DOMINICK, TERESA	25-7073F	Decreed	8/1/1975	IRRIGATION	0.20	10.0	
DOUBLE V LLC	36-10509	Decreed	1/1/1974	STOCKWATER	0.12		
DOUGLASS, RAND; KILLIAN, TERRIE	25-4124	Decreed	7/3/1959	COMMERCIAL	0.04		
DREW, STAN	29-8237	License	4/17/2000	DOMESTIC	0.11		
DRISCOLL BROTHERS PARTNERSHIP	35-14823	Decreed	2/4/1972	IRRIGATION	0.10	5.5	
DUFFY & CONNIE ENTERPRISES LLC	22-7605	License	10/19/1988	COMMERCIAL	0.02		
E Z LIVIN TRAILER COURT	45-10479	Decreed	12/31/1958	COMMERCIAL	0.20	0.0	
EAGLE CREEK NORTHWEST LLC	32-13237	Decreed	4/2/1964	IRRIGATION	1.96	134.0	
EAGLE CREEK NORTHWEST LLC	32-13277	Decreed	7/27/1979	IRRIGATION	2.25	132.0	
EAGLE CREEK NORTHWEST LLC	32-13279	Decreed	7/27/1979	IRRIGATION	2.25	132.0	
EAMES, LINDA J	25-7643	License	12/4/1995	DOMESTIC	0.18		
EAST FAIRVIEW WATER WELL CO	25-12791	Decreed	4/1/1961	DOMESTIC	0.11		
EAST RIVER COMMONS HOME OWNER ASSN	25-7143	Decreed	3/12/1978	DOMESTIC	0.16		
EGANS GREEN HOUSE	25-7433	License	7/25/1988	COMMERCIAL	0.04		
EL RANCHO NO 3 LLC	25-7077	Decreed	11/4/1975	IRRIGATION	1.39	78.0	
ESKELSON, BRANDON	35-14508	Decreed	5/1/1959	DOMESTIC, IRRIGATION	0.05	2.0	
EVANS GRAIN & ELEVATOR CO	35-8848	License	11/6/1989	COMMERCIAL	0.04		
FALL RIVER TRADING POST	21-7412	License	3/1/1989	COMMERCIAL, DOMESTIC	0.04		
FALLS IRRIGATION DISTRICT / US BUREAU OF RECLAMATION	29-11167	Decreed	4/1/1954	IRRIGATION	1.46		
FALLS IRRIGATION DISTRICT / US BUREAU OF RECLAMATION	29-11168	Decreed	4/1/1954	IRRIGATION	0.58		
FALLS IRRIGATION DISTRICT / US BUREAU OF RECLAMATION	29-11169	Decreed	5/16/1962	IRRIGATION	0.59		
FALLS WATER CO INC	25-14482	Decreed	7/11/1960	IRRIGATION	0.53	6965.7	
FALLS WATER CO INC	25-14287	Decreed	8/10/1966	IRRIGATION	0.02	77.5	
FALLS WATER CO INC	25-14304	Decreed	8/10/1966	IRRIGATION	0.02	77.5	
FALLS WATER CO INC	25-14313	Decreed	8/10/1966	IRRIGATION	0.04	77.5	
FALLS WATER CO INC	25-14327	Decreed	1/27/1976	MUNICIPAL	4.57		
FALLS WATER CO INC	25-7086	Decreed	3/10/1976	DOMESTIC	0.36		
FANNING, DAWN; FANNING, JAMES	29-2344D	Decreed	12/31/1953	IRRIGATION	0.04	3.0	
FARFAN-CEJA, CASTULO; JUAREZ, ARTEMIO; JUAREZ, GUADALUPE	36-15565	License	2/5/2001	DOMESTIC	0.08		
FARMERS MERCHANT INC	35-7723	Decreed	7/4/1977	DOMESTIC, INDUSTRIAL	0.04		

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FARMLAND RESERVE INC	35-14654	Decreed	9/8/1980	IRRIGATION	0.58	46.7	
FARMLAND RESERVE INC	35-14655	License	2/8/2012	IRRIGATION	0.15	415.8	
FARMS LLC	35-14705	Decreed	5/14/1954	IRRIGATION	0.07	68.0	
FARMS LLC	35-14710	Decreed	5/14/1954	IRRIGATION	0.05	68.0	
FARMS LLC	35-14711	Decreed	5/14/1954	IRRIGATION	0.10	68.0	
FARMS LLC	35-14759	Decreed	5/14/1954	IRRIGATION	0.02	428.0	
FARMS LLC	35-14712	Decreed	3/13/1957	IRRIGATION	0.06	68.0	
FARMS LLC	35-14713	Decreed	3/31/1960	IRRIGATION	0.04	68.0	
FARMS LLC	35-14708	Decreed	6/22/1961	IRRIGATION	0.05	68.0	
FARMS LLC	35-14714	Decreed	7/18/1964	IRRIGATION	0.08	68.0	
FARMS LLC	35-14718	Decreed	3/11/1966	IRRIGATION	0.08	68.0	
FARMS LLC	35-14764	Decreed	3/11/1966	IRRIGATION	0.10	428.0	
FARMS LLC	35-14709	Decreed	5/15/1967	IRRIGATION	0.14	68.0	
FARMS LLC	35-14715	Decreed	6/4/1969	IRRIGATION	0.07	68.0	
FARMS LLC	35-14761	Decreed	6/4/1969	IRRIGATION	0.01	428.0	
FARMS LLC	35-14706	Decreed	6/1/1975	IRRIGATION	0.03	68.0	Yes
FARMS LLC	35-14760	Decreed	6/1/1975	IRRIGATION	0.01	428.0	Yes
FARMS LLC	35-14719	Decreed	10/1/1976	IRRIGATION	0.01	68.0	Yes
FARMS LLC	35-14765	Decreed	10/1/1976	IRRIGATION	0.01	428.0	Yes
FEHRINGER, MARTIN	29-14051	Decreed	2/23/1966	IRRIGATION	0.02	1.5	
FELD, TODD	35-13284	Decreed	2/23/1972	COMMERCIAL, STOCKWATER	0.30		
FERGUSON, DANNY G; FERGUSON, MARCENE M	25-7599	License	9/25/1991	IRRIGATION	2.28	118.0	
FERGUSON, ROGER N	21-7385	License	9/30/1988	COMMERCIAL	0.04		
FIELDS, KAREN C; FIELDS, VIRGIL	37-7699	Decreed	2/23/1978	DOMESTIC, STOCKWATER	0.20		
FOSTER FAMILY FARMS INC	35-8773	License	6/7/1989	COMMERCIAL, DOMESTIC	0.04		
FOSTER FAMILY FARMS INC	35-8774	License	6/20/1989	COMMERCIAL	0.04		
FOUR SEASONS WATER CO	27-7351	License	4/20/1983	DOMESTIC	0.29		
FOUR SQUARE WATER WELL CORP	25-7327	Decreed	2/4/1985	DOMESTIC, IRRIGATION	0.16	3.0	
FOWLER, GARY L; SOMSEN, DIANNE L; SOMSEN, G FRANK; SOMSEN, KRISTINE P; SOMSEN-FOWLER, SARA D	45-13574	Decreed	4/28/1954	IRRIGATION	0.49	321.0	
FOWLER, GARY L; SOMSEN, DIANNE L; SOMSEN, G FRANK; SOMSEN, KRISTINE P; SOMSEN-FOWLER, SARA D	45-2491	Decreed	3/25/1955	IRRIGATION	3.14	321.0	
FOWLER, GARY L; SOMSEN, KRISTINE P; SOMSEN-FOWLER, SARA D	45-2743	Decreed	4/14/1966	IRRIGATION	0.78	39.0	
FOWLER, GARY; SOMSEN, G FRANK; SOMSEN, KRISTINE P	45-7192	Decreed	10/7/1974	IRRIGATION, STOCKWATER	0.36	18.0	
FOX WAREHOUSE LLC	25-7424	License	4/1/1988	IRRIGATION	0.09	3.0	
FREMONT COUNTY	22-4015	Decreed	4/1/1962	INDUSTRIAL	0.33		
FULLMER, APRIL; FULLMER, NICHOLAS	25-4106	Decreed	4/1/1959	IRRIGATION	0.05	1.7	
FUNK, CAROLENE; FUNK, MONTY	35-14814	Decreed	5/10/1974	IRRIGATION	3.16	158.0	
FUNK, LANCE; FUNK, LISA	29-13959	Decreed	3/24/1982	INDUSTRIAL	0.02		
FUNK, LEROY; FUNK, RONDA	45-2672	Decreed	10/26/1961	IRRIGATION	1.00	71.0	
GARNER, KAY R; GARNER, LESLIE	35-14288	License	11/13/2012	COOLING, HEATING	0.04		
GARY & PAMELA ROGERS FAMILY TRUST	34-7118B	Decreed	11/24/1975	IRRIGATION	8.81	440.0	
GAVIN, JOAN; JACK C SHERRILL LIVING TRUST; NOTHWANG, DIXIE	45-10950	Decreed	1/30/1961	DOMESTIC, IRRIGATION	0.15	2.0	
GENERAL MILLS OPERATIONS INC	35-2857B	Decreed	1/16/1967	INDUSTRIAL	0.23		
GERRATT, LARRY	45-11613	Decreed	7/22/1955	IRRIGATION	0.60	151.0	
GERRATT, LARRY; GERRATT, REX	45-11441	Decreed	4/1/1960	COMMERCIAL, DOMESTIC, STOCKWATER	0.07	0.0	

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GILLEN, NORMAN	27-7585	License	4/20/1999	DOMESTIC	0.14		
GLASER, KRISTIN A; GLASER, MICHAEL E	35-14604	Decreed	3/20/1959	IRRIGATION	0.01	1.0	
GLEN CAPPS INC	36-8176	Decreed	3/31/1983	COMMERCIAL, DOMESTIC	0.04		
GOLDEN VALLEY DEVELOPMENTS	22-7805	License	2/16/1999	DOMESTIC	0.39		
GOLDEN VALLEY MEAT LLC	35-7642	Decreed	10/1/1976	COMMERCIAL	0.05		
GOLDEN VALLEY MEAT LLC	35-8710	License	3/8/1989	COMMERCIAL	0.94		
GONZALES, FERNANDO B; GONZALES, IRENE H	29-7238	Decreed	10/31/1974	DOMESTIC, IRRIGATION	0.11	8.0	
GONZALES, FERNANDO B; GONZALES, IRENE H	29-7984	Decreed	4/23/1990	IRRIGATION	0.03	8.0	
GONZALEZ, LAURA; ORTIZ, JULIO	29-14346	Decreed	12/16/1963	IRRIGATION	0.03	2.0	
GOOCH, BEATRICE; GOOCH, ELLIS	37-21156	Decreed	2/18/1971	COMMERCIAL, STOCKWATER	0.02		
GOODWIN EXCAVATING LLC; POCATELLO READY MIX	35-14326	Decreed	5/2/1977	INDUSTRIAL	0.10		
GOUGH, SHAUN	37-23373	License	8/22/1988	IRRIGATION	0.03	1.5	
GRAVES, FRANCES M; GRAVES, RICHARD L	37-7371		7/31/1974	DOMESTIC, IRRIGATION, STOCKWATER	6.49	320.0	
GRAYBEAL, EMILY; GRAYBEAL, JASON	37-4052	Decreed	4/1/1962	DOMESTIC, IRRIGATION	0.08	1.4	
GRISENTI, CHEYANNA; GRISENTI, TYSON	36-17209	Decreed	6/21/1960	IRRIGATION	0.08	4.0	
GROVER, ALICE MAE; GROVER, MELVIN G	25-7480	License	1/9/1989	DOMESTIC, IRRIGATION, STOCKWATER	0.07	3.0	
GUNDERSON, ADEN	35-14178	Decreed	9/28/1981	IRRIGATION	0.01	20.0	
GUNDERSON, BONNIE; GUNDERSON, GARTH	35-14585	Decreed	9/28/1981	IRRIGATION	0.01	3.2	
H & T PROPERTIES LLC	36-8312	License	8/15/1986	STOCKWATER	0.05		
HALL, GORDON; HALL, JERRY G; HALL, RICKI L	25-14234	Decreed	10/9/1961	IRRIGATION	4.38	156.4	
HALL, GORDON; HALL, JERRY G; HALL, RICKI L	25-14235	Decreed	10/9/1961	COMMERCIAL, STOCKWATER	0.32		
HALL, RUSSELL	21-13316	Decreed	4/24/1956	IRRIGATION	0.05	5.0	
HALL, RUSSELL	21-13315	Decreed	4/24/1962	IRRIGATION	0.05	5.0	
HAMMOND, LORNA O; THE SHELTERED TRUST	35-8016	License	1/18/1982	DOMESTIC, STOCKWATER	0.06		
HANCOCK, DEAN	25-14496	Decreed	4/22/1979	IRRIGATION	0.02	1.0	
HANEY SEED CO	45-7639	License	3/30/1989	COMMERCIAL	0.04	0.0	
HANSEN FARMS LAND LLC	36-17225	Decreed	2/20/1976	IRRIGATION	0.04	3.5	
HANSEN FARMS LAND LLC	36-17226	Decreed	2/20/1976	IRRIGATION	0.04	2.0	
HANSEN FARMS LAND LLC	36-17227	Decreed	2/20/1976	IRRIGATION	0.04	2.0	
HANSEN FARMS LAND LLC	36-17228	Decreed	2/20/1976	IRRIGATION	0.04	2.0	
HANSEN FARMS LAND LLC	36-17229	Decreed	2/20/1976	IRRIGATION	0.04	2.0	
HANSEN, BRANDON	27-12312	License	3/30/1984	IRRIGATION	0.02	1.0	
HANSEN, TYLER	27-12313	License	3/30/1984	IRRIGATION	0.02	1.0	
HANSEN, VIRGINIA E	45-4125	Decreed	3/20/1962	DOMESTIC, IRRIGATION	0.04	0.7	
HANSEN, WILLIAM KORBY	25-7458	License	11/8/1988	DOMESTIC, IRRIGATION	0.09	1.7	
HANSENS QUALITY JERSEYS LLC	36-12974	Decreed	6/1/1959	DOMESTIC	0.04		
HANSENS QUALITY JERSEYS LLC	36-17212	Decreed	11/11/1959	COMMERCIAL, STOCKWATER	0.04		
HANSENS QUALITY JERSEYS LLC	36-17216	Decreed	11/11/1959	COMMERCIAL, STOCKWATER	0.03		
HANSENS QUALITY JERSEYS LLC	36-17210	Decreed	9/30/1965	COMMERCIAL, STOCKWATER	0.24		
HANSENS QUALITY JERSEYS LLC	36-17211	Decreed	9/23/1967	COMMERCIAL, STOCKWATER	0.02		Yes
HANSENS QUALITY JERSEYS LLC	36-17213	Decreed	11/15/1970	COMMERCIAL, STOCKWATER	0.06		
HANSENS QUALITY JERSEYS LLC	36-17217	Decreed	11/15/1970	COMMERCIAL, STOCKWATER	0.04		
HANSENS QUALITY JERSEYS LLC	36-17215	Decreed	5/26/1971	COMMERCIAL, STOCKWATER	0.01		Yes
HANSENS QUALITY JERSEYS LLC	36-17220	Decreed	5/26/1971	COMMERCIAL, STOCKWATER	0.01		
HANSENS QUALITY JERSEYS LLC	36-17219	Decreed	5/26/1977	COMMERCIAL, STOCKWATER	0.01		
HANSENS QUALITY JERSEYS LLC	36-17214	Decreed	5/16/1980	COMMERCIAL, STOCKWATER	0.01		

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HANSENS QUALITY JERSEYS LLC	36-17218	Decreed	5/16/1980	COMMERCIAL, STOCKWATER	0.01		
HARDY, ANITA KAY	36-17152	Decreed	11/7/1974	IRRIGATION	0.63	31.5	
HAROLDSEN, G ERIC; HAROLDSEN, GRANT O	25-7300	Decreed	1/5/1983	DOMESTIC, STOCKWATER	0.06		
HARPER, DAVID; HARPER, HEATHER	35-14728	Decreed	9/28/1981	IRRIGATION	0.01	17.2	
HART, BOB; HART, MELANIE	25-7520	License	10/16/1989	COMMERCIAL	0.04		
HART, BOB; HART, NORMA; JOHNSTON, JACOB; JONES, ROBERT I; STIBAL, JOHN	25-7081	Decreed	1/28/1976	DOMESTIC	0.19		
HASLAM, LAVORE	35-8629	License	4/8/1986	DOMESTIC, STOCKWATER	0.06		
HAYES, AMY; HAYES, DESTRY	35-14639	Decreed	9/28/1981	IRRIGATION	0.02	3.3	
HEATH, AFTON M; HEATH, CLEM J	35-8617	Decreed	8/18/1985	COMMERCIAL	0.04		
HELENA CHEMICAL CO	22-7520	Decreed	11/7/1985	COMMERCIAL	0.02		
HELSLEY HENDRIX, JEANINE P; HELSLEY, BRIAN T	36-16561	Decreed	2/8/1971	IRRIGATION	0.03	3.0	
HENRIE, JAREM	25-7302	Decreed	1/25/1983	DOMESTIC, IRRIGATION, STOCKWATER	0.05	2.0	
HENSLEY, FLOYD W; LOCKES, DAROLD; REYNOLDS, LYNN; WESSEL, TERESA	25-7084	Decreed	1/28/1976	DOMESTIC	0.06		
HEPWORTH, CRAIG D	36-17202	License	3/1/1989	IRRIGATION	0.49	247.1	
HERITAGE DEVELOPMENT	29-8173	License	7/19/1996	DOMESTIC	0.27		
HIGHWAY ESTATES WATER USERS INC	25-7038	Decreed	9/20/1973	DOMESTIC	0.20		
HINCKLEY, LA PREAL	25-14005	License	10/12/2003	IRRIGATION	0.06	3.0	
HK CONTRACTORS INC	25-14468	Decreed	3/20/1959	DIVERSION TO STORAGE, INDUSTRIAL STORAGE, INDUSTRIAL	0.02		
HOBBS, LAURA LEE	25-7540	License	8/18/1989	DOMESTIC	0.10		
HOLDAWAY, CHAD	31-4069	Decreed	12/31/1961	DOMESTIC, STOCKWATER	0.16		
HONDO, AKIYE I; HONDO, DANIEL A	45-2664	Decreed	8/30/1961	IRRIGATION	2.00	157.0	
HOOPER, LLOYD C	25-7531	License	10/22/1989	COMMERCIAL	0.04		
HOPE, DENNIS K	22-7764	License	11/3/1993	DOMESTIC	0.15		
HOPE, DENNIS K	22-7784	License	5/24/1995	DOMESTIC	0.11		
HULTS , JOSEPH; HULTS, KAY A	36-17221	Decreed	1/5/1966	IRRIGATION	1.41	100.4	
HULTZ, JEAN ISLAY	35-4187	Decreed	7/1/1962	COMMERCIAL, DOMESTIC	0.06		
HUNSTMANS PROPERTIES	27-7511	License	4/20/1990	COMMERCIAL	0.33		
HUNTER FAMILY PARTNERSHIP	25-2122D	Decreed	4/27/1956	IRRIGATION	1.88	104.8	
HUNTING, AUDREY	25-7453	License	10/28/1988	IRRIGATION	0.03	1.0	
HURST, LOIS E	45-2662	Decreed	7/18/1961	IRRIGATION	1.74	86.8	
HURTADO FARMS LLC	36-17180	License	12/11/1973	COMMERCIAL, STOCKWATER	0.66		
HUTCHISON, JA NEAL; HUTCHISON, WINSTON	45-4218	Decreed	7/1/1958	IRRIGATION	0.05	1.5	
ID DEPARTMENT OF LANDS	37-12535	Decreed	1/1/1962	COMMERCIAL	0.04		
ID DEPARTMENT OF LANDS	37-7372	License	6/30/1999	IRRIGATION, STOCKWATER	6.40	287.0	
ID DEPARTMENT OF PARKS AND RECREATION	29-7511	Decreed	5/27/1969	DOMESTIC	0.07		
ID DEPARTMENT OF PARKS AND RECREATION	29-7357	Decreed	12/24/1969	DOMESTIC, IRRIGATION	0.13	3.0	
ID DEPARTMENT OF PARKS AND RECREATION	36-17147	Decreed	8/7/1973	IRRIGATION	0.06	5.0	
ID DEPARTMENT OF TRANSPORTATION	36-15466	Decreed	10/1/1955	COMMERCIAL	0.04		
ID DEPARTMENT OF TRANSPORTATION	22-7317	Decreed	1/31/1980	COMMERCIAL, DOMESTIC	0.04		
ID DEPARTMENT OF TRANSPORTATION	25-7186	Decreed	1/31/1980	COMMERCIAL, DOMESTIC	0.06		
ID DEPARTMENT OF TRANSPORTATION	31-7372	Decreed	1/28/1982	INDUSTRIAL	0.05	0.0	
ID DEPARTMENT OF TRANSPORTATION	35-8625	License	1/13/1986	DOMESTIC	0.06		
ID DEPT OF JUVENILE CORRECTIONS	21-11971	Decreed	1/1/1956	COMMERCIAL	0.68		

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IDAHO FALLS COUNTRY CLUB INC	25-13372	Decreed	12/31/1961	COMMERCIAL, IRRIGATION	0.67	132.0	
IDAHO FALLS FARMS LLC	35-14667	Decreed	4/24/1959	IRRIGATION	0.66	1570.0	
IDAHO FALLS FARMS LLC	35-14694	Decreed	4/24/1959	IRRIGATION	0.22	512.0	
IDAHO FALLS FARMS LLC	35-14788	Decreed	2/9/1961	IRRIGATION	2.64	1410.0	
IDAHO FALLS FARMS LLC	35-14671	Decreed	1/19/1962	IRRIGATION	5.36	1570.0	
IDAHO FALLS FARMS LLC	35-14698	Decreed	1/19/1962	IRRIGATION	1.75	512.0	
IDAHO FALLS FARMS LLC	35-14670	Decreed	2/23/1962	IRRIGATION	1.72	1570.0	
IDAHO FALLS FARMS LLC	35-14697	Decreed	2/23/1962	IRRIGATION	0.56	512.0	
IDAHO FALLS FARMS LLC	35-14673	Decreed	5/31/1962	IRRIGATION	8.97	1123.1	
IDAHO FALLS FARMS LLC	35-14789	Decreed	3/25/1964	IRRIGATION	3.70	1410.0	
IDAHO FALLS FARMS LLC	35-14674	Decreed	12/19/1966	IRRIGATION	5.38	1123.1	
IDAHO FALLS FARMS LLC	35-14678	Decreed	12/19/1966	IRRIGATION	4.81	1079.5	
IDAHO FALLS FARMS LLC	35-14669	Decreed	1/31/1967	IRRIGATION	1.65	1570.0	
IDAHO FALLS FARMS LLC	35-14696	Decreed	1/31/1967	IRRIGATION	0.54	512.0	
IDAHO FALLS FARMS LLC	35-14769	Decreed	4/27/1967	IRRIGATION	0.61	410.2	
IDAHO FALLS FARMS LLC	35-14681	Decreed	11/29/1971	IRRIGATION	0.28	759.5	
IDAHO FALLS FARMS LLC	35-14682	Decreed	11/29/1971	IRRIGATION	0.03	759.5	
IDAHO FALLS FARMS LLC	35-14676	Decreed	8/28/1973	IRRIGATION	9.47	1079.5	
IDAHO FALLS FARMS LLC	35-14668	Decreed	12/24/1973	IRRIGATION	3.57	1570.0	
IDAHO FALLS FARMS LLC	35-14695	Decreed	12/24/1973	IRRIGATION	1.20	512.0	
IDAHO FALLS FARMS LLC	35-14770	Decreed	4/18/1974	IRRIGATION	1.27	410.2	
IDAHO FALLS FARMS LLC	35-14790	Decreed	7/1/1975	IRRIGATION	5.29	1410.0	
IDAHO FALLS FARMS LLC	35-14791	Decreed	8/15/1975	IRRIGATION	3.70	1410.0	
IDAHO FALLS FARMS LLC	35-14792	Decreed	8/15/1975	IRRIGATION	3.80	1410.0	
IDAHO FALLS FARMS LLC	35-14679	Decreed	12/5/1975	IRRIGATION	2.78	1079.5	
IDAHO FALLS FARMS LLC	35-14675	Decreed	12/15/1975	IRRIGATION	1.24	1123.1	
IDAHO FALLS FARMS LLC	35-14793	Decreed	8/27/1976	IRRIGATION	3.77	1410.0	
IDAHO FALLS FARMS LLC	35-14796	Decreed	8/15/1977	IRRIGATION	0.79	1410.0	
IDAHO PACIFIC CORP	25-2146	Decreed	1/26/1965	IRRIGATION	1.79	228.0	
IDAHO PACIFIC CORP	25-2147	Decreed	1/26/1965	IRRIGATION	1.14	228.0	
IDAHO PACIFIC CORP	25-2148	Decreed	1/26/1965	IRRIGATION	1.14	228.0	
IDAHO PACIFIC CORP	25-7056	Decreed	8/5/1974	INDUSTRIAL	1.20		
IDAHO PACIFIC CORP	25-7475	Decreed	12/6/1988	INDUSTRIAL	0.93		
IDAHO POTATO PACKERS CORP	35-8909	License	8/3/1990	COMMERCIAL	0.01		
IDAHO POWER CO	29-8126	Decreed	1/26/1959	INDUSTRIAL	2.68		
IDAHO POWER CO	37-8484	License	1/17/1989	COMMERCIAL	0.02		
IDAHO POWER CO	45-7669	License	1/9/1990	DOMESTIC	0.06	0.0	
IDAHO POWER COMPANY	36-17169		5/8/2020	IRRIGATION	0.27	7.0	
IDAHO POWER COMPANY	36-17184		4/9/2021	DOMESTIC, FIRE PROTECTION	0.12		
IDAHO WATER COMPANY LLC	35-14701	Decreed	5/27/1974	IRRIGATION	0.07	23.8	
IDAHOAN FOODS INC	25-10794	Decreed	10/1/1960	DOMESTIC, INDUSTRIAL	1.26		
IDAHOAN FOODS INC	25-7002	Decreed	11/21/1968	INDUSTRIAL	0.70		
IDAHOAN FOODS INC	25-7471	License	11/7/1988	IRRIGATION	0.12	4.0	
INTERSTATE MFG	36-8454	License	9/14/1989	COMMERCIAL	0.04		
IRELAND ACRES #2	25-7273	Decreed	2/1/1982	DOMESTIC	0.05		
IRELAND ACRES MOBILE HOME PARK	25-7195	Decreed	6/4/1980	DOMESTIC	0.54		

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ISAEFF, PATRICIA	25-10094	Decreed	10/31/1958	DOMESTIC, IRRIGATION, STOCKWATER	0.06	2.0	
J & D PROPERTIES LLC	31-7511	License	11/30/1988	COMMERCIAL	0.03		
J & K ESTATES WATER CO INC	25-7036	Decreed	6/13/1973	DOMESTIC	1.30		
J & L HOLDINGS LLC	25-14481	Decreed	3/20/1959	IRRIGATION	0.03	2.5	
J & L HOLDINGS LLC	25-14509	Decreed	4/22/1979	IRRIGATION	0.04	2.0	
J & L HOLDINGS LLC	25-14497		2/24/2021	DOMESTIC	0.51		
J & L HOLDINGS LLC	25-14512		1/24/2022	IRRIGATION	0.50	25.0	
J D HEISKELL HOLDINGS LLC	37-22665	Decreed	9/12/1973	COMMERCIAL	0.02		
J K MERRILL & SONS INC	29-7754	License	6/17/1983	COMMERCIAL	0.81		
J R SIMPLOT CO	29-7036	Decreed	9/10/1969	DOMESTIC, INDUSTRIAL	0.03		
J T LAND LLC	36-16301	Decreed	6/11/1957	COMMERCIAL, STOCKWATER	0.02		
J T LAND LLC	36-17123	Decreed	1/1/1958	COMMERCIAL, STOCKWATER	0.02		
J T LAND LLC	36-17163	Decreed	1/2/1958	COMMERCIAL, STOCKWATER	0.02		
J T LAND LLC	36-17114	Decreed	4/1/1960	COMMERCIAL, STOCKWATER	0.06		
J T LAND LLC	36-17151	Decreed	4/1/1960	COMMERCIAL, STOCKWATER	0.04		
J T LAND LLC	36-11081	Decreed	10/1/1984	DOMESTIC, STOCKWATER	0.04		
JACOBS, GEORGE J	25-7321	License	5/9/1983	DOMESTIC, STOCKWATER	0.08		
JANSS FARMS	37-7351	Decreed	4/12/1974	STOCKWATER	0.14		
JANSSEN, KARLEEN A	25-12143	Decreed	2/8/1985	COMMERCIAL	0.04		
JB ENTERPRISE LLC	29-14209	Decreed	2/27/1967	IRRIGATION	0.94	47.0	
JBROC LLC	35-14815	Decreed	2/15/1957	IRRIGATION	1.94	99.0	
JEFFERSON COUNTY	25-14398	Decreed	11/29/1971	IRRIGATION	0.04	68.2	
JEFFERSON COUNTY	25-14399	Decreed	11/29/1971	IRRIGATION	0.00	68.2	
JEFFERSON COUNTY	25-14382	Decreed	7/19/1973	IRRIGATION	0.04	68.2	
JEFFERSON COUNTY	25-14281	License	9/9/2010	COMMERCIAL	0.65		
JEFFERSON GREENS ESTATES HOMEOWNERS ASSOCIATION INC	25-14491	Decreed	4/22/1979	IRRIGATION	0.36	17.8	
JEFFERSON GREENS ESTATES HOMEOWNERS ASSOCIATION INC	25-14490	License	7/29/1991	IRRIGATION	0.06	3.2	
JEFFERSON GREENS HOMEOWNERS ASSN	25-14478	Decreed	1/24/1978	IRRIGATION	0.06	3.1	
JEFFERSON SCHOOL DISTRICT #251	35-8683	License	12/2/1988	INDUSTRIAL	0.02		
JEFFERSON SCHOOL DISTRICT #251	25-7472	License	1/23/1989	DOMESTIC	0.07		
JEFFERSON SCHOOL DISTRICT #251	25-7473	License	1/23/1989	DOMESTIC	0.07		
JENCO ACRES WATER BOARD ASSN	25-7454	License	11/14/1988	DOMESTIC, IRRIGATION	0.50	33.0	
JENKINS, FRANK L	22-11197	Decreed	6/6/1980	COMMERCIAL, DOMESTIC	0.04		
JENSEN, WAYNE A	35-14744	Decreed	7/11/1960	IRRIGATION	2.02	1330.5	
JENSON, KATHRYN; JENSON, MONTE	25-14065	Decreed	5/20/1955	IRRIGATION	0.06	18.9	
JENSON, KATHRYN; JENSON, MONTE	25-14067	Decreed	4/1/1961	IRRIGATION	0.13	18.9	
JENSON, KATHRYN; JENSON, MONTE	25-14061	Decreed	12/22/1971	IRRIGATION	0.03	18.9	
JENSON, RONALD; JENSON, SHARON	25-10156	Decreed	10/1/1959	DOMESTIC, IRRIGATION, STOCKWATER	0.09	1.5	
JENTZSCH, RODNEY A	36-13599	Decreed	4/15/1956	COMMERCIAL, DOMESTIC	0.04		
JEROME COUNTY ROD & GUN CLUB	36-8620	License	11/14/1991	COMMERCIAL, IRRIGATION	0.02	0.5	
JOHNSON, DON A; JOHNSON, LAURIE	25-7493	License	3/8/1989	DOMESTIC	0.06		
JOHNSON, GARY; JOHNSON, ROBERT	35-7593B	Decreed	3/22/1976	STOCKWATER	0.23		
JOHNSON, MELISSA	25-7455	License	10/21/1988	DOMESTIC, IRRIGATION	0.07	1.0	
JOHNSON, MICHAEL ORSON	35-14817	License	6/11/1985	IRRIGATION	0.02	1.3	
JOHNSON, RUSSELL STUART	35-14816	License	6/11/1985	IRRIGATION	0.02	1.3	
JOSEPHSON, JEANETTE; JOSEPHSON, JOHN	35-8719	License	4/14/1989	INDUSTRIAL	0.04		

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JOURNEYS END HOMEOWNERS ASSN	35-13612	License	11/24/2003	DOMESTIC	0.40		
JOURNEYS END HOMEOWNERS ASSN	35-13611	License	1/13/2007	COMMERCIAL, DOMESTIC	0.11		
JUNIPER & CEDAR ESTATES WATER ASSN	25-7432	License	7/19/1988	DOMESTIC, IRRIGATION	0.24	5.0	
KAREY LANE WELL ASSN	35-7698	Decreed	8/11/1983	DOMESTIC	0.14		
KAREY LANE WELL ASSN	35-8943	License	5/3/1991	DOMESTIC	0.09		
KAY, JUSTINE; KAY, THOMAS F; LEVESQUE, GLENDA R	34-2484	Decreed	8/12/1966	IRRIGATION	0.01	2.0	
KBC FARMS LLC	35-14736	Decreed	10/16/1974	IRRIGATION	0.39	461.4	
KEITH SKAAR FARMS INC	25-13312	Decreed	5/1/1962	COMMERCIAL	0.04		
KERBS OIL CO INC	45-7643	License	5/19/1989	COMMERCIAL	0.04	0.0	
KERBS OIL CO INC	45-7644	License	5/22/1989	COMMERCIAL	0.04	0.0	
KEYBANK NATIONAL ASSOC	25-7517	License	8/24/1989	COMMERCIAL	0.50		
KING, FERRIL; KING, RENE	36-8440	License	9/7/1989	COMMERCIAL	0.02		
KINGHORN, KARL	25-14338	Decreed	2/18/1958	IRRIGATION	1.37	47.9	
KINGHORN, KAYLYNN; KINGHORN, LORAN; PARSONS, KARLA M; PARSONS, WILLIAM T	35-13441	Decreed	5/1/1960	COMMERCIAL	0.04		
KIRBY, DORIS F; KIRBY, ELWOOD	35-7860	License	6/20/1979	DOMESTIC	0.08		
KIT CIRCLE LLC	22-7296	Decreed	6/19/1979	DOMESTIC	0.16		
KITS FOUNDRY & MACHINE SHOP INC	27-7460	License	5/16/1989	DOMESTIC, INDUSTRIAL	0.05		
KLASSEN, HAROLD J	35-8724	License	4/10/1989	COMMERCIAL	0.02		
KNIFE RIVER CORPORATION MOUNTAIN WEST	25-14351	Decreed	7/19/1973	MITIGATION	0.05		
KNIFE RIVER CORPORATION MOUNTAIN WEST	25-14498	Decreed	4/22/1979	INDUSTRIAL	0.08		
KNIFE RIVER CORPORATION MOUNTAIN WEST	25-14499	License	1/14/1983	INDUSTRIAL	0.07		
KOCH MATERIALS CO	35-12087	Decreed	5/1/1962	COMMERCIAL, FIRE PROTECTION, INDUSTRIAL	0.11		
KOON, JACK E	22-7751	License	9/18/1992	DOMESTIC	0.06		
KOYLE, JOHN DENNIS; KOYLE, SHANNA	37-2663	Decreed	5/31/1961	IRRIGATION	2.12	156.0	
KRUCKEBERG, ALEISHA; KRUCKEBERG, MATTHEW	35-14730	Decreed	9/28/1981	IRRIGATION	0.01	2.4	
KUGLER, DIANE K; KUGLER, JOHN B	35-8359		11/28/1984	IRRIGATION	6.00	313.0	
L & S LAND HOLDINGS LLC	36-17189	Decreed	11/26/1956	COMMERCIAL, STOCKWATER	0.13		
L & S LAND HOLDINGS LLC	36-14863	Decreed	3/1/1960	DOMESTIC, STOCKWATER	0.11		
L & S LAND HOLDINGS LLC	36-15653	Decreed	12/3/1966	COMMERCIAL, STOCKWATER	0.04		
L & S LAND HOLDINGS LLC	36-15651	Decreed	10/18/1968	COMMERCIAL, STOCKWATER	0.05		
L & S LAND HOLDINGS LLC	36-15655	Decreed	2/18/1971	COMMERCIAL, STOCKWATER	0.02		
L & S LAND HOLDINGS LLC	36-17188	Decreed	1/23/1973	COMMERCIAL, STOCKWATER	0.09		
L & S LAND HOLDINGS LLC	36-17190	Decreed	10/27/1973	COMMERCIAL, STOCKWATER	0.08		
L & S LAND HOLDINGS LLC	36-17187	License	9/24/1979	COMMERCIAL, STOCKWATER	0.20		
LACEYS VISTA ACRES WATER CORP	29-7607	License	7/15/1981	DOMESTIC	0.67		
LAMB WESTON INC	35-14786		4/29/2022	INDUSTRIAL	15.00		
LAMBERT, LYLE; LAMBERT, NADINE	29-7640	Decreed	5/17/1982	DOMESTIC, IRRIGATION, STOCKWATER	0.04	1.0	
LAMBERT, R J	35-8670	License	9/14/1988	COMMERCIAL	0.04		
LAND VIEW FERTILIZER INC	36-15347	Decreed	1/1/1961	COMMERCIAL	0.08		
LAND VIEW INC	36-11048	Decreed	9/1/1954	COMMERCIAL, DOMESTIC	0.15		
LARSEN, HELEN	35-8127	License	4/28/1983	DOMESTIC, STOCKWATER	0.08		
LARSEN, PEGGY A; LARSEN, RICHARD J	31-7129	License	7/30/1974	DOMESTIC, STOCKWATER	0.08		
LARSON, BECKY J; LARSON, CHARLES W	45-4160	Decreed	3/15/1962	IRRIGATION	1.70	173.0	
LAZY EIGHT ESTATES DIVISION 2 HOMEOWNERS ASSN INC	25-14189	License	10/26/2006	DOMESTIC	0.50		
LCSC ENTERPRISES LLC	35-14646	Decreed	8/28/1961	IRRIGATION	0.21	93.8	

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LCSC ENTERPRISES LLC	35-14647	Decreed	8/28/1961	IRRIGATION	0.20	347.3	
LEE, CAROLYN C; LEE, LARRY O	31-7166A		6/27/1975	IRRIGATION	3.20	160.0	
LEE, MARTIN R	36-8410	License	2/10/1989	COMMERCIAL	0.03		
LEFFLER, JERRY; LEFFLER, PATRICIA	29-7460	Decreed	9/6/1978	DOMESTIC, IRRIGATION	0.20	9.0	
LEISHMAN ELECTRIC	22-7558	License	8/30/1988	COMMERCIAL	0.02		
LEISHMAN, LAURIE; LEISHMAN, STERLING	35-14822	License	6/11/1985	IRRIGATION	0.02	1.1	
LES SCHWAB TIRE CENTERS OF IDAHO	36-11803	Decreed	11/15/1958	COMMERCIAL	0.38		
LEWISVILLE CEMETERY DISTRICT	25-14389	Decreed	5/1/1962	IRRIGATION	0.04	3.3	
LEWISVILLE CEMETERY DISTRICT	25-14394	Decreed	5/1/1962	IRRIGATION	0.04	3.3	
LEZAMIZ, SID	37-10363	Decreed	9/1/1959	COMMERCIAL	0.11		
LIMA, GUADALUPE	36-17128	Decreed	9/20/1973	IRRIGATION	0.02	1.2	
LINCOLN LAND CO LLC	25-2119	Decreed	6/10/1955	DOMESTIC	5.56		
LITTLE BUTTE CEMETERY DISTRICT	25-4048	Decreed	4/18/1956	IRRIGATION	0.28	14.0	
LOOSLI, S LYNN	21-13258	Decreed	7/14/1977	IRRIGATION	6.75	1651.5	
LORDS, DARRELL M	35-8778	License	5/31/1989	IRRIGATION	0.10	4.5	
LOST RIVER FARMS	34-14346	Decreed	8/12/1966	IRRIGATION	0.38	177.0	
LOVELAND, ANN; LOVELAND, KEVIN	29-2372	Decreed	1/5/1956	IRRIGATION	1.10	55.0	
LOVELL, HOPE; LOVELL, JAMES R	25-7598	License	9/25/1991	IRRIGATION	0.03	1.9	
LOVELL, RONALD L; LOVELL, TAMARA	25-2118	Decreed	3/26/1955	IRRIGATION	3.62	496.0	
LOVELL, RONALD L; LOVELL, TAMARA	25-4288	Decreed	5/1/1959	IRRIGATION	1.06	496.0	
LOWDER, JUSTIN; LOWDER, LUCILE	29-7539	Decreed	4/4/1980	DOMESTIC, IRRIGATION	0.07	2.0	
LYNCH, LESLIE R	36-7154	Decreed	1/25/1971	INDUSTRIAL	0.02		
M & B INVESTMENTS LLC	25-14163	License	12/9/2004	DOMESTIC	0.30		
M & B INVESTMENTS LLC	25-14379	License	8/13/2012	DOMESTIC	0.39		
MAD MOOSE PIZZA IDAHO LLC	22-7633	License	3/2/1989	COMMERCIAL	0.04		
MADISON SCHOOL DISTRICT #321	22-14474		5/13/2022	DOMESTIC	0.26		
MAGIC VALLEY GROWERS LTD	37-20612	Decreed	6/1/1956	INDUSTRIAL	0.10		
MAGIC VALLEY PRODUCE INC	36-13763	Decreed	10/1/1955	COMMERCIAL	0.04		
MALONY, CAROL	27-12333	Decreed	9/11/1974	IRRIGATION	0.10	5.0	
MARSHALL, DON W	25-7462	License	11/10/1988	DOMESTIC, IRRIGATION	0.07	1.0	
MARTIAN, ERICA; MARTIAN, PETER	35-7855	Decreed	5/1/1979	COMMERCIAL, HEATING	0.04		
MASON, JOHN D; MASON, VALERIE	29-7294	Decreed	11/4/1975	DOMESTIC, IRRIGATION	0.12	8.0	
MASONER, MRS MERLE	36-11978	Decreed	1/1/1963	COMMERCIAL	0.02		
MASONS	35-8828	License	7/28/1989	COMMERCIAL	0.04		
MAUGHAN, GAYLORD L	31-12220	Decreed	8/22/1955	IRRIGATION	0.07	3.5	
MC CAIN FOODS USA INC	45-13970	Decreed	9/1/1957	INDUSTRIAL	2.66	0.0	
MC CAIN FOODS USA INC	45-2747	Decreed	3/15/1960	INDUSTRIAL	4.00	0.0	
MC CAIN FOODS USA INC	45-2758	Decreed	3/15/1960	COMMERCIAL	2.08	0.0	
MC CAIN FOODS USA INC	45-2748	Decreed	3/6/1961	INDUSTRIAL	0.60	0.0	
MC CAIN FOODS USA INC	45-2749	Decreed	8/13/1965	INDUSTRIAL	2.85	0.0	
MC CAIN FOODS USA INC	45-7137	Decreed	5/24/1973	INDUSTRIAL	3.43	0.0	
MC CAIN FOODS USA INC	45-7241	Decreed	5/27/1975	COMMERCIAL, FIRE PROTECTION	0.25	0.0	
MC CALL OIL & CHEMICAL	25-7045	Decreed	2/25/1974	DOMESTIC, INDUSTRIAL	0.08		
MC COWIN, BRENDA	25-7544	License	8/16/1989	DOMESTIC	0.07		
MC COY, VALERIE	34-10329	Decreed	12/31/1955	IRRIGATION	0.02	1.0	
MC GARRY, BRANDON; MC GARRY, BRITTNI	35-14687	Decreed	1/10/1957	IRRIGATION	0.90	65.0	

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MC GARRY, BRANDON; MC GARRY, BRITTNI	35-14689	Decreed	4/7/1958	IRRIGATION	0.40	65.0	
MC GARRY, KATHLEEN; MC GARRY, TIM R	35-14686	Decreed	1/10/1957	IRRIGATION	1.72	124.0	
MC GARRY, KATHLEEN; MC GARRY, TIM R	35-14688	Decreed	4/7/1958	IRRIGATION	0.77	124.0	
MC GARRY, LOGAN PHILLIPS; MC GARRY, WHITNEY DAWN	21-13309	Decreed	6/25/1960	IRRIGATION	0.03	1.5	
MEADOW LARK COURT LLC	22-10170	Decreed	6/15/1960	COMMERCIAL, STOCKWATER	0.20		
MERRILL, CHRISTOPHER; MERRILL, CINDY	25-13580	Decreed	1/1/1963	DOMESTIC, IRRIGATION	0.14	5.0	
MERRILL, KENT	25-14364	License	2/28/1992	IRRIGATION	0.19	12.2	
MEYERS, M JAY	29-2407	Decreed	3/6/1959	IRRIGATION	2.54	127.0	
MICHAUD CREEK RANCHES INC	29-2515	Decreed	1/5/1966	IRRIGATION	2.00	196.0	
MICHAUD CREEK RANCHES INC	29-7089	Decreed	6/9/1972	IRRIGATION	1.08	196.0	
MICKELSEN, LINDON A; MICKELSEN, LOREEN A	27-10416	Decreed	6/1/1962	COMMERCIAL, DOMESTIC, STOCKWATER	0.09		
MIDNIGHT SUN INC	35-8722	License	4/21/1989	INDUSTRIAL	0.01		
MIKESELL, ELEANOR	31-10268	Decreed	5/1/1957	COMMERCIAL, DOMESTIC	0.04		
MIKKOLA, ARTHUR; MIKKOLA, MARK	25-7389	Decreed	11/2/1983	DOMESTIC, STOCKWATER	0.06		
MILES, BETTY; MILES, KENNETH RICK	25-14502	Decreed	4/22/1979	IRRIGATION	0.05	2.5	
MILLER, CHARLES; MILLER, RACHEL	25-7442	License	9/8/1988	DOMESTIC, IRRIGATION	0.05	1.0	
MILLER, KALVIN W; MILLER, PAMELLA K	36-16655	Decreed	4/1/1961	STOCKWATER	0.03		
MILLER, LYNETTE R; MILLER, MARVIN G	25-4194	Decreed	11/1/1960	IRRIGATION	0.13	7.0	
MINIDOKA IRRIGATION DISTRICT	36-13480	Decreed	5/31/1962	COMMERCIAL	0.04		
MISTY VALLEY LLC	22-14350	Decreed	3/20/1959	AESTHETIC STORAGE, DIVERSION TO STORAGE, FIRE PROTECTION STORAGE	0.01		
MITCHELL, DELL N; MITCHELL, SUSAN L	45-14546	Decreed	10/20/1980	IRRIGATION	0.24	18.8	
MITCHELL, RALPH M	45-7640	License	5/23/1989	DOMESTIC, IRRIGATION	0.07	1.5	
MODEL WATER USERS ASSN INC	35-7986	Decreed	6/1/1981	DOMESTIC	0.10		
MODERN MILLS ROCKFORD INC	35-13014	Decreed	4/1/1960	COMMERCIAL	0.05		
MONK, AUBRIE; MONK, STEVEN	35-14754	Decreed	4/23/1961	IRRIGATION	0.04	6.0	
MORGAN, CODY G; MORGAN, KATHY	36-17092	Decreed	3/11/1954	COMMERCIAL, STOCKWATER	0.04		
MORGAN, CODY G; MORGAN, KATHY	36-17091	Decreed	2/6/1961	COMMERCIAL, STOCKWATER	0.02		
MORGANS PASTURE LAND CO LLC	35-14551	Decreed	1/6/1955	IRRIGATION	4.20	279.0	
MORRISS, JUDITH L; MORRISS, VIRGIL R	25-7483	License	12/22/1988	DOMESTIC, IRRIGATION, STOCKWATER	0.04	3.0	
MOSS, MARY	29-11410	Decreed	5/14/1960	DOMESTIC, IRRIGATION, STOCKWATER	0.08	1.2	
MOUNTAIN RIVER SPORTSMANS RV PARK & CAMP	25-14229	License	9/2/2008	COMMERCIAL	0.20		
MOUNTAIN VIEW COURT LLC	21-7428	License	3/23/1989	COMMERCIAL	0.09		
MOUNTAIN VIEW LAND LLC	36-17192	Decreed	9/24/1976	COMMERCIAL, STOCKWATER	0.20		
MOUNTAIN WEST BARK PRODUCTS INC	22-7573	License	8/8/1988	COMMERCIAL	0.08		
MOYLE, KEVIN A; MOYLE, TAYLOR N	36-17240	License	3/16/1989	COMMERCIAL, DOMESTIC, STOCKWATER	0.33		
MURDOCK, JODDI E; MURDOCK, O BRIAN	35-14811	Decreed	5/9/1956	IRRIGATION	0.06	62.0	
MURDOCK, JODDI E; MURDOCK, O BRIAN	35-14812	Decreed	4/18/1958	IRRIGATION	0.10	62.0	
MURDOCK, JODDI E; MURDOCK, O BRIAN	35-14806	Decreed	9/23/1968	IRRIGATION	0.20	62.0	
MURDOCK, JODDI E; MURDOCK, O BRIAN; MURDOCK, ROBERT A; MURDOCK, TERESA	35-14810	Decreed	6/17/1957	IRRIGATION	0.04	62.0	
MURDOCK, O BRIAN; MURDOCK, ROBERT A	35-14798	Decreed	7/19/1974	IRRIGATION	0.32	18.0	
MURDOCK, O BRIAN; MURDOCK, ROBERT A	35-14799	Decreed	7/19/1974	IRRIGATION	0.11	6.0	
MURDOCK, O BRIAN; MURDOCK, ROBERT A	35-14800	Decreed	7/19/1974	IRRIGATION	0.08	4.4	
MURDOCK, O BRIAN; MURDOCK, ROBERT A	35-14801	Decreed	7/19/1974	IRRIGATION	0.21	11.6	
MURDOCK, O BRIAN; MURDOCK, ROBERT A	35-14802	Decreed	7/19/1974	IRRIGATION	0.09	5.0	

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MURDOCK, O BRIAN; MURDOCK, ROBERT A	35-14803	Decreed	7/19/1974	IRRIGATION	0.21	12.0	
MURDOCK, ROBERT A; MURDOCK, TERESA	35-14797	Decreed	12/9/1955	IRRIGATION	0.26	62.0	
MURDOCK, ROBERT A; MURDOCK, TERESA	35-14807	Decreed	9/16/1960	IRRIGATION	0.16	62.0	
NAPOLI, MARIA; ULIAN, PETER	34-7211	Decreed	1/6/1978	DOMESTIC, IRRIGATION	0.10	4.0	
NATURAL GUARDIAN LLC	35-14731	Decreed	10/28/1965	INDUSTRIAL	5.35		
NEIBAUR, RYAN	25-7561	License	3/2/1990	IRRIGATION	4.00	360.5	
NELSEN DAIRY	36-8745	License	11/7/1995	COMMERCIAL, STOCKWATER	0.11		
NEW PHASE INVESTMENTS LLC	25-14186	License	9/18/2006	COMMERCIAL	0.05		
NICKELSON, DALENE C	25-7193A	Decreed	4/30/1980	DOMESTIC, IRRIGATION, STOCKWATER	0.02	2.9	
NOEL, DE ANN B; NOEL, WRIGHT R	22-7372	License	7/14/1981	DOMESTIC, STOCKWATER	0.07		
NORTH HIGHLANDER FARMS INC	25-7438	License	8/8/1988	COMMERCIAL	0.04		
NORTHLAND TERRACE WATER USERS ASSN INC	27-7138	License	5/18/1979	DOMESTIC	0.68		
NORTHSIDE RANCH CO LLC	36-2318B	Decreed	2/28/1957	STOCKWATER	0.05		
NORTHWEST PIPELINE CORP	45-2531	Decreed	7/6/1956	DOMESTIC, INDUSTRIAL	0.04	0.0	
NULPH BROTHERS INC	27-7466	License	5/3/1989	COMMERCIAL	0.04		
NUR WATER CORP INC	25-7035	Decreed	6/13/1973	DOMESTIC	0.62		
NUTTALL, ALIESHA DAWN; NUTTALL, JEFFREY DOUGLAS	25-7275	Decreed	2/8/1982	DOMESTIC, IRRIGATION, STOCKWATER	0.03	1.0	
OAK VALLEY LAND CO LLC	45-14533	Decreed	9/6/1967	COMMERCIAL, STOCKWATER	3.01	0.0	
OLSEN, JOHN W	27-7016	Decreed	4/22/1971	IRRIGATION	1.48	74.0	
OLSEN, JOHN W	27-7039	Decreed	4/23/1974	IRRIGATION	0.38	19.0	
ON TIME FINANCIAL LLC	22-14478		7/14/2022	COMMERCIAL, DOMESTIC	0.21		
OSTERHOUT, DANA; OSTERHOUT, GAYLEN; OSTERHOUT, LORRIE; OSTERHOUT, VIRGINIA M	45-10587	Decreed	6/30/1958	COMMERCIAL, DOMESTIC, IRRIGATION	0.08	0.5	
PACIFIC CONTAINER INC	25-7420	License	11/8/1987	COMMERCIAL	0.04		
PACIFICORP	25-14431	License	2/19/2016	WATER QUALITY IMPROVEMENT	0.47		
PACIFICORP AN OREGON CORP	35-2830	Decreed	5/27/1966	COMMERCIAL	0.02		
PACIFICORP AN OREGON CORP	25-7403	License	6/14/1985	WATER QUALITY IMPROVEMENT	0.45		
PARK WATER CO INC	45-10785	Decreed	12/14/1958	DOMESTIC	0.24	0.0	
PARKER, BECKY; PARKER, BRENT; PARKER, KEVIN; PARKER, MILISA	21-13319	License	3/21/1988	IRRIGATION	0.60	33.0	
PARKER, BRENT E; PARKER, KRISTINE	25-7073E	Decreed	8/1/1975	IRRIGATION	0.20	10.0	
PARKINSON FARMS	34-2497	Decreed	9/27/1966	IRRIGATION	0.57	480.0	
PARKINSON FARMS	34-2490	Decreed	10/25/1966	IRRIGATION	2.09	306.0	
PARKINSON FARMS	34-2506	Decreed	3/2/1967	IRRIGATION	1.17	480.0	
PARKINSON FARMS	34-2505	Decreed	3/3/1967	IRRIGATION	1.06	480.0	
PARKINSON FARMS	34-4008	Decreed	4/1/1967	IRRIGATION	2.60	480.0	
PARKINSON FARMS	34-10393	Decreed	5/1/1976	IRRIGATION	0.26	306.0	Yes
PARKWOOD ACRES WATER CO INC	25-7175	Decreed	7/3/1979	DOMESTIC	0.50		
PATTON & LINTON INC	29-10994	Decreed	3/1/1956	INDUSTRIAL	0.13		
PERFORMIX NUTRITION SYSTEMS LLC	36-17196	Decreed	5/27/1974	COMMERCIAL	0.06		
PETERSEN, KIMBERLY ANN; PETERSEN, RYAN CLAIR	34-7219	Decreed	7/4/1978	COMMERCIAL, HEATING, IRRIGATION, MITIGATION	0.92	69.8	
PHILLIPS, ELIZABETH H; PHILLIPS, JOSEPH	35-14742	Decreed	6/11/1958	IRRIGATION	0.05	25.0	
PHILLIPS, ELIZABETH H; PHILLIPS, JOSEPH	35-14743	License	4/10/1998	IRRIGATION	0.02	25.0	
PILKINTON, C R; PILKINTON, THOMAS R	36-7650B	Decreed	7/30/1976	IRRIGATION	0.08	4.0	
PINGREE LAND CO LLC	29-7806	Decreed	12/10/1985	COMMERCIAL	0.01		
PINSON, JANICE	25-14182	License	3/24/2006	COMMERCIAL	0.20		
PIONEER WATER USERS ASSN INC	35-7671	Decreed	2/7/1977	DOMESTIC	0.11		

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POCATELLO SOD	29-2370	Decreed	8/29/1955	IRRIGATION	3.14	157.0	
POLATIS BROTHERS	35-14733	Decreed	10/22/1954	IRRIGATION	0.09	351.0	
POLATIS BROTHERS	35-14735	Decreed	6/16/1961	IRRIGATION	0.09	351.0	
PONY ACRES WATER ASSN	29-7625	Decreed	12/15/1981	DOMESTIC, IRRIGATION	0.16	2.0	
POPE, CAROL C	34-4133	Decreed	5/1/1960	DOMESTIC, IRRIGATION	0.12	6.2	
PORT OF ENTRY TRAVEL CENTER LLC	31-11787	Decreed	9/7/1971	COMMERCIAL	0.12		
PRESCOTT, GWENNA R; PRESCOTT, WADE L	37-2676	Decreed	12/11/1961	IRRIGATION	1.85	450.4	
PRICE, MARJORIE	22-14447		2/16/2022	COMMERCIAL	0.02		
PRINCE, CARI L; PRINCE, JAMES J	36-17191	Decreed	2/20/1964	IRRIGATION	1.94	97.0	
PROW, REBECCA; PROW, SCOTT E	45-13972	Decreed	11/12/1957	IRRIGATION	0.04	2.8	
QUALITY INSULATION & CONSTRUCTION INC	25-7539	License	8/18/1989	COMMERCIAL	0.04		
QUINTON, BERNADENE L; QUINTON, RAY E	25-7536	License	9/18/1989	COMMERCIAL	0.02		
R C WILLEY HOME FURNISHINGS	35-14596		5/25/2018	COMMERCIAL	0.78		
RABURN, JAYNEE N; RABURN, LENARD H	29-7143B	Decreed	7/2/1973	DOMESTIC, IRRIGATION	0.03	1.0	
RANDALL, GLADYS	22-7594	License	8/25/1988	COMMERCIAL	0.04		
RAYMOND, W CRAIG	25-13401	Decreed	6/28/1954	IRRIGATION, STOCKWATER	0.09	3.5	
REED, CHARLES LE ROY	35-12258	Decreed	6/1/1955	COMMERCIAL, DOMESTIC, STOCKWATER	0.09		
REES, CARL C; REES, PATRICIA	29-7240	Decreed	11/29/1974	DOMESTIC, IRRIGATION, STOCKWATER	0.09	1.3	
RHODEHOUSE, KEVIN	35-2924	Decreed	7/21/1965	INDUSTRIAL, STOCKWATER	1.11		
RHODEHOUSE, KEVIN	35-8659	License	10/15/1987	COMMERCIAL, STOCKWATER	0.15		
RICE, JOHN; RICE, KATIE	35-14684	Decreed	9/8/1961	IRRIGATION	0.11	2.7	
RICH, DORIS; RICH, GERALD E	36-11369	Decreed	8/20/1959	COMMERCIAL	0.03		
RICHAN, CLYDE L; RICHAN, ELVERA L	36-8486	License	9/19/1989	COMMERCIAL, DOMESTIC	0.03		
RICHARDS, DENICE	27-7343	Decreed	3/2/1983	DOMESTIC, IRRIGATION	0.08	5.0	
RICHARDSON, BRIAN	35-8769	License	5/31/1989	COMMERCIAL, DOMESTIC	0.07		
RICKS, CONNIE	25-7183	Decreed	1/14/1980	DOMESTIC, STOCKWATER	0.06		
RIGBY PIONEER CEMETERY	25-13448	Decreed	4/1/1955	IRRIGATION	0.40	20.0	
RIM ROCK LEASING LLC	36-8512	License	2/27/1990	COMMERCIAL	0.02		
RINDFLEISCH, JAMES A	34-7511		6/12/1989	IRRIGATION	1.85	92.4	
RINGEL, LORI; RINGEL, MERLYN R	35-14630	Decreed	9/28/1981	IRRIGATION	0.01	4.7	
RIRIE SCHOOL DISTRICT #252	25-2122E	Decreed	4/27/1956	IRRIGATION	0.38	24.0	
RIVERBEND ESTATES	29-8015	License	6/22/1990	DOMESTIC	0.25		
RIVERVIEW ACRES #2 WATER CORP	35-11348	Decreed	6/1/1960	DOMESTIC	0.16		
RIVERVIEW TWO LLC	35-8632	Decreed	1/19/1981	COMMERCIAL, INDUSTRIAL	0.04		
ROBINSON, TIMOTHY L	36-17115	Decreed	3/15/1963	IRRIGATION	0.02	1.0	
ROEDER, JAMES L; ROEDER, JOHN	29-7177	License	3/4/1974	DOMESTIC, STOCKWATER	0.08		
ROKER, ELAINE; ROKER, JIM	25-7132	Decreed	8/25/1977	IRRIGATION	1.22	61.0	
ROSS, PAULINE	37-8112	Decreed	6/2/1983	COMMERCIAL, COOLING	0.02		
RUDY, THOMAS A	45-7278	Decreed	12/6/1976	DOMESTIC	0.24	0.0	
RUNHARD LLC	22-7293	Decreed	5/24/1979	COOLING, HEATING	0.15		
RURAL ELECTRIC CO	36-8435	License	8/11/1989	COMMERCIAL	0.04		
RUSSELL, CATHERINE L; RUSSELL, LELAND D	36-16560	Decreed	2/8/1971	IRRIGATION	0.01	2.0	
SCHAEFFER, DIANNE RAE	36-17234	Decreed	1/22/1958	STOCKWATER	0.18		
SCHREINER FARMS IDAHO LLC	35-2488	Decreed	1/10/1957	IRRIGATION	0.02	2.0	
SCHREINER FARMS IDAHO LLC	35-2922	Decreed	4/7/1958	IRRIGATION	0.01	2.0	
SCHREINER FARMS IDAHO LLC	35-8951	License	7/29/1991	IRRIGATION	0.88	44.0	

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SCHRITTER FARM PARTNERSHIP	35-14720	Decreed	8/27/1973	IRRIGATION	0.18	261.0	
SCHRITTER FARM PARTNERSHIP	35-14721	Decreed	8/27/1973	IRRIGATION	0.39	573.5	
SCHROEDER, MICHELLE; SCHROEDER, NATHAN	29-4104	Decreed	7/28/1955	IRRIGATION	3.00	150.0	
SCHWANS SALES ENTERPRISES INC	27-7439	License	8/14/1987	COMMERCIAL	0.04		
SCHWIEDER, KAELYNE; SCHWIEDER, KIRT	35-14732	Decreed	4/11/1972	IRRIGATION	0.10	3345.0	
SCHWIEDER, KAELYNE; SCHWIEDER, KIRT	35-14777	Decreed	8/31/1973	IRRIGATION	0.08	3345.0	
SCHWIEDER, KAELYNE; SCHWIEDER, KIRT	35-14778	Decreed	10/14/1975	IRRIGATION	0.09	3345.0	
SCOTT, LAMOND; SCOTT, RUTH	35-10855	Decreed	1/4/1954	COMMERCIAL, DOMESTIC	0.04		
SCOTT, STANLEY K	31-7512	License	11/30/1988	DOMESTIC, STOCKWATER	0.19		
SEARLE BROTHERS LAND & LIVESTOCK LLC	45-13986	Decreed	11/11/1959	COMMERCIAL, STOCKWATER	0.08	0.0	
SELENSKY, CATHY; SELENSKY, CLARENCE J	25-7392B	License	12/16/1983	IRRIGATION	0.15	5.0	
SHELLEY, ELTON C; SHELLEY, WANDA B	29-2486D	Decreed	12/16/1963	IRRIGATION	0.26	16.0	
SHELLEY, ELTON C; SHELLEY, WANDA B	29-7725	License	6/6/1983	IRRIGATION	0.28	14.0	
SHOSHONE BANNOCK TRIBES	27-7000		7/27/1967	MUNICIPAL	0.5		
SHOSHONE BANNOCK TRIBES	29-7326	Decreed	4/28/1976	IRRIGATION	2.53	160.0	
SHOSHONE BANNOCK TRIBES	29-13941	Decreed	10/3/1977	IRRIGATION	0.18	10.5	
SHURTLIFF, ALICE R; SHURTLIFF, REX S	25-13026	Decreed	12/31/1957	COMMERCIAL	0.04		
SHURTLIFF, MERLENE; SHURTLIFF, RODNEY	35-8855	License	9/7/1989	DOMESTIC, STOCKWATER	0.08		
SILVER CREEK DISTILLERS INC	25-7194	License	12/1/1988	INDUSTRIAL	0.11		
SIMPSON, DANNY V; SIMPSON, JULIE M	37-22930	Decreed	11/25/1962	IRRIGATION	0.05	2.3	
SIX S RANCH LLC	45-14472	Decreed	12/1/1967	IRRIGATION	0.04	263.3	
SIX S RANCH LLC	45-14471	Decreed	8/25/1969	IRRIGATION	0.96	263.3	
SLUDER, GILBERT T; SLUDER, GONDA O; SLUDER, RONALD E	37-8108	Decreed	6/1/1983	DOMESTIC	0.08		
SMITH CATTLE COMPANY LLC	25-13990	Decreed	9/25/1973	COMMERCIAL	0.39		
SMITH CATTLE COMPANY LLC	25-13991	Decreed	9/25/1973	COMMERCIAL	0.39		
SMITH CATTLE COMPANY LLC	25-13992	Decreed	4/18/1974	COMMERCIAL	0.05		
SMITH CATTLE COMPANY LLC	25-13993	Decreed	4/8/1975	COMMERCIAL	0.39		
SMITH CATTLE COMPANY LLC	25-13994	Decreed	5/23/1975	COMMERCIAL	0.20		
SMITH, ANTON	29-7403	Decreed	5/23/1977	IRRIGATION	0.32	16.0	
SMITH, BLAINE; SMITH, GARRY	22-7554	License	8/8/1988	COMMERCIAL	0.02		
SMITH, EDWARD A	29-2551	Decreed	2/27/1967	IRRIGATION	3.00	149.7	
SMITH, JOAN; SMITH, SCOTT	34-14313	License	7/8/1992	IRRIGATION	0.01	1.0	
SMITH, NORBERT DARRELL	29-7171	Decreed	2/4/1974	DOMESTIC	0.16		
SNAKE RIVER BUSINESS PARK BLDG #1 LLC	35-14787		8/19/2022	COMMERCIAL	0.20		
SNAKE RIVER SCHOOL DISTRICT #52	35-14693	Decreed	5/27/1974	IRRIGATION	0.03	6.0	
SNELL, MARK	29-7696	License	3/16/1983	DOMESTIC, IRRIGATION	0.08	2.0	
SOHN, EDNA G; SOHN, HERBERT F; SOHNS INC	35-8333	Decreed	12/12/1983	COMMERCIAL, DOMESTIC	0.08		
SOMSEN, DIANNE L; SOMSEN, G FRANK	45-2485	Decreed	11/8/1954	IRRIGATION	2.68	432.0	
SOMSEN, DIANNE L; SOMSEN, G FRANK	45-4242	Decreed	6/1/1956	IRRIGATION	1.84	432.0	
SOUTH FORK POTATO HOLDING LLC	25-11143	Decreed	6/1/1956	INDUSTRIAL	0.20		
SOUTH INTERCHANGE PROPERTIES	35-14266	Decreed	8/5/1969	IRRIGATION	0.02	23.8	
SOUTH PARK ESTATES WATER & SEWER INC	27-7052	Decreed	3/12/1975	DOMESTIC, FIRE PROTECTION	0.33		
SOUTH PARK ESTATES WATER & SEWER INC	27-7581	License	10/21/1997	DOMESTIC, FIRE PROTECTION	0.69		
SOUTH, BARRY; SOUTH, ELINOR	35-14618	Decreed	9/28/1981	IRRIGATION	0.01	3.3	
SPACE ACRES WATER USERS	29-7142	Decreed	9/6/1973	DOMESTIC	0.25		
SPENCER, DAVID R; SPENCER, MICHELLE	31-11942	Decreed	7/25/1955	COMMERCIAL, STOCKWATER	0.03		

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SPENCER, DAVID R; SPENCER, MICHELLE	31-11944	Decreed	7/26/1961	COMMERCIAL, STOCKWATER	0.02		
STANGER, KARA; STANGER, SPENCER	35-14729	Decreed	9/28/1981	IRRIGATION	0.01	5.2	
STANGER, MARILYN	25-7541	License	7/12/1989	COMMERCIAL	0.02		
STARMARC LLC	36-12462	Decreed	12/31/1958	COMMERCIAL	0.07		
STEEL, EVAN; STEEL, KIRSTIE	27-12332	Decreed	9/25/1974	IRRIGATION	0.11	8.9	
STEEL, KEVIN J	35-8756	License	5/11/1989	COMMERCIAL, DOMESTIC	0.02		
STEELE LAND HOLDINGS LLC	25-4304	Decreed	1/1/1963	STOCKWATER	0.23		
STORER, BETTY; STORER, GALE	25-7530	License	8/28/1989	COMMERCIAL	0.04		
STROMBERG REPAIR INC	25-7445	License	10/18/1988	COMMERCIAL	0.04		
STUBBS, AVIS B; STUBBS, ROSS A	35-8210	License	6/16/1983	DOMESTIC	0.06		
SULLIVAN HOLDINGS LLC	35-8775	License	5/26/1989	COMMERCIAL	0.01		
SUMMERS, RICHARD K; SUMMERS, STELLA F	25-7518	License	8/24/1989	COMMERCIAL, DOMESTIC	0.08		
SUNROC PARK WATER ASSN INC	25-14170	License	6/20/2005	DOMESTIC	0.05		
SUNSET FARM & RANCH LLC	34-2480B	Decreed	9/11/1966	IRRIGATION	2.00	612.0	
SUNSET SUBDIVISION WATER USERS ASSN	35-10715	Decreed	9/21/1959	DOMESTIC	0.15		
SWENDSEN, BRENT; SWENDSEN, NANCY	25-7464	License	11/30/1988	COMMERCIAL	0.04		
SWENSON, HANS	37-23303	Decreed	9/20/1974	IRRIGATION	0.12	6.0	
T VILLE AG	29-12898	Decreed	2/23/1957	IRRIGATION	1.58	79.0	
T VILLE AG	29-7050	Decreed	3/24/1970	IRRIGATION	0.70	35.0	
T VILLE AG	29-7613	Decreed	8/19/1981	IRRIGATION	1.30	79.0	
TABER, DONALD E	37-10161	Decreed	4/1/1955	COMMERCIAL	0.04		
TANNER LANE RANCH LLLP	27-12320	Decreed	9/6/1982	IRRIGATION	0.05	180.0	
TANNER, BLAINE; TANNER, TORI	25-10634	Decreed	4/1/1958	DOMESTIC, IRRIGATION, STOCKWATER	0.10	2.0	
TANNER, KATHY; TANNER, REYNOLD	25-2139	Decreed	10/30/1961	IRRIGATION	1.54	38.0	
TAYLOR, CHRISTY; TAYLOR, MICHAEL	29-14369	Decreed	5/27/1974	IRRIGATION	0.03	6.0	
TAYLOR, LOIS; TAYLOR, LYLE D	25-7110	Decreed	5/9/1977	IRRIGATION	1.30	65.0	
TAYLORS QUIK STOP INC	25-7450	License	10/25/1988	COMMERCIAL	0.04		
TED BAAR HOLDINGS LLC	36-17236	Decreed	1/28/1972	DOMESTIC, STOCKWATER	0.05		
TED BAAR HOLDINGS LLC	36-17235	License	11/7/1989	DOMESTIC, STOCKWATER	0.05		
TED MILLER DAIRY	36-16189	Decreed	8/10/1973	IRRIGATION	0.04	3.0	
TELFORD, MARK; TELFORD, PAIGE	34-4132	Decreed	6/1/1955	IRRIGATION	2.00	480.0	
TELFORD, MARK; TELFORD, PAIGE	34-10058	Decreed	7/7/1955	IRRIGATION	1.67	480.0	
TELFORD, MICHAEL S; TELFORD, ROBERT	37-8212	Decreed	5/11/1983	COMMERCIAL, STOCKWATER	0.01		
TELFORD, MICHAEL S; TELFORD, SHANNON J	34-2401A	Decreed	9/1/1961	IRRIGATION	3.70	2223.8	
TELFORD, MICHAEL S; TELFORD, SHANNON J	34-4015	Decreed	9/1/1961	IRRIGATION	1.64	2223.8	
TERRETON PUMP NO 2	31-7515	License	1/7/1989	COMMERCIAL, DOMESTIC	0.10		
TERRETON TRACTOR INC	31-7346	Decreed	12/2/1980	COMMERCIAL, DOMESTIC	0.04		
TETON WATER WORKS LLC	27-7359C	License	6/3/1983	COMMERCIAL, DOMESTIC	0.03		
TFT LLC	21-7419	License	3/9/1989	COMMERCIAL, DOMESTIC	0.02		
THATCHER SUMMIT INC	22-7626	License	4/8/1989	COMMERCIAL	0.04		
THE ADVOCATE COMMUNITY	29-2486B	Decreed	12/16/1963	IRRIGATION	0.64	40.0	
THE DAVID JAY BROWN & DEBRA L BROWN LTD PARTNERSHIP	37-2670	Decreed	7/24/1961	IRRIGATION	3.00	155.0	
THE LOVELAND FAMILY TRUST	27-7069	Decreed	12/3/1976	IRRIGATION	3.42	171.0	
THOMPSON BROTHERS LLC	35-14658	Decreed	6/16/1966	IRRIGATION	0.05	468.5	
THOMPSON BROTHERS LLC	35-14659	Decreed	7/22/1969	IRRIGATION	0.29	468.5	
THOMPSON, BETTY L; THOMPSON, LYNN	29-7075A	Decreed	2/4/1972	IRRIGATION	0.10	5.6	

Attachment A
List of Ground Water Rights Junior to 12/30/1953
Sorted by Owner

Owner	Water Right No.	Basis	Priority Date	Water Use List	Diversion Rate	Total Acres	Enlargement
THOMPSON, HOWARD M	25-7508	License	6/19/1989	DOMESTIC, STOCKWATER	0.11		
THOMPSON, KURT; THOMPSON, LINDA B	36-15254	Decreed	10/20/1967	DOMESTIC, STOCKWATER	0.04		
TIRRELL WATER USERS INC	29-7917	License	5/27/2022	DOMESTIC, IRRIGATION, STOCKWATER	0.17	5.0	
TLC DEVELOPMENT LLC	25-14494		6/4/2021	DOMESTIC	0.23		
TOMLIN, STEPHEN	29-13730	License	6/7/1983	IRRIGATION	0.01	0.5	
TOWN & COUNTRY MOBILE HOME PARK LLC	35-4258	Decreed	6/1/1962	DOMESTIC	0.22		
TRAINOR, LISA; TRAINOR, MARK	25-7392A	License	12/16/1983	IRRIGATION	0.14	7.0	
TRUE WEST BEEF LLC	36-17173	Decreed	5/10/1955	INDUSTRIAL	3.50		
TRUE WEST BEEF LLC	36-17231	Decreed	5/10/1955	INDUSTRIAL	0.83		
TRUE WEST BEEF LLC	36-17232	Decreed	10/19/1962	IRRIGATION	1.47	946.0	
TRUE WEST BEEF LLC	36-17230	Decreed	5/1/1982	INDUSTRIAL	0.15		Yes
TYLER, ALDON	25-7542	License	7/14/1989	DOMESTIC	0.06		
UNION PACIFIC RAILROAD CO	36-4203	Decreed	9/13/1957	COMMERCIAL, DOMESTIC, MUNICIPAL	0.22		
UNITED ALLIANCE & FIDELITY CORP	25-7387	Decreed	12/4/1983	IRRIGATION	0.10	5.0	
US BUREAU OF INDIAN AFFAIRS	29-12559	Decreed	8/23/1954	IRRIGATION	2.06	102.6	
US BUREAU OF INDIAN AFFAIRS	29-12560	Decreed	8/23/1954	IRRIGATION	3.75	187.9	
US BUREAU OF INDIAN AFFAIRS	29-12565	Decreed	8/23/1954	COOLING	0.04		
US BUREAU OF LAND MANAGEMENT	35-4073A	Decreed	6/25/1960	IRRIGATION	3.25	169.0	
US BUREAU OF LAND MANAGEMENT	35-7031	Decreed	7/22/1968	IRRIGATION	1.66	83.0	
US BUREAU OF LAND MANAGEMENT	37-20839	Decreed	2/6/1974	IRRIGATION	0.19	64.0	
US BUREAU OF LAND MANAGEMENT	36-7466	Decreed	4/10/1974	STOCKWATER, WILDLIFE	0.10		
US BUREAU OF LAND MANAGEMENT	36-7497	Decreed	8/21/1974	STOCKWATER, WILDLIFE	0.05		
US BUREAU OF LAND MANAGEMENT	35-7685	Decreed	3/22/1977	IRRIGATION	2.48	124.0	
US BUREAU OF LAND MANAGEMENT	35-7750	Decreed	10/20/1977	IRRIGATION	1.32	66.0	
US BUREAU OF LAND MANAGEMENT	35-14179	Decreed	9/28/1981	IRRIGATION	0.03	44.0	
US BUREAU OF LAND MANAGEMENT	21-7517	License	2/27/1992	STOCKWATER, WILDLIFE	0.07		
US BUREAU OF LAND MANAGEMENT	36-8726		4/28/1994	STOCKWATER, WILDLIFE	0.12		
US BUREAU OF LAND MANAGEMENT	21-13032	License	2/24/2006	STOCKWATER, WILDLIFE	0.02		
US BUREAU OF LAND MANAGEMENT	34-14459		8/26/2014	STOCKWATER, WILDLIFE	0.15	0.0	
US BUREAU OF RECLAMATION	29-2380	Decreed	6/11/1956	IRRIGATION	46.60		
US DEPT OF ENERGY / BONNEVILLE POWER	35-7097	Decreed	9/30/1969	DOMESTIC, FISH PROPAGATION	4.00		
US FISH & WILDLIFE SERVICE	31-4016	Decreed	6/15/1955	IRRIGATION	1.60	80.0	
US FISH & WILDLIFE SERVICE	31-2350	Decreed	10/20/1955	WILDLIFE	11.06		
US FISH & WILDLIFE SERVICE	31-2362	Decreed	5/13/1957	WILDLIFE	10.60		
US FISH & WILDLIFE SERVICE	31-2363	Decreed	5/13/1957	WILDLIFE	39.00		
US FISH & WILDLIFE SERVICE	31-11229	Decreed	11/5/1957	WILDLIFE	7.12		
US FISH & WILDLIFE SERVICE	31-11230	Decreed	3/20/1962	WILDLIFE	11.06		
US FISH & WILDLIFE SERVICE	31-11231	Decreed	5/7/1962	WILDLIFE	15.70		
US FISH & WILDLIFE SERVICE	31-11232	Decreed	5/7/1962	WILDLIFE	43.30		
US FISH & WILDLIFE SERVICE	31-7301	Decreed	6/2/1978	WILDLIFE	8.78		
USDA ARS SHEEP EXPERIMENT STATION	34-7546	Decreed	6/29/1983	DOMESTIC, IRRIGATION, STOCKWATER	0.25	2.8	
VALLEY MOBILE HOME COURT	25-12489	Decreed	3/31/1958	DOMESTIC	0.23		
VALLEY READY MIX INC	25-7167	License	1/29/1979	INDUSTRIAL	0.36		
VALLEY SCHOOL DISTRICT #262	36-15190	Decreed	9/1/1954	DOMESTIC, IRRIGATION	0.15	0.2	
VALLEY SCHOOL DISTRICT #262	36-16299	License	9/22/2004	DOMESTIC, FIRE PROTECTION	1.52		
VALLEY VIEW DAIRY LLC	36-17182	Decreed	4/27/1954	COMMERCIAL, STOCKWATER	0.13		

Attachment A
List of Ground Water Rights Junior to 12/30/1953
Sorted by Owner

Owner	Water Right No.	Basis	Priority Date	Water Use List	Diversion Rate	Total Acres	Enlargement
VALLEY WIDE COOP INC	22-7622	License	12/30/1988	COMMERCIAL, DOMESTIC	0.03		
VAN DYKE, VIRGINIA	37-10019	Decreed	2/1/1961	COMMERCIAL, STOCKWATER	0.06		
VAN ORDEN, JAY; VAN ORDEN, SHELLI	35-8713	License	4/1/1989	COMMERCIAL	0.02		
VEENSTRA FAMILY LIMITED PARTNERSHIP	37-4051	Decreed	9/1/1961	IRRIGATION, STOCKWATER	1.34	235.0	
VEENSTRA, FRANK W	36-17233	Decreed	1/31/1961	STOCKWATER	0.38		
VERBREE LAND HOLDINGS LLC	36-10147	Decreed	1/2/1975	DOMESTIC, STOCKWATER	0.04		
VERBREE LAND HOLDINGS LLC	36-8609	License	10/21/1991	DOMESTIC, IRRIGATION, STOCKWATER	0.02	2.5	
WADE, NANCY; WADE, RONALD	25-7425	License	6/6/1988	DOMESTIC, IRRIGATION	0.05	1.0	
WAGNER JR, EDWARD P; WAGNER, KRISTIE L	35-8856	Decreed	8/11/1989	DOMESTIC, STOCKWATER	0.10		
WALKER, ROLAND L	25-11825	Decreed	11/18/1955	COMMERCIAL	0.30		
WALKER, ROLAND L	25-11821	Decreed	6/19/1962	DOMESTIC, STOCKWATER	1.32		
WALKER, YOUNG HARVEY	34-2440	Decreed	10/10/1961	IRRIGATION, STOCKWATER	1.55	190.0	
WALKER, YOUNG HARVEY	34-10473	Decreed	8/10/1977	IRRIGATION	0.36	190.0	Yes
WALL, DIANA R; WALL, LARRY G	36-8451	License	9/28/1989	COMMERCIAL	0.02		
WALTERS, BRUCE A; WALTERS, MARCEY L	25-7596	License	6/26/1991	DOMESTIC, IRRIGATION	0.15	10.0	
WANSTROM, JOSEPH SCOTT	34-2339A	Decreed	6/3/1957	IRRIGATION	0.17	18.0	
WANSTROM, JOSEPH SCOTT	34-7172	Decreed	3/13/1977	IRRIGATION	0.94	47.0	
WARD, HOLLY; WARD, PERRY	35-14691	License	1/15/1992	IRRIGATION	0.16	38.9	
WARD, OPAL M; WARD, OWEN K	35-8892	License	3/28/1990	DOMESTIC	0.18		
WAYNE PROPERTIES LLC	35-14779	Decreed	2/9/1961	IRRIGATION	0.68	364.0	
WAYNE PROPERTIES LLC	35-14780	Decreed	3/25/1964	IRRIGATION	0.95	364.0	
WAYNE PROPERTIES LLC	35-14781	Decreed	7/1/1975	IRRIGATION	1.36	364.0	
WAYNE PROPERTIES LLC	35-14782	Decreed	8/15/1975	IRRIGATION	0.95	364.0	
WAYNE PROPERTIES LLC	35-14783	Decreed	8/15/1975	IRRIGATION	0.98	364.0	
WAYNE PROPERTIES LLC	35-14784	Decreed	8/27/1976	IRRIGATION	0.97	364.0	
WAYNE PROPERTIES LLC	35-14785	Decreed	8/15/1977	IRRIGATION	0.20	364.0	
WELLS, DELOS H	35-8220	License	8/4/1983	DOMESTIC, IRRIGATION	0.11	9.5	
WELLS, DELOS H; WELLS, LUELLA	35-10874	Decreed	10/1/1962	DOMESTIC, IRRIGATION	0.20	8.0	
WESTERN SLOPE LLC	35-14617	Decreed	9/28/1981	IRRIGATION	0.05	83.0	
WESTOVER RANCH CORP	22-7543	License	12/14/1988	DOMESTIC	0.10		
WHEELER, DEE RAY; WHEELER, LINDA	36-8488	License	10/10/1989	COMMERCIAL	0.03		
WHITWORTH, BOYD	45-7638	License	3/10/1989	INDUSTRIAL	0.06	0.0	
WILLMORE, JUDY	31-7551	License	8/26/1991	COMMERCIAL	0.04		
WILSON, JOHN CHARLES	29-7916	License	3/20/1990	IRRIGATION	0.09	4.5	
WOOD, HOWARD; WOOD, SHEILA	34-2478	Decreed	6/16/1966	IRRIGATION	0.76	38.0	
WOOD, KENT; WOOD, MELANIE	45-14177	Decreed	4/29/1954	IRRIGATION	0.08	6.4	
WOODLAND HEIGHTS SUBDIVISION NO 2	35-7640	Decreed	9/9/1976	DOMESTIC	0.32		
WOODLAND HEIGHTS WATER USERS ASSN	35-7576	Decreed	1/28/1976	DOMESTIC	0.38		
WRIDE FARMS	35-8949		8/26/1991	IRRIGATION	3.00	150.0	
WRIGHT, DEE; WRIGHT, RUBY	25-7256	Decreed	5/12/1981	IRRIGATION	0.10	1.4	
WRIGHT, LISA; WRIGHT, SCOTT	25-7461	License	1/21/1989	IRRIGATION	0.09	3.0	
YANCEY, CLEM R	35-7955	License	3/10/1981	DOMESTIC, STOCKWATER	0.06		
YERION, GEORGE A; YERION, SUSAN F	37-23372		1/28/2022	DOMESTIC	0.08		
YOUNG, DE VONA; YOUNG, WILLIAM N	25-7437	License	8/26/1988	DOMESTIC, STOCKWATER	0.07		
YOUNG, JUDY D; YOUNG, KENNETH A	25-7436	License	9/14/1988	IRRIGATION	0.03	1.5	
ZUNDEL, JACOB; ZUNDEL, SHALIECE	25-14457	License	2/28/1992	IRRIGATION	0.02	1.1	

Attachment A
List of Ground Water Rights Junior to 12/30/1953
Sorted by Owner

Owner	Water Right No.	Basis	Priority Date	Water Use List	Diversion Rate	Total Acres	Enlargement
ZWEIFEL PROPERTIES LLC	32-10031	Decreed	5/1/1968	DOMESTIC, STOCKWATER	0.12		

RECEIVED
May 05, 2023
DEPARTMENT OF
WATER RESOURCES

Travis L. Thompson, ISB #6168
MARTEN LAW LLP
163 Second Ave. West
P.O. Box 63
Twin Falls, Idaho 83303-0063
Telephone: (208) 733-0700
Facsimile: (208) 735-2444
Email: tthompson@martenlaw.com

Attorneys for A&B Irrigation District

BEFORE THE DEPARTMENT OF WATER RESOUCES

OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY OR FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY	Docket No. CM-DC-2010-001 Docket No. CM-MP-2015-003 **A&B IRRIGATION DISTRICT'S NOTICE OF COMMUNICATION TO WATER DISTRICT 01 WATERMASTER**

COMES NOW, A&B Irrigation District ("A&B" or "District"), by and through counsel of record, and hereby provides notice of its communication to the Water District 01 Watermaster regarding compliance with the Director's *Final Order Regarding April 2023 Forecast Supply (Methodology Steps 1-3)* wherein the Director required affected junior ground water right holders to establish "that they can mitigate for their proportionate share of the predicted DS of 75,200 acre-feet in accordance with an approved mitigation plan" on or before May 5, 2023. *See* April As Applied Order at 6. Counsel mailed and emailed the letter to Watermaster Tony Olenichak on May 5, 2023. *See* Ex. A.

Notwithstanding this notice A&B reserves all rights with respect to the calculated proportionate share of the predicted injury, i.e. 458 acre-feet, and has requested a hearing on that issue.

Dated this 5th day of May, 2023.

MARTEN LAW LLP

Travis L. Thompson

Attorneys for A&B Irrigation District

CERTIFICATE OF SERVICE

I hereby certify that on this 5th day of May, 2023, I served a true and correct copy of the foregoing on the following by the method indicated:

Director Gary Spackman Garrick Baxter Sarah Tschohl State of Idaho Dept. of Water Resources 322 E Front St. Boise, ID 83720-0098 *** service by electronic mail gary.spackman@idwr.idaho.gov garrick.baxter@idwr.idaho.gov sarah.tschohl@idwr.idaho.gov file@idwr.idaho.gov	Matt Howard U.S. Bureau of Reclamation 1150 N. Curtis Rd. Boise, ID 83706-1234 *** service by electronic mail only mhoward@usbr.gov	Tony Olenichak IDWR – Eastern Region 900 N. Skyline Dr., Ste. A Idaho Falls, ID 83402-1718 *** service by electronic mail only tony.olenichak@idwr.idaho.gov
T.J. Budge Elisheva Patterson Racine Olson P.O. Box 1391 Pocatello, ID 83204-1391 *** service by electronic mail only tj@racineolson.com elisheva@racineolson.com	Sarah A. Klahn Somach Simmons & Dunn 2033 11th St., Ste. 5 Boulder, CO 80302 *** service by electronic mail only sklahn@somachlaw.com dthompson@somachlaw.com	David Gehlert ENRD – DOJ 999 18th St. South Terrace, Ste. 370 Denver, CO 80202 *** service by electronic mail only david.gehlert@usdoj.gov
Rich Diehl City of Pocatello P.O. Box 4169 Pocatello, ID 83201 *** service by electronic mail only rdiehl@pocatello.us.	William A. Parsons Parsons, Smith & Stone LLP P.O. Box 910 Burley, ID 83318 *** service by electronic mail only wparsons@pmt.org	Corey Skinner IDWR – Southern Region 650 Addison Ave W, Ste. 500 Twin Falls, ID 83301-5858 *** service by electronic mail only corey.skinner@idwr.idaho.gov
W. Kent Fletcher Fletcher Law Offices P.O. Box 248 Burley, ID 83318 *** service by electronic mail only wkf@pmt.org	Kathleen Carr U.S. Dept. Interior, Office of Solicitor Pacific Northwest Region, Boise 960 Broadway, Ste. 400 Boise, ID 83706 *** service by electronic mail only kathleenmarion.carr@sol.doi.gov	Candice McHugh Chris M. Bromley McHugh Bromley, PLLC 380 South 4th Street, Ste. 103 Boise, ID 83702 *** service by electronic mail only cbromley@mchughbromley.com cmchugh@mchughbromley.com

Robert E. Williams Williams, Meservy & Lothspeich, LLP P.O. Box 168 Jerome, ID 83338 *** service by electronic mail only rewilliams@wmlattys.com	Robert L. Harris Holden, Kidwell, Hahn & Crapo, PLLC P.O. Box 50130 Idaho Falls, ID 83405 *** service by electronic mail only rharris@holdenlegal.com	Randall D. Fife City Attorney, City of Idaho Falls P.O. Box 50220 Idaho Falls, ID 83405 *** service by electronic mail only rfife@idahofallsidaho.gov
Skyler Johns Steven Taggart Nathan Olsen Olsen Taggart PLLC P.O. Box 3005 Idaho Falls, ID 83403 *** service by electronic mail only sjohns@olsentaggart.com staggart@olsentaggart.com nolsen@olsentaggart.com	Dylan Anderson Dylan Anderson Law PLLC P.O. Box 35 Rexburg, ID 83440 *** service by electronic mail only dylan@dylanandersonlaw.com	

Jessica Nielsen
Assistant for Travis L. Thompson

Exhibit
A

MARTEN LAW

May 5, 2023

VIA U.S. MAIL AND EMAIL

Tony Olenichak, Watermaster
Water District 01
900 N. Skyline Dr., Suite A
Idaho Falls, Idaho 83402-1718
Tony.olenichak@idwr.idaho.gov

Re: SWC Delivery Call / Notice of Mitigation Water (*Final Order Regarding April 2023 Forecast Supply (Steps 1-3)*)

Dear Tony:

I am writing on behalf of the A&B Irrigation District ("A&B" or "District") in reference to the Director's April 21, 2023 *Final Order Regarding April 2023 Forecast Supply* ("April Order"). In that order the Director noted that affected junior ground water right holders must establish "that they can mitigation for their proportionate share of the predicted demand shortfall of 75,200 acre-feet in accordance with an approved mitigation plan." *See* April Order at 6. The Director identified A&B's proportionate share as 458 acre-feet with respect to certain junior priority ground water rights held by A&B (36-15127A et al.). *See id.* at 5, n. 5. A&B also has an approved mitigation plan. *See Final Order Approving Mitigation Plan,* CM-MP-2015-003, Dec. 16, 2015.

A&B is requesting a hearing on the Director's calculation of its "proportionate share" of the April forecasted injury and that matter is set to be heard June 6-10, 2023. A&B reserves all rights with respect to this issue and by communicating this notice does not waive any of those rights with respect to the Director's order. Whether the District's proportionate share will change is unknown at this time.

Notwithstanding, A&B hereby provides notice of available mitigation water and requests that you confirm to the Director that 458 acre-feet of A&B's 2023 storage allocation will be available for assignment and delivery to mitigate injury to TFCC as predicted in the April Order if necessary. As you may be aware A&B carried over 58,900 acre-feet in its Palisades Reservoir space from 2022, and its American Falls Reservoir space is currently filling in 2023.

Regardless of the final allocation, A&B presently has 458 acre-feet to deliver to injured Coalition members, including TFCC, for mitigation purposes if required.

A&B believes this letter satisfies the Director's April Order. If you have any questions please call me at (208) 733-0700.

Sincerely,

Travis Thompson
Partner

Direct: (208) 735-2227
Email: tthompson@martenlaw.com

cc: Justin Temple, A&B Irrigation District

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY OR FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY	Docket No. CM-DC-2010-001 **NOTICE OF MATERIALS DEPARTMENT WITNESSES MAY RELY UPON AT HEARING AND INTENT TO TAKE OFFICIAL NOTICE**

On May 2, 2023, the Director issued a *Scheduling Order and Order Authorizing Remote Appearance at Hearing* ("Scheduling Order"). In the Scheduling Order, the identified two Idaho Department of Water Resources ("Department") employees who will testify at the hearing—Jennifer Sukow and Matthew Anders. The Director set a deadline of May 5, 2023, for the Department to provide the materials Ms. Sukow and Mr. Anders may rely upon at the hearing as well as a summary of topics Ms. Sukow and Mr. Anders may testify to. *Scheduling Order* at 2. The Department may augment its list of materials Ms. Sukow and Mr. Anders may rely upon at the hearing, if needed, by May 10, 2023. *Id*.

A. Materials Ms. Sukow and Mr. Anders may rely upon during the June 6-10 hearing.

The materials Ms. Sukow and Mr. Anders may rely upon at the hearing have been divided into four separate folders and are publicly available on the Department's website[1] as a downloadable zipped file labeled "Materials Department Witnesses May Rely Upon at Hearing".

1st Folder: "2022 Technical Working Group ("TWG")". Presentations, agendas, data and communications related to the TWG meetings this fall.

2nd Folder: "2023 5th Amended Methodology Order". Data files and notes related to baseline year, irrigated acres, project efficiency, reasonable carryover.

3rd Folder: "2023 April As-Applied Order". Copies of all files in the April Background Information folder on IDWR's website.

4th Folder: "ESPAM Report". ESPAM documentation reports from Jennifer Sukow.

[1] The webpage for the above-captioned matter can be located at: https://idwr.idaho.gov/legal-actions/delivery-call-actions/SWC/.

B. Topics Ms. Sukow may testify about at the hearing:

- Steady-state vs. transient modeling / simulations for the Eastern Snake Plain Aquifer Model (ESPAM).
- Calculation of curtailment priority dates for the SWC's delivery call.

C. Topics Mr. Anders may testify about at the hearing:

- Base Line Year (BLY)
- Forecast Supply
- SWC Irrigated Acres
- Crop Water Need
- Near Real Time Mapping Evapo Transpiration at high Resolution with Internalized Calibration (NRT METRIC)
- Project Efficiency
- Reasonable Carryover
- Twin Falls Canal Company's increase in diversions
- The 2023 Technical Working Group meetings

D. Director's intent to take official notice.

Department Rule of Procedure 602 states in pertinent part:

> The [Director] may take official notice of any facts that could be judicially noticed in the courts of Idaho, of generally recognized technical or scientific data or facts within the agency's specialized knowledge and records of the agency. The [Director] may ask agency staff to prepare reports or memoranda to be used in deciding a contested case, and all such reports and memoranda shall be officially noticed by the [Director]. The [Director] shall notify the parties of specific facts or material noticed and the source of the material noticed, including any agency staff memoranda and data. This notice should be provided either before or during the hearing, and must be provided before the issuance of any order that is based in whole or in part on facts or material officially noticed. Parties must be given an opportunity to contest and rebut the facts or material officially noticed.

IDAPA 37.01.01.602.

The Director hereby notifies the parties that he intends to take official notice of the facts and data in the "2022 Technical Working Group ("TWG")" folder, "2023 5th Amended Methodology Order" folder, "2023 April as Applied Order folder", and "ESPAM Report" folder.

Concurrent with this notice, copies of those documents will be posted to the Department's docket for this proceeding. Pursuant to Rule of Procedure 602, any party may file a written objection "to contest and rebut the facts or material to be officially noticed" on or before June 4, 2023. IDAPA 37.01.01.602.

DATED this 5th day of May 2023.

Gary Spackman
Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 5th day of May 2023, the above and foregoing, was served by the method indicated below, and addressed to the following:

John K. Simpson MARTEN LAW LLP P.O. Box 2139 Boise, ID 83701-2139 jsimpson@martenlaw.com	☒ U.S. Mail, postage prepaid ☒ Email
Travis L. Thompson MARTEN LAW LLP P.O. Box 63 Twin Falls, ID 83303-0063 tthompson@martenlaw.com jnielsen@martenlaw.com	☒ U.S. Mail, postage prepaid ☒ Email
W. Kent Fletcher FLETCHER LAW OFFICE P.O. Box 248 Burley, ID 83318 wkf@pmt.org	☒ U.S. Mail, postage prepaid ☒ Email
Thomas J. Budge Elisheva M. Patterson RACINE OLSON P.O. Box 1391 Pocatello, ID 83204-1391 tj@racineolson.com elisheva@racineolson.com	☒ U.S. Mail, postage prepaid ☒ Email
David W. Gehlert Natural Resources Section Environment and Natural Resources Division U.S. Department of Justice 999 18th St., South Terrace, Suite 370 Denver, CO 80202 david.gehlert@usdoj.gov	☒ U.S. Mail, postage prepaid ☒ Email
Matt Howard US Bureau of Reclamation 1150 N Curtis Road Boise, ID 83706-1234 mhoward@usbr.gov	☒ U.S. Mail, postage prepaid ☒ Email
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BEFORE THE DEPARTMENT OF WATER RESOUCES

OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY OR FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY	Docket No. CM-DC-2010-001 **SURFACE WATER COALITION'S REQUEST FOR HEARING AND STATEMENT OF ISSUES**

COME NOW, A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGAITON DISTRICT, NORTH SIDE CANAL COMPANY, and TWIN FALLS CANAL COMPANY ("Surface Water Coalition" or "Coalition"), by and through counsel of record, and hereby request a hearing in the above-referenced matter pursuant to I.C. § 42-1701A(3) and submit the following list of issues regarding the Director's *Fifth Amended*

Order Regarding Methodology et al. and the *Final Order Regarding April 2023 Forecast Supply* issued on April 21, 2023.

I. *Fifth Methodology Order*

The Coalition requests a hearing on the following issues:

1) Whether 2018 is the proper baseline year for each Coalition member pursuant to the criteria identified in the methodology order;
2) Whether the reasonable carryover amounts identified for each Coalition member are proper pursuant to the criteria identified in the methodology order;
3) Whether current year project efficiency is recalculated for each year after Cropland Data Layer (CDL) data for this year becomes available and prior to this current year's project efficiency being used in the 15-year rolling average;
4) Whether current year project efficiency is recalculated for each year after CDL updates become available and are included in the 15-year rolling average; and
5) Whether the Coalition members can receive assigned mitigation storage water if they do not participate in the Water District 01 rental pool.

II. *April As Applied Order*

The Coalition requests a hearing on the following issue:

1) Whether the order provides that IGWA has an option to comply with the mitigation plan approved in CM-MP-2016-001 to avoid curtailment by complying with the mitigation plan approved in CM-MP-2009-007 instead;

A&B Irrigation District requests a hearing on the following issues:

1) Whether the order's identified proportionate share (458 acre-feet) of the predicted injury (75,200 acre-feet) to TFCC is calculated correctly based upon A&B's actual diversion

and use of water rights that are subject to the identified curtailment date (junior to December 30, 1953); and

2) Whether the steady-state use of the ESPAM 2.2 in identifying A&B's proportionate share is consistent with the transient use of the model in identifying ground water rights subject to curtailment as outlined in the *Fifth Methodology Order*.

DATED this 5th day of May, 2023.

MARTEN LAW LLP

Travis L. Thompson

Attorneys for A&B Irrigation District, Burley Irrigation District, Milner Irrigation District, North Side Canal Company, and Twin Falls Canal Company

FLETCHER LAW OFFICE

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CERTIFICATE OF SERVICE

I hereby certify that on this 5th day of May, 2023, I served a true and correct copy of the foregoing on the following by the method indicated:

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BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY OR FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY	Docket No. CM-DC-2010-001 **ORDER DETERMINING DEFICIENCY IN IGWA'S NOTICE OF SECURED WATER**

BACKGROUND

On April 21, 2023, the Director of the Idaho Department of Water Resources ("Department") issued his *Fifth Amended Final Order Regarding Methodology for Determining Material Injury to Reasonable In-Season Demand and Reasonable Carryover* ("Methodology Order"). The Methodology Order revised the nine steps used to determine material injury to members of the Surface Water Coalition ("SWC").

Step 3 of the Methodology Order states that by May 1, or within fourteen days from issuance of a final order predicting a shortfall, "whichever is later in time, junior ground water users with approved mitigation plans for delivery of water must secure, to the satisfaction of the Director, a volume of water equal to their proportionate share" of any predicted shortfall unless the forecast is revised. *Methodology Order* at 40. Step 3 further states that "[t]he secured water will not be required to be delivered to the injured members of the SWC until the Time of Need." *Id*.

On April 21, 2023, the Director also issued his *Final Order Regarding April 2023 Forecast Supply* ("As-Applied Order") in which the Director determined the predicted shortfall obligation for junior ground water users for 2023. The Director concluded that Twin Falls Canal Company ("TFCC") is the only entity with a predicted shortfall for 2023 and the shortfall value is 75,200 acre-feet. The Director ordered:

> On or before May 5, 2023, ground water users holding consumptive water rights bearing priority dates junior to December 30, 1953, within the Eastern Snake Plain Aquifer area of common ground water supply shall establish, to the satisfaction of the Director, that they can mitigate for their proportionate share of the predicted [demand shortfall] of 75,200 acre-feet in accordance with an approved mitigation plan. If a junior ground water user cannot establish, to the satisfaction of the Director, that they can mitigate for their proportionate share of the predicted [demand shortfall] of 75,200 acre-feet in accordance with an approved mitigation

plan, the Director will issue an order curtailing the junior-priority ground water user.

As-Applied Order at 6.

On May 5, 2023, the Idaho Ground Water Appropriators, Inc. ("IGWA"), acting on behalf of certain water districts[1] (collectively "Districts"), filed with the Department a *Notice of Ground Water District Mitigation* ("Notice of Mitigation"). The Notice explains that "IGWA has three approved mitigation plans." *Notice of Mitigation* at 2. IGWA states the first plan (the "2009 Storage Water Mitigation Plan") "authorizes the Districts to provide mitigation via the delivery of storage water to the SWC." *Id*. IGWA states that the second plan "authorizes the Districts to obtain mitigation credit" for various activities. *Id*. IGWA states the third plan (known as the "2015 Settlement Agreement Mitigation Plan") authorizes the Districts to "obtain mitigation protection by complying with a settlement agreement entered into between the Districts and the SWC in 2015." *Id*. IGWA recognizes that "[u]nder this plan, the Districts are required to conserve 240,000 acre-feet of water and deliver 50,000 acre-feet of storge annually to the SWC . . . ." *Id*.

Since the 2015 Settlement Agreement Mitigation Plan was approved by the Department, IGWA has only mitigated under that plan. This year, IGWA is proposing something new. Certain ground water district members are seeking to mitigate under the 2009 Storage Water Mitigation Plan and other ground water district members are seeking to mitigate under the 2015 Settlement Agreement Mitigation Plan. Instead of relying on one or two mitigation plans for all members, individual ground water districts are seeking to mitigate under different mitigation plans. IGWA states Bingham Ground Water District, Bonneville-Jefferson Ground Water District and Jefferson-Clark Ground Water District will provide mitigation under the 2009 Storage Water Mitigation Plan. *Notice* at 2. IGWA includes the following table to identify what it believes each district's proportionate share of the shortfall is:

District	Proportionate Share
Bingham GWD	13,384
Bonneville-Jefferson GWD	8,469
Jefferson-Clark GWD	6,939
Total	28,792

Id.

IGWA states "Attached hereto as Appendix A are copies of storage water leases totaling 38,714 acre-feet, submitted on behalf of the above-identified Districts." *Id*. at 3.

[1] IGWA's submitted the Notice of Mitigation on behalf of: North Snake Ground Water District, Carey Valley Ground Water District, Magic Valley Ground Water District, Aberdeen-American Falls Ground Water District, Bingham Ground Water District, Bonneville-Jefferson Ground Water District, Jefferson-Clark Ground Water District, Madison Ground Water District, and Henry's Fork Ground Water District. *Notice of Mitigation* at 1.

IGWA includes the following table to identify the districts planning to mitigate under the 2015 Settlement Agreement Mitigation Plan and each district's proportionate shares of the reduction obligation and the storage water obligation:

District	240,000 AF	50,000 AF
Aberdeen-American Falls GWD	39,395	8,705
Carey Valley GWD	821	173
Henry's Fork GWD + Madison GWD	6,299	0
Magic Valley GWD	37,931	8,000
North Snake GWD	29,765	6,410
Total	114,211	23,288

Id.

IGWA states:

> Each District's proportionate share of 240,000 is based on the Director's allocation set forth in the *Amended Final Order Regarding Compliance with Approved Mitigation Plan* issued April 24, 2023, in this matter. Each District's proportionate share of 50,000 is based on the allocation IGWA has utilized since the Settlement Agreement Plan was implemented in 2016.

Id.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Idaho Code § 42-602, addressing the authority of the Director over the supervision of water distribution within water districts, states:

> The director of the department of water resources shall have direction and control of the distribution of water from all natural water sources within a water district to the canals, ditches, pumps and other facilities diverting therefrom. Distribution of water within water districts created pursuant to section 42-604, Idaho Code, shall be accomplished by watermasters as provided in this chapter and supervised by the director. The director of the department of water resources shall distribute water in water districts in accordance with the prior appropriation doctrine. The provisions of chapter 6, title 42, Idaho Code, shall apply only to distribution of water within a water district.

2. The first question that must be answered is whether the ground water districts can mix the mitigation plans in the way they are proposing. IGWA's "hybridization" of mitigation plans presents serious questions about whether mixing of mitigation plans is allowable.

2009 Storage Water Mitigation Plan

3. The 2009 Storage Water Mitigation Plan was submitted to the Department on November 9, 2010. IGWA's Mitigation Plan for the Surface Water Coalition Delivery Call at 7, *In re Idaho Ground Water Appropriators, Inc.'s Mitigation Plan in Response to the Surface Water Coalition's Water Delivery Call*, No. CM-MP-2009-007 (Idaho Dep't of Water Res. Nov. 9, 2009) [hereinafter "2009 Storage Water Mitigation Plan"]. The plan was submitted by IGWA "on behalf of its Ground Water District Members and its other water user members …, for and on behalf of their respective members and those groundwater users who are non-member participants in their mitigation activities…." *2009 Storage Water Mitigation Plan* at 1.

4. The mitigation plan proposes supplying water stored in Snake River reservoirs to the SWC "that will be available on an annual basis for delivery to SWC entities as may be required by the Director's orders." *Id*. at 3. While the plan was submitted for the benefit of IGWA's members and non-member participants, the plan clearly states that IGWA will mitigate for all ground water users, not just its members and non-member participants:

> This Mitigation Plan will mitigate *any and all* material injury by guaranteeing and underwriting the senior water user's water supply. If the Director projects material injury for a senior water user, then the Ground Water Users will provide water for mitigation in accordance with this Mitigation Plan for that mitigation year. . . .This Mitigation Plan will *fully mitigate and compensate* the senior water user for material injury by making water available for direct delivery of replacement water by the Water District 1 Watermaster when necessary during the irrigation season.
> . . . .
>
> [T]he Ground Water Users will supply sufficient water to eliminate the resulting water debt ("excess use") of Twin Falls Canal Company on the books of Water District 1."

Id. at 3–4 (emphasis added).

5. The *Order Approving Mitigation Plan* issued on June 3, 2010, makes clear that any obligation determined will be set based on the amount of shortfall determined through the methodology order process: "IGWA's obligation to provide storage water shall be determined as set forth in the Methodology Order"; "IGWA's obligation for mitigation shall be determined as set forth in the Methodology Order." Order Approving Mitigation Plan at 10, *In re Idaho Ground Water Appropriators, Inc.'s Mitigation Plan in Response to the Surface Water Coalition's Water Delivery Call*, No. CM-MP-2009-007 (Idaho Dep't of Water Res. Nov. 9, 2009).

6. The *Order Approving Mitigation Plan* makes clear that if IGWA does not provide the required storage, all ground water rights are subject to curtailment: "[I]f IGWA does not provide proof of acquisition of storage water and commitment of storage water as set forth above, ground water rights pumping from the Eastern Snake Plain Aquifer will be curtailed according to the Methodology Order to provide water to the SWC." *Id.* at 11.

7. Pursuant to the plain language of the 2009 Storage Water Mitigation Plan and *Order Approving Mitigation Plan*, IGWA cannot pick and choose who gets the benefit of storage water if IGWA is not providing storage water amounts equal to the shortfall obligation. If IGWA submits to the Director adequate contracts to establish it has secured storage water and the amount secured is less than the shortfall obligation, the Director will credit the contracted volume against the overall obligation, thus reducing the overall obligation for all ground water users. This approach is consistent with the plain language of the plan and the order approving the plan.

8. Furthermore, IGWA is required to provide the Director with legally enforceable contracts, options or similar documentation to establish that it has secured the water necessary to meet the carryover obligation. *See* Order on Petition for Judicial Review at 19, *A&B Irrigation Dist. v. Tuthill*, No. CV-2008-551 (Gooding Cnty. Dist. Ct. Idaho July 24, 2009). The Director concludes that IGWA has failed to provide documentation that satisfies this standard. Before the Notice of Mitigation was filed, the two entities listed on the contracts, Bingham Groundwater District and Bonneville-Jefferson Groundwater District, hired independent counsel. See *Notice of Substitution of Counsel for Bingham Ground Water District* at 1 (May 2, 2023) ("Pursuant to this substitution of counsel, Bingham Ground Water District will forthwith be represented independently of IGWA."); *Substitution of Counsel* at 1 (Jan. 4, 2023) ("COMES NOW Skyler C. Johns, of Olsen Taggart PLLC, and hereby substitutes as counsel on behalf of Intervenor, Bonneville-Jefferson Ground Water District.") Because the Notice of Mitigation was filed by counsel for IGWA, it is unclear whether IGWA has the authority to submit the ground water districts contracts to the Director for consideration. Second, even if IGWA had authority to submit the agreements, a review of the Departments records indicate that most of the leases have not been approved by Water District 01 due to a lack of payment of fees. Without payment of the required fees, the Districts have not yet secured the required water.

9. Because IGWA failed to provide appropriate contracts, ground water users are not in compliance with the 2009 Storage Water Mitigation Plan and will not be entitled to curtailment protection under the plan. If IGWA subsequently submits documentation establishing that it has authority to submit contracts on behalf of Bingham and Bonneville-Jefferson Groundwater Districts and pays the required Water District 01 fees, but the amount of water secured is less than the shortfall obligation, then the Director will credit the contracted volume against the overall shortfall obligation, thus reducing the overall obligation for all ground water users.

2015 Settlement Agreement Mitigation Plan

10. In 2015, the SWC and certain members of IGWA[2] entered into the *Settlement Agreement Entered into June 30, 2015 Between Participating Members of the Surface Water*

[2] The following eight ground water districts and one irrigation district are signatories to the SWC-IGWA Agreement: Aberdeen-American Falls Ground Water District, Bingham Ground Water District, Bonneville-Jefferson Ground Water District, Carey Valley Ground Water District, Fremont Madison Irrigation District, Jefferson Clark Ground Water District, Madison Ground Water District, Magic Valley Ground Water District, and North Snake Ground Water District.

Coalition and Participating Members of the Idaho Ground Water Appropriators, Inc. ("SWC-IGWA Agreement").

11. In October of 2015, the SWC and IGWA entered into an *Addendum to Settlement Agreement* ("First Addendum").

12. On March 9, 2016, the SWC and IGWA submitted the *Surface Water Coalition's and IGWA's Stipulated Mitigation Plan and Request for Order* ("Request for Order") to the Director. *In re IGWA's Settlement Agreement Mitigation Plan*, No. CM-MP-2016-001 (Idaho Dept. of Water Res. Mar. 9, 2016). Attached to the Request for Order as Exhibits B, and C were the SWC-IGWA Agreement, the First Addendum. These documents were submitted as a stipulated mitigation plan in response to the SWC's delivery call. *Request for Order* at 3.

13. On May 2, 2016, the Director issued the *Final Order Approving Stipulated Mitigation Plan* ("Order Approving Mitigation Plan"), which approved the parties' mitigation plan subject to conditions. *In re IGWA's Settlement Agreement Mitigation Plan*, No. CM-MP-2016-001 (Idaho Dept. of Water Res.).

14. On December 14, 2016, the SWC and IGWA entered into the *Second Addendum to Settlement Agreement* ("Second Addendum"). *In re IGWA's Settlement Agreement Mitigation Plan*, No. CM-MP-2016-001 (Idaho Dept. of Water Res.). The *Second Addendum* amended the *SWC-IGWA Agreement* by providing additional details concerning the implementation of certain sections, most notably sections 3.a (Consumptive Use Volume Reduction); 3.e (Ground Water Level Goal and Benchmarks), 3.m (Steering Committee), and 4.a. (Adaptive Water Management). *Compare SWC-IGWA Agreement* §§ 3–4, *with Second Addendum* § 2.

15. On February 7, 2017, the SWC and IGWA submitted the *Surface Water Coalition's and IGWA's Stipulated Amended Mitigation Plan and Request for Order* ("Second Request for Order"). *In re IGWA's Settlement Agreement Mitigation Plan*, No. CM-MP-2016-001 (Idaho Dept. of Water Res.). The SWC and IGWA requested that the Director issue an order approving the Second Addendum as an amendment to the mitigation plan. *Second Request for Order* ¶ 6.

16. On May 9, 2017, the Director issued the *Final Order Approving Amendment to Stipulated Mitigation Plan* ("Order Approving Amendment to Mitigation Plan"), approving the Second Addendum as an amendment to the parties' mitigation plan subject to conditions. *Order Approving Amendment to Mitigation Plan* at 5, *In re IGWA's Settlement Agreement Mitigation Plan*, No. CM-MP-2016-001 (Idaho Dept. of Water Res.).

17. In the SWC-IGWA Agreement, the SWC and IGWA members agreed, among other things, that "[t]otal ground water diversion shall be reduced by 240,000 ac-ft annually." *SWC-IGWA Agreement* § 3.a.i. The SWC and IGWA stipulated that "[e]ach Ground Water and Irrigation District with members pumping from the ESPA shall be responsible for reducing their proportionate share of the total annual ground water reduction or in conducting an equivalent private recharge activity." *SWC-IGWA Agreement* § 3.a.ii.

18. The parties also agreed that "IGWA will provide 50,000 ac-ft of storage water though private lease(s) of water from the Upper Snake Reservoir system, delivered to the SWC 21 days after the date of allocation, for the use to the extent needed to meet irrigation requirements." *SWC-IGWA Agreement* § 3.b.i.

19. The SWC and IGWA also stipulated "that the mitigation provided by participating IGWA members under the [2015] Agreements is, provided the [2015] Agreements are implemented, sufficient to mitigate for any material injury caused by the groundwater users who belong to, and are in good standing with, a participating IGWA member." *Request for Order* ¶ 8. The SWC and IGWA agreed "[n]o ground water user participating in this [SWC-IGWA] Agreement will be subject to a delivery call by the SWC members as long as the provisions of the [SWC-IGWA] Agreement are being implemented." *SWC-IGWA Agreement* § 5.

20. In the Notice of Mitigation, the ground water districts wanting to mitigate pursuant to the 2015 Settlement Agreement Mitigation Plan have proportionately determined their individual obligations for both reduction obligations and storage obligations. While the 2015 Settlement Agreement Mitigation Plan allows for determining the proportionate share of the reduction obligation of the parties, it does not authorize the 50,000 acre-foot storage volume to be shared proportionately by the parties. To be in compliance with the plan, the entire 50,000 acre-feet must be provided.

21. Moreover, in response to a breach of the mitigation plan in 2021, the Director approved a one-year settlement agreement to remedy the 2021 breach. *Amended Final Order Regarding Compliance with Approved Mitigation Plan* at 20, *In re IGWA's Settlement Agreement Mitigation Plan*, No. CM-MP-2016-001 (Idaho Dept. of Water Res. Apr. 24, 2023). In the settlement agreement, the parties agreed that "IGWA will collectively provide to the SWC an additional 30,000 acre-feet of storage water in 2023 and an additional 15,000 acre-feet of storage water in 2024 within 10 days after the Date of Allocation of such year. Such amounts will be in addition to the long-term obligations set forth in section 3 of the Settlement Agreement and approved Mitigation Plan." *Settlement Agreement* at 2. While we are not yet to the day of allocation, the Director wants to ensure that it is clear to the parties that, as with the 50,000 acre-foot obligation, this additional amount of storage water is not subject to proportional sharing.

ORDER

Based upon and consistent with the foregoing, IT IS HEREBY ORDERED that IGWA's *Notice of Ground Water District Mitigation* is deficient and fails to demonstrate that IGWA is operating in accordance with an approved mitigation plan. If the Director issues an order of curtailment after the June 6–10, 2023 hearing, IGWA's members and non-member participants will not be entitled to curtailment protection under either the 2009 Storage Water Mitigation Plan or 2015 Settlement Agreement Mitigation Plan.

Dated this 23rd day of May 2023.

GARY SPACKMAN
Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 23rd day of May 2023, the above and foregoing, was served by the method indicated below, and addressed to the following:

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Corey Skinner IDWR—Southern Region 1341 Fillmore St., Ste. 200 Twin Falls, ID 83301-3033 corey.skinner@idwr.idaho.gov	☒ Email
COURTESY COPY TO: William A. Parsons PARSONS SMITH & STONE P.O. Box 910 Burley, ID 83318 wparsons@pmt.org	☒ Email

Sarah Tschohl
Paralegal

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY OR FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY	Docket No. CM-DC-2010-001 **ORDER GRANTING REQUESTS FOR HEARING**

BACKGROUND

On April 21, 2023, the Director of the Idaho Department of Water Resources ("Department") issued his *Fifth Amended Final Order Regarding Methodology for Determining Material Injury to Reasonable In-Season Demand and Reasonable Carryover* ("Methodology Order") as well as his *Final Order Regarding April 2023 Forecast Supply* ("As-Applied Order"). The Methodology Order revises the nine steps used to determine material injury to members of the Surface Water Coalition ("SWC"). The As-Applied Order predicts a shortfall for the 2023 irrigation season, which will result in mitigation requirements or curtailment for ground water rights with priority dates junior to December 30, 1953.

Anticipating that one or more parties would request a hearing in response to one or both of the orders, the Director also issued a *Notice of Hearing, Notice of Prehearing Conference, and Order Authorizing Discovery* ("Notice of Hearing") on April 21, 2023. The Notice of Hearing set the hearing for the Methodology Order and As-Applied Order for June 6–10, 2023, at the Department's State Office, located at 322 E. Front Street, 6th Floor, Conference Rooms 602A–D, Boise, Idaho.

On April 28, 2023, the Department received the following filings:

- *The Coalition of Cities' Request for Hearing*; [1]
- *McCain Foods USA, Inc.'s Request for Hearing and Objection*;
- *The Coalition of Cities' Amended Request for Hearing*; and
- *Pocatello's Request for Hearing*.

On May 2, 2023, the Department received *IGWA's Petition for Reconsideration and Request for Hearing*.[2]

[1] For purposes of the request for hearing, the "Coalition of Cities" refers to the Idaho cities of Bliss, Burley, Carey, Declo, Dietrich, Gooding, Hazelton, Heyburn, Jerome, Paul, Richfield, Rupert, Shoshone, and Wendell.

[2] For purposes of the request for hearing, ("IGWA") refers to the following ground water districts: North Snake Ground Water District, Magic Valley Ground Water District, Carey Valley Ground Water District, Aberdeen-

On May 4, 2023, the Department received the following filings:

- *Amalgamated Sugar Company's Request for Hearing, Objection, Identification of Issues and Notice of Mitigation*;
- *City of Idaho Falls Challenge and Request for Hearing*;
- *Bonneville-Jefferson Ground Water District's Request for Hearing*; and
- *Bingham Ground Water District's Request for Hearing*.

On May 5, 2023, the Department received the *Surface Water Coalition's Request for Hearing and Statement of Issues*.

ANALYSIS AND CONCLUSIONS OF LAW

Idaho Code § 42-1701A(3) provides in relevant part:

> Unless the right to a hearing before the director . . . is otherwise provided in by statute, any person aggrieved by any action of the director, including any decision, determination, order or other action . . . who is aggrieved by the action of the director, and who has not previously been afforded an opportunity for a hearing on the matter shall be entitled to a hearing before the director to contest the action.

The parties have not previously been afforded an opportunity for hearing on the Methodology Order or the As-Applied Order and are entitled to a hearing pursuant to Idaho Code § 42-1701A(3). As described above, the Director has already set a hearing on the Methodology Order and the As-Applied Order for June 6–10, 2023. To resolve any question regarding the status of the pending requests for hearing, the Director will grant the requests and will hold the hearing as previously set in the Notice of Hearing.

ORDER

IT IS HEREBY ORDERED that the parties' requests for hearing are GRANTED. The hearing will be held as previously noticed in the *Notice of Hearing, Notice of Prehearing Conference, and Order Authorizing Discovery*: June 6–10, 2023, at the Department's State Office, located at 322 E. Front Street, 6th Floor, Conference Rooms 602A–D, Boise, Idaho.

DATED this 23rd day of May 2023.

GARY SPACKMAN
Director

American Falls Area Ground Water District, Jefferson-Clark Ground Water District, Madison Ground Water District, and Henry's Fork Ground Water District.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 23rd day of May 2023, the above and foregoing, was served by the method indicated below, and addressed to the following:

John K. Simpson MARTEN LAW LLP P.O. Box 2139 Boise, ID 83701-2139 jsimpson@martenlaw.com	☒ U.S. Mail, postage prepaid ☒ Email
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W. Kent Fletcher FLETCHER LAW OFFICE P.O. Box 248 Burley, ID 83318 wkf@pmt.org	☒ U.S. Mail, postage prepaid ☒ Email
Thomas J. Budge Elisheva M. Patterson RACINE OLSON P.O. Box 1391 Pocatello, ID 83204-1391 tj@racineolson.com elisheva@racineolson.com	☐ U.S. Mail, postage prepaid ☒ Email
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COURTESY COPY TO: William A. Parsons PARSONS SMITH & STONE P.O. Box 910 Burley, ID 83318 wparsons@pmt.org	☒ Email

Sarah Tschohl
Paralegal

RECEIVED
Jun 01, 2023
DEPARTMENT OF
WATER RESOURCES

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Attorneys for Idaho Ground Water Appropriators, Inc. (IGWA)

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

IN THE MATTER OF DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY OR FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY	Docket No. CM-DC-2010-001 **IGWA's Amended Notice of Mitigation**

Idaho Ground Water Appropriators, Inc. ("IGWA"), acting on behalf of North Snake Ground Water District, Carey Valley Ground Water District, Magic Valley Ground Water District, Aberdeen-American Falls Ground Water District, Jefferson-Clark Ground Water District, Madison Ground Water District, Henry's Fork Ground Water District, Bonneville-Jefferson Ground Water District, and Bingham Ground Water District (collectively, the "Districts"), through their respective counsel, hereby provides notice that the Districts can mitigate for their proportionate share of the demand shortfall predicted in the *Final Order Regarding April Forecast Supply (Methodology Steps 1-3)* ("*April 2023 As-Applied Order*") issued April 21, 2023, in this matter.

Background

The *April 2023 As-Applied Order* applies steps 1-3 of the Fifth Amended Final Order Regarding Methodology for Determining Material Injury to Reasonable In-Season Demand and Reasonable Carryover. It predicts that the Surface Water Coalition ("SWC") will experience an in-season demand shortfall of 75,200 acre-feet in the absence of mitigation by junior-priority groundwater users. The order states: "On or before May 5, 2023, ground water users holding consumptive water

rights bearing priority dates junior to December 30, 1953, within the Eastern Snake Plain Aquifer area of common ground water supply shall establish, to the satisfaction of the Director, that they can mitigate for their proportionate share of the predicted DS of 75,200 acre-feet in accordance with an approved mitigation plan." (*April 2023 As-Applied Order*, p. 6.) "IGWA's proportionate share of the predicted DS of 75,200 acre-feet is 63,645 acre-feet." *Id*. at 5, fn 5.

IGWA has three approved mitigation plans. Its "Storage Water Plan" authorizes its member ground water districts to provide mitigation via the delivery of storage water to the SWC. (Order Approving Mitigation Plan, *In the Matter of the Idaho Ground Water Appropriators, Inc.'s Mitigation Plan in Response to the Surface Water Coalition's Water Delivery Call*, IDWR Docket No. CM-MP-2009-007, June 3, 2010, p. 10.) Under this plan, "IGWA must provide proof of rental or an option to rent storage water and of a commitment of the storage water to the SWC within the deadlines provided by the Methodology Order and any order of the Director implementing the Methodology Order for a given year." *Id*.

IGWA's "Aquifer Enhancement Plan" authorizes its member ground water districts to obtain mitigation credit for reach gains that accrue to the SWC as a result of (a) conversions of farmland from groundwater to surface water irrigation; (b) fallowing of groundwater-irrigated acres through the Conservation Reserve Enhancement Program (CREP), Agricultural Water Enhancement Program (AWEP), or other voluntary program; and (c) groundwater recharge." (Order Approving Mitigation Plan, *In the Matter of the Idaho Ground Water Appropriators, Inc.'s Mitigation Plan for Conversions, Dry-Ups, and Recharge*, IDWR Docket No. CM-MP-2009-006, May 14, 2010, p. 1.) Under this plan, "[i]f mitigation credit is sought by IGWA, the Director shall determine the appropriate credit, if any, to provide." *Id*. at 2.

IGWA's "Settlement Agreement Plan" authorizes its member ground water districts to obtain mitigation protection by complying with a settlement agreement entered into between them and the SWC in 2015. (Final Order Approving Stipulated Mitigation Plan, *In the Matter of IGWA's Settlement Agreement Mitigation Plan*, IDWR Docket No. CM-MP-2016-001, May 2, 2016; Final Order Approving Amendment to Stipulated Mitigation Plan, *In the Matter of IGWA's Settlement Agreement Mitigation Plan*, IDWR Docket No. CM-MP-2016-001, May 9, 2017.) Under this plan, each district is required to conserve its proportionate share of 240,000 acre-feet of groundwater and collectively deliver 50,000 acre-feet of storage annually to the SWC as set forth in the *Amended Final Order Regarding Compliance with Approved Plan* issued April 24, 2023.

On May 5, 2023, IGWA filed a *Notice of Ground Water District Mitigation* stating that some of its member ground water districts would mitigate under IGWA's Storage Water Plan and others would mitigate under IGWA's Settlement Agreement Plan, in accordance with their respective proportionate mitigation obligations under each plan. On May 23, 2023, the Director issued an *Order Determining Deficiency in IGWA's Notice of Secured Water* which ruled that IGWA is not allowed to apportion mitigation obligations under the Storage Water Plan or the Settlement Agreement Plan based on each ground water district's proportionate share. In effect, the order requires ground water districts to mitigate under one plan only. Based on the May 23 order, IGWA files this amended notice of mitigation.

Notice of Mitigation

IGWA will mitigate under the Storage Water Plan in 2023. The *April 2023 As-Applied Order* states that IGWA's share of the total predicted demand shortfall of 75,200 acre-feet is 63,645 acre-feet. (*April 2023 As-Applied Order*, p. 5, fn 5.) Attached hereto as Appendix A are copies of storage lease contracts secured by IGWA's member ground water districts totaling 77,714 acre-feet.

The *Order Determining Deficiency in IGWA's Notice of Secured Water* orders, for the first time, that the Districts not only provide contracts showing the water they have secured, but that they pay the Water District 1 fees in addition. The Districts object to this because the order approving the Storage Water Plan does not require IGWA to pay the Water District 1 fees before the date that storage water is committed to the SWC. (Order Approving Mitigation Plan, *In the Matter of Idaho Ground Water Appropriators, Inc.'s Mitigation Plan In Response To The Surface Water Coalition's Water Delivery Call*, IDWR Docket No. CM-MP-2009-007, June 3, 2010.) To the contrary, the order allows IGWA to "provide proof of rental or an option to rent storage water," and that "proof of rental or an option to rent storage water shall consist of fully executed and irrevocable contracts with holders of Snake River storage." By the nature of option contracts, fees due to Water District 1 cannot be paid until the option is exercised. It is also significant that IGWA has never failed to pay the Water District 1 fees due under any storage contract for mitigation water delivered to the SWC.

Without waiving IGWA's objection to the prepayment of Water District 1 fees, IGWA's member districts have gone ahead and paid the Water District 1 fees for 2023. IGWA reserves the right to secure storage water in future years and pay Water District 1 fees at the time such storage is transferred to the SWC.

Dated this 1st day of June, 2023.

RACINE OLSON, PLLP

By:_____
Thomas J. Budge
Attorneys for IGWA

OLSEN & TAGGART PLLC

By:_____
Signed for: Skyler C. Johns
Attorneys for Bonneville-Jefferson Ground Water District

DYLAN ANDERSON LAW

By:_____
Signed for: Dylan Anderson
Attorney for Bingham Ground Water District

APPENDIX A

Storage Leases

WATER DISTRICT #1 RENTAL POOL - PRIVATE LEASE AGREEMENT

Idaho Irrigation District (lessor) agrees to lease 6,678 acre-feet of storage to Bingham Ground Water District (lessee) for the 2023 irrigation season at a price of $[redacted] according to the rules and regulations contained in the Water District #1 Rental Pool Procedures.

Description of Lease:

Name of River or Stream from which lease is diverted: Snake River

Canal or Pump Name and location: TBD

Place of Use description: TBD

Water Right Appurtenant to Lands: TBD

An Idaho Water Resources Board surcharge (10% of the purchase price) plus a $1.30 per acre-foot administrative fee must be received by Water District #1 prior to the approval of the storage lease).

If the reservoir storage system fails to fill in the season following the year leased, the lessor's storage allocation shall be reduced by the amount leased to offset any impacts to other spaceholders' storage accruals according to the approved Water District #1 Rental Pool Procedures pursuant to Idaho Code Section 42-1765. The lessor understands the net effect of this rule is to make an amount of the lessor's space (equal to the amount leased) last-to-fill in the reservoir system for the irrigation season following the lease.

☐ If the lease is for irrigation purposes, the Applicant, by checking this box, certifies that the use of this leased storage water complies with the moratorium on new consumptive uses as outlined in Rental Pool Procedure 3.4. Failure to meet the conditions contained in Rental Pool Procedure 3.4 may be grounds for denying the application.

If the leased storage is diverted by a diversion outside the area regulated by Water District #1, the applicant, by signing this agreement agrees to report to the Watermaster of the water district containing the diversion, the daily amounts of leased storage diverted during the year. The Watermaster of that district, according to Rental Pool Procedure 4.3.108, must then report to the Water District #1 Watermaster the daily rental diverted by November 30th. Failure to report the daily rental diversion may result in the rental not being delivered in Water District #1's final rental delivery records.

Lessor Signature | Date | Title, Canal Company

5-1-23 | Idaho Irrigation District

Lessee Signature | 5/5/23 | Date | BGWD | Canal Company or Diversion Name

==========

(official use only)

Date Lease Accepted by Watermaster: _____

Watermaster Signature: _____

WATER DISTRICT #1 RENTAL POOL - PRIVATE LEASE AGREEMENT

Snake River Valley Irrigation District (lessor) agrees to lease 5,009 acre-feet of storage to Bingham Ground Water District (lessee) for the 2023 irrigation season at a price of $[redacted] according to the rules and regulations contained in the Water District #1 Rental Pool Procedures.

Description of Lease:

Name of River or Stream from which lease is diverted: Snake River

Canal or Pump Name and location: TBD

Place of Use description: TBD

Water Right Appurtenant to Lands: TBD

An Idaho Water Resources Board surcharge (10% of the purchase price) plus a $1.30 per acre-foot administrative fee must be received by Water District #1 prior to the approval of the storage lease).

If the reservoir storage system fails to fill in the season following the year leased, the lessor's storage allocation shall be reduced by the amount leased to offset any impacts to other spaceholders' storage accruals according to the approved Water District #1 Rental Pool Procedures pursuant to Idaho Code Section 42-1765. The lessor understands the net effect of this rule is to make an amount of the lessor's space (equal to the amount leased) last-to-fill in the reservoir system for the irrigation season following the lease.

☐ If the lease is for irrigation purposes, the Applicant, by checking this box, certifies that the use of this leased storage water complies with the moratorium on new consumptive uses as outlined in Rental Pool Procedure 3.4. Failure to meet the conditions contained in Rental Pool Procedure 3.4 may be grounds for denying the application.

If the leased storage is diverted by a diversion outside the area regulated by Water District #1, the applicant, by signing this agreement agrees to report to the Watermaster of the water district containing the diversion, the daily amounts of leased storage diverted during the year. The Watermaster of that district, according to Rental Pool Procedure 4.3.108, must then report to the Water District #1 Watermaster the daily rental diverted by November 30th. Failure to report the daily rental diversion may result in the rental not being delivered in Water District #1's final rental delivery records.

Lessor Signature	Date	Title, Canal Company
	5-1-23	Manager SRVID

Lessee Signature	Date	Canal Company or Diversion Name
	5-1-23	BGWD Manager

==========

(official use only)

Date Lease Accepted by Watermaster: _____

Watermaster Signature: _____

WATER DISTRICT #1 RENTAL POOL - PRIVATE LEASE AGREEMENT

New Sweden Irrigation District (lessor) agrees to lease 5,009 acre-feet of storage to Bingham Ground Water District (lessee) for the 2023 irrigation season at a price of $[redacted] according to the rules and regulations contained in the Water District #1 Rental Pool Procedures.

Description of Lease:

Name of River or Stream from which lease is diverted: Snake River

Canal or Pump Name and location: TBD

Place of Use description: TBD

Water Right Appurtenant to Lands: TBD

An Idaho Water Resources Board surcharge (10% of the purchase price) plus a $1.30 per acre-foot administrative fee must be received by Water District #1 prior to the approval of the storage lease).

If the reservoir storage system fails to fill in the season following the year leased, the lessor's storage allocation shall be reduced by the amount leased to offset any impacts to other spaceholders' storage accruals according to the approved Water District #1 Rental Pool Procedures pursuant to Idaho Code Section 42-1765. The lessor understands the net effect of this rule is to make an amount of the lessor's space (equal to the amount leased) last-to-fill in the reservoir system for the irrigation season following the lease.

☐ If the lease is for irrigation purposes, the Applicant, by checking this box, certifies that the use of this leased storage water complies with the moratorium on new consumptive uses as outlined in Rental Pool Procedure 3.4. Failure to meet the conditions contained in Rental Pool Procedure 3.4 may be grounds for denying the application.

If the leased storage is diverted by a diversion outside the area regulated by Water District #1, the applicant, by signing this agreement agrees to report to the Watermaster of the water district containing the diversion, the daily amounts of leased storage diverted during the year. The Watermaster of that district, according to Rental Pool Procedure 4.3.108, must then report to the Water District #1 Watermaster the daily rental diverted by November 30th. Failure to report the daily rental diversion may result in the rental not being delivered in Water District #1's final rental delivery records.

Kent Boyd 5-1-23 MANAGER NSID

Lessor Signature Date Title, Canal Company

[signature] 5/5/23 BGWD

Lessee Signature Date Canal Company or Diversion Name

==========

(official use only)

Date Lease Accepted by Watermaster: _____

Watermaster Signature: _____

WATER DISTRICT #1 RENTAL POOL - PRIVATE LEASE AGREEMENT

Enterprize Canal Company (lessor) agrees to lease 1,670 acre-feet of storage to Bingham Ground Water District (lessee) for the 2023 irrigation season at a price of $[redacted] according to the rules and regulations contained in the Water District #1 Rental Pool Procedures.

Description of Lease:

Name of River or Stream from which lease is diverted: Snake River

Canal or Pump Name and location: TBD

Place of Use description: TBD

Water Right Appurtenant to Lands: TBD

An Idaho Water Resources Board surcharge (10% of the purchase price) plus a $1.30 per acre-foot administrative fee must be received by Water District #1 prior to the approval of the storage lease).

If the reservoir storage system fails to fill in the season following the year leased, the lessor's storage allocation shall be reduced by the amount leased to offset any impacts to other spaceholders' storage accruals according to the approved Water District #1 Rental Pool Procedures pursuant to Idaho Code Section 42-1765. The lessor understands the net effect of this rule is to make an amount of the lessor's space (equal to the amount leased) last-to-fill in the reservoir system for the irrigation season following the lease.

☐ If the lease is for irrigation purposes, the Applicant, by checking this box, certifies that the use of this leased storage water complies with the moratorium on new consumptive uses as outlined in Rental Pool Procedure 3.4. Failure to meet the conditions contained in Rental Pool Procedure 3.4 may be grounds for denying the application.

If the leased storage is diverted by a diversion outside the area regulated by Water District #1, the applicant, by signing this agreement agrees to report to the Watermaster of the water district containing the diversion, the daily amounts of leased storage diverted during the year. The Watermaster of that district, according to Rental Pool Procedure 4.3.108, must then report to the Water District #1 Watermaster the daily rental diverted by November 30th. Failure to report the daily rental diversion may result in the rental not being delivered in Water District #1's final rental delivery records.

Lesso ignature

Title C na Comp ny

5/3/23

Lessee Signature Date

Canal Company or Diversion Name

5/5/23 BGWD

==========

(official use only)

Date Lease Accepted by Watermaster: _____

Watermaster Signature: _____

WATER DISTRICT #1 RENTAL POOL - PRIVATE LEASE AGREEMENT

Sunnydell Irrigation District (lessor) agrees to lease 334 acre-feet of storage to Bingham Ground Water District (lessee) for the 2023 irrigation season at a price of $[redacted] according to the rules and regulations contained in the Water District #1 Rental Pool Procedures.

Description of Lease:

Name of River or Stream from which lease is diverted: Snake River

Canal or Pump Name and location: TBD

Place of Use description: TBD

Water Right Appurtenant to Lands: TBD

An Idaho Water Resources Board surcharge (10% of the purchase price) plus a $1.30 per acre-foot administrative fee must be received by Water District #1 prior to the approval of the storage lease).

If the reservoir storage system fails to fill in the season following the year leased, the lessor's storage allocation shall be reduced by the amount leased to offset any impacts to other spaceholders' storage accruals according to the approved Water District #1 Rental Pool Procedures pursuant to Idaho Code Section 42-1765. The lessor understands the net effect of this rule is to make an amount of the lessor's space (equal to the amount leased) last-to-fill in the reservoir system for the irrigation season following the lease.

☐ If the lease is for irrigation purposes, the Applicant, by checking this box, certifies that the use of this leased storage water complies with the moratorium on new consumptive uses as outlined in Rental Pool Procedure 3.4. Failure to meet the conditions contained in Rental Pool Procedure 3.4 may be grounds for denying the application.

If the leased storage is diverted by a diversion outside the area regulated by Water District #1, the applicant, by signing this agreement agrees to report to the Watermaster of the water district containing the diversion, the daily amounts of leased storage diverted during the year. The Watermaster of that district, according to Rental Pool Procedure 4.3.108, must then report to the Water District #1 Watermaster the daily rental diverted by November 30th. Failure to report the daily rental diversion may result in the rental not being delivered in Water District #1's final rental delivery records.

Lessor Signature	Date	Title, Canal Compan
Lessee Signature	Date	Canal Company or Diversion Name

V.P Summydell canal

5/5/23

BGWD

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(official use only)

Date Lease Accepted by Watermaster: _____

Watermaster Signature: _____

WATER DISTRICT #1 RENTAL POOL - PRIVATE LEASE AGREEMENT

Aberdeen-Springfield Canal Co (lessor) agrees to lease 3,500 acre-feet of storage to Bingham Ground Water District (lessee) for the 2023 irrigation season at a price of $[redacted] according to the rules and regulations contained in the Water District #1 Rental Pool Procedures.

Description of Lease:

Name of River or Stream from which lease is diverted: Snake River

Canal or Pump Name and location: TBD

Place of Use description: TBD

Water Right Appurtenant to Lands: TBD

An Idaho Water Resources Board surcharge (10% of the purchase price) plus a $1.30 per acre-foot administrative fee must be received by Water District #1 prior to the approval of the storage lease).

If the reservoir storage system fails to fill in the season following the year leased, the lessor's storage allocation shall be reduced by the amount leased to offset any impacts to other spaceholders' storage accruals according to the approved Water District #1 Rental Pool Procedures pursuant to Idaho Code Section 42-1765. The lessor understands the net effect of this rule is to make an amount of the lessor's space (equal to the amount leased) last-to-fill in the reservoir system for the irrigation season following the lease.

☐ If the lease is for irrigation purposes, the Applicant, by checking this box, certifies that the use of this leased storage water complies with the moratorium on new consumptive uses as outlined in Rental Pool Procedure 3.4. Failure to meet the conditions contained in Rental Pool Procedure 3.4 may be grounds for denying the application.

If the leased storage is diverted by a diversion outside the area regulated by Water District #1, the applicant, by signing this agreement agrees to report to the Watermaster of the water district containing the diversion, the daily amounts of leased storage diverted during the year. The Watermaster of that district, according to Rental Pool Procedure 4.3.108, must then report to the Water District #1 Watermaster the daily rental diverted by November 30th. Failure to report the daily rental diversion may result in the rental not being delivered in Water District #1's final rental delivery records.

Lessor Signature	Date	Title, Canal Company
Lessee Signature	Date	Canal Company or Diversion Name

5/5/23 General Manager

5/5/23 BGWD

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(official use only)

Date Lease Accepted by Watermaster: _____

Watermaster Signature: _____

WATER DISTRICT #1 RENTAL POOL - PRIVATE LEASE AGREEMENT

Blackfoot Irrigation Company (lessor) agrees to lease 500 acre-feet of storage to Bingham Ground Water District (lessee) for the 2023 irrigation season at a price of $[redacted] according to the rules and regulations contained in the Water District #1 Rental Pool Procedures.

Description of Lease:

Name of River or Stream from which lease is diverted: Snake River

Canal or Pump Name and location: TBD

Place of Use description: TBD

Water Right Appurtenant to Lands: TBD

An Idaho Water Resources Board surcharge (10% of the purchase price) plus a $1.30 per acre-foot administrative fee must be received by Water District #1 prior to the approval of the storage lease).

If the reservoir storage system fails to fill in the season following the year leased, the lessor's storage allocation shall be reduced by the amount leased to offset any impacts to other spaceholders' storage accruals according to the approved Water District #1 Rental Pool Procedures pursuant to Idaho Code Section 42-1765. The lessor understands the net effect of this rule is to make an amount of the lessor's space (equal to the amount leased) last-to-fill in the reservoir system for the irrigation season following the lease.

☐ If the lease is for irrigation purposes, the Applicant, by checking this box, certifies that the use of this leased storage water complies with the moratorium on new consumptive uses as outlined in Rental Pool Procedure 3.4. Failure to meet the conditions contained in Rental Pool Procedure 3.4 may be grounds for denying the application.

If the leased storage is diverted by a diversion outside the area regulated by Water District #1, the applicant, by signing this agreement agrees to report to the Watermaster of the water district containing the diversion, the daily amounts of leased storage diverted during the year. The Watermaster of that district, according to Rental Pool Procedure 4.3.108, must then report to the Water District #1 Watermaster the daily rental diverted by November 30th. Failure to report the daily rental diversion may result in the rental not being delivered in Water District #1's final rental delivery records.

Lessor Signature Date

Title, Canal Company

Lessee Signature 5/5/23 Date

BGWD

Canal Company or Diversion Name

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(official use only)

Date Lease Accepted by Watermaster: _____

Watermaster Signature: _____

WATER DISTRICT #1 RENTAL POOL - PRIVATE LEASE AGREEMENT

Corbett Slough Ditch Company (lessor) agrees to lease 750 acre-feet of storage to Bingham Ground Water District (lessee) for the 2023 irrigation season at a price of $[redacted] according to the rules and regulations contained in the Water District #1 Rental Pool Procedures.

Description of Lease:

Name of River or Stream from which lease is diverted: Snake River

Canal or Pump Name and location: TBD

Place of Use description: TBD

Water Right Appurtenant to Lands: TBD

An Idaho Water Resources Board surcharge (10% of the purchase price) plus a $1.30 per acre-foot administrative fee must be received by Water District #1 prior to the approval of the storage lease).

If the reservoir storage system fails to fill in the season following the year leased, the lessor's storage allocation shall be reduced by the amount leased to offset any impacts to other spaceholders' storage accruals according to the approved Water District #1 Rental Pool Procedures pursuant to Idaho Code Section 42-1765. The lessor understands the net effect of this rule is to make an amount of the lessor's space (equal to the amount leased) last-to-fill in the reservoir system for the irrigation season following the lease.

☐ If the lease is for irrigation purposes, the Applicant, by checking this box, certifies that the use of this leased storage water complies with the moratorium on new consumptive uses as outlined in Rental Pool Procedure 3.4. Failure to meet the conditions contained in Rental Pool Procedure 3.4 may be grounds for denying the application.

If the leased storage is diverted by a diversion outside the area regulated by Water District #1, the applicant, by signing this agreement agrees to report to the Watermaster of the water district containing the diversion, the daily amounts of leased storage diverted during the year. The Watermaster of that district, according to Rental Pool Procedure 4.3.108, must then report to the Water District #1 Watermaster the daily rental diverted by November 30th. Failure to report the daily rental diversion may result in the rental not being delivered in Water District #1's final rental delivery records.

Lessor Signature	Date	Title, Canal Company
Lessee Signature	Date	Canal Company or Diversion Name

5-5-2023 Corbett VP

5/5/23 BGWD

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(official use only)

Date Lease Accepted by Watermaster: _____

Watermaster Signature: _____

WATER DISTRICT #1 RENTAL POOL - PRIVATE LEASE AGREEMENT

Parsons Ditch Company (lessor) agrees to lease 100 acre-feet of storage to Bingham Ground Water District (lessee) for the 2023 irrigation season at a price of $[redacted] according to the rules and regulations contained in the Water District #1 Rental Pool Procedures.

Description of Lease:

Name of River or Stream from which lease is diverted: Snake River

Canal or Pump Name and location: TBD

Place of Use description: TBD

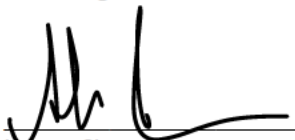
Water Right Appurtenant to Lands: TBD

An Idaho Water Resources Board surcharge (10% of the purchase price) plus a $1.30 per acre-foot administrative fee must be received by Water District #1 prior to the approval of the storage lease).

If the reservoir storage system fails to fill in the season following the year leased, the lessor's storage allocation shall be reduced by the amount leased to offset any impacts to other spaceholders' storage accruals according to the approved Water District #1 Rental Pool Procedures pursuant to Idaho Code Section 42-1765. The lessor understands the net effect of this rule is to make an amount of the lessor's space (equal to the amount leased) last-to-fill in the reservoir system for the irrigation season following the lease.

☐ If the lease is for irrigation purposes, the Applicant, by checking this box, certifies that the use of this leased storage water complies with the moratorium on new consumptive uses as outlined in Rental Pool Procedure 3.4. Failure to meet the conditions contained in Rental Pool Procedure 3.4 may be grounds for denying the application.

If the leased storage is diverted by a diversion outside the area regulated by Water District #1, the applicant, by signing this agreement agrees to report to the Watermaster of the water district containing the diversion, the daily amounts of leased storage diverted during the year. The Watermaster of that district, according to Rental Pool Procedure 4.3.108, must then report to the Water District #1 Watermaster the daily rental diverted by November 30th. Failure to report the daily rental diversion may result in the rental not being delivered in Water District #1's final rental delivery records.

Lessor Signature	Date	Title, Canal Company
	5/5/23	BGWD
Lessee Signature	Date	Canal Company or Diversion Name

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WATER DISTRICT #1 RENTAL POOL - PRIVATE LEASE AGREEMENT

Peoples Canal & Irrigation Co (lessor) agrees to lease 2,514 acre-feet of storage to Bingham Ground Water District (lessee) for the 2023 irrigation season at a price of $[redacted] according to the rules and regulations contained in the Water District #1 Rental Pool Procedures.

Description of Lease:

Name of River or Stream from which lease is diverted: Snake River

Canal or Pump Name and location: TBD

Place of Use description: TBD

Water Right Appurtenant to Lands: TBD

An Idaho Water Resources Board surcharge (10% of the purchase price) plus a $1.30 per acre-foot administrative fee must be received by Water District #1 prior to the approval of the storage lease).

If the reservoir storage system fails to fill in the season following the year leased, the lessor's storage allocation shall be reduced by the amount leased to offset any impacts to other spaceholders' storage accruals according to the approved Water District #1 Rental Pool Procedures pursuant to Idaho Code Section 42-1765. The lessor understands the net effect of this rule is to make an amount of the lessor's space (equal to the amount leased) last-to-fill in the reservoir system for the irrigation season following the lease.

☐ If the lease is for irrigation purposes, the Applicant, by checking this box, certifies that the use of this leased storage water complies with the moratorium on new consumptive uses as outlined in Rental Pool Procedure 3.4. Failure to meet the conditions contained in Rental Pool Procedure 3.4 may be grounds for denying the application.

If the leased storage is diverted by a diversion outside the area regulated by Water District #1, the applicant, by signing this agreement agrees to report to the Watermaster of the water district containing the diversion, the daily amounts of leased storage diverted during the year. The Watermaster of that district, according to Rental Pool Procedure 4.3.108, must then report to the Water District #1 Watermaster the daily rental diverted by November 30th. Failure to report the daily rental diversion may result in the rental not being delivered in Water District #1's final rental delivery records.

Lessor Signature	Date	Title, Canal Company	
Lessee Signature	5/5/23 Date	BGWD Canal Company or Diversion Name	

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(official use only)

Date Lease Accepted by Watermaster: _____

Watermaster Signature: _____

WATER DISTRICT #1 RENTAL POOL - PRIVATE LEASE AGREEMENT

Riverside Canal Company (lessor) agrees to lease 50 acre-feet of storage to Bingham Ground Water District (lessee) for the 2023 irrigation season at a price of $[redacted] according to the rules and regulations contained in the Water District #1 Rental Pool Procedures.

Description of Lease:

Name of River or Stream from which lease is diverted: Snake River

Canal or Pump Name and location: TBD

Place of Use description: TBD

Water Right Appurtenant to Lands: TBD

An Idaho Water Resources Board surcharge (10% of the purchase price) plus a $1.30 per acre-foot administrative fee must be received by Water District #1 prior to the approval of the storage lease).

If the reservoir storage system fails to fill in the season following the year leased, the lessor's storage allocation shall be reduced by the amount leased to offset any impacts to other spaceholders' storage accruals according to the approved Water District #1 Rental Pool Procedures pursuant to Idaho Code Section 42-1765. The lessor understands the net effect of this rule is to make an amount of the lessor's space (equal to the amount leased) last-to-fill in the reservoir system for the irrigation season following the lease.

☐ If the lease is for irrigation purposes, the Applicant, by checking this box, certifies that the use of this leased storage water complies with the moratorium on new consumptive uses as outlined in Rental Pool Procedure 3.4. Failure to meet the conditions contained in Rental Pool Procedure 3.4 may be grounds for denying the application.

If the leased storage is diverted by a diversion outside the area regulated by Water District #1, the applicant, by signing this agreement agrees to report to the Watermaster of the water district containing the diversion, the daily amounts of leased storage diverted during the year. The Watermaster of that district, according to Rental Pool Procedure 4.3.108, must then report to the Water District #1 Watermaster the daily rental diverted by November 30th. Failure to report the daily rental diversion may result in the rental not being delivered in Water District #1's final rental delivery records.

Lessor Signature	Date	Title, Canal Company
Lessee Signature	5/5/23 Date	BGWD Canal Company or Diversion Name

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(official use only)

Date Lease Accepted by Watermaster: _____

Watermaster Signature: _____

WATER DISTRICT #1 RENTAL POOL - PRIVATE LEASE AGREEMENT

The United Canal Company (lessor) agrees to lease 400 acre-feet of storage to Bingham Ground Water District (lessee) for the 2023 irrigation season at a price of $[redacted] according to the rules and regulations contained in the Water District #1 Rental Pool Procedures.

Description of Lease:

Name of River or Stream from which lease is diverted: Snake River

Canal or Pump Name and location: TBD

Place of Use description: TBD

Water Right Appurtenant to Lands: TBD

An Idaho Water Resources Board surcharge (10% of the purchase price) plus a $1.30 per acre-foot administrative fee must be received by Water District #1 prior to the approval of the storage lease).

If the reservoir storage system fails to fill in the season following the year leased, the lessor's storage allocation shall be reduced by the amount leased to offset any impacts to other spaceholders' storage accruals according to the approved Water District #1 Rental Pool Procedures pursuant to Idaho Code Section 42-1765. The lessor understands the net effect of this rule is to make an amount of the lessor's space (equal to the amount leased) last-to-fill in the reservoir system for the irrigation season following the lease.

☐ If the lease is for irrigation purposes, the Applicant, by checking this box, certifies that the use of this leased storage water complies with the moratorium on new consumptive uses as outlined in Rental Pool Procedure 3.4. Failure to meet the conditions contained in Rental Pool Procedure 3.4 may be grounds for denying the application.

If the leased storage is diverted by a diversion outside the area regulated by Water District #1, the applicant, by signing this agreement agrees to report to the Watermaster of the water district containing the diversion, the daily amounts of leased storage diverted during the year. The Watermaster of that district, according to Rental Pool Procedure 4.3.108, must then report to the Water District #1 Watermaster the daily rental diverted by November 30th. Failure to report the daily rental diversion may result in the rental not being delivered in Water District #1's final rental delivery records.

Lessor Signature _____ Date _____ Title, Canal Company _____

Lessee Signature _____ Date 5/5/23 Canal Company or Diversion Name BGWD

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(official use only)

Date Lease Accepted by Watermaster: _____

Watermaster Signature: _____

WATER DISTRICT #1 RENTAL POOL - PRIVATE LEASE AGREEMENT

Watson Canal Company (lessor) agrees to lease 50 acre-feet of storage to Bingham Ground Water District (lessee) for the 2023 irrigation season at a price of $[redacted] according to the rules and regulations contained in the Water District #1 Rental Pool Procedures.

Description of Lease:

Name of River or Stream from which lease is diverted: Snake River

Canal or Pump Name and location: TBD

Place of Use description: TBD

Water Right Appurtenant to Lands: TBD

An Idaho Water Resources Board surcharge (10% of the purchase price) plus a $1.30 per acre-foot administrative fee must be received by Water District #1 prior to the approval of the storage lease).

If the reservoir storage system fails to fill in the season following the year leased, the lessor's storage allocation shall be reduced by the amount leased to offset any impacts to other spaceholders' storage accruals according to the approved Water District #1 Rental Pool Procedures pursuant to Idaho Code Section 42-1765. The lessor understands the net effect of this rule is to make an amount of the lessor's space (equal to the amount leased) last-to-fill in the reservoir system for the irrigation season following the lease.

☐ If the lease is for irrigation purposes, the Applicant, by checking this box, certifies that the use of this leased storage water complies with the moratorium on new consumptive uses as outlined in Rental Pool Procedure 3.4. Failure to meet the conditions contained in Rental Pool Procedure 3.4 may be grounds for denying the application.

If the leased storage is diverted by a diversion outside the area regulated by Water District #1, the applicant, by signing this agreement agrees to report to the Watermaster of the water district containing the diversion, the daily amounts of leased storage diverted during the year. The Watermaster of that district, according to Rental Pool Procedure 4.3.108, must then report to the Water District #1 Watermaster the daily rental diverted by November 30th. Failure to report the daily rental diversion may result in the rental not being delivered in Water District #1's final rental delivery records.

Lessor Signature	Date	Title, Canal Company
Lessee Signature	Date	Canal Company or Diversion Name
	5/5/23	BGWD

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(official use only)

Date Lease Accepted by Watermaster: _____

Watermaster Signature: _____

WATER DISTRICT #1 RENTAL POOL - PRIVATE LEASE AGREEMENT

Wearyrick Ditch Company (lessor) agrees to lease 150 acre-feet of storage to Bingham Ground Water District (lessee) for the 2023 irrigation season at a price of $[redacted] according to the rules and regulations contained in the Water District #1 Rental Pool Procedures.

Description of Lease:

Name of River or Stream from which lease is diverted: Snake River

Canal or Pump Name and location: TBD

Place of Use description: TBD

Water Right Appurtenant to Lands: TBD

An Idaho Water Resources Board surcharge (10% of the purchase price) plus a $1.30 per acre-foot administrative fee must be received by Water District #1 prior to the approval of the storage lease).

If the reservoir storage system fails to fill in the season following the year leased, the lessor's storage allocation shall be reduced by the amount leased to offset any impacts to other spaceholders' storage accruals according to the approved Water District #1 Rental Pool Procedures pursuant to Idaho Code Section 42-1765. The lessor understands the net effect of this rule is to make an amount of the lessor's space (equal to the amount leased) last-to-fill in the reservoir system for the irrigation season following the lease.

☐ If the lease is for irrigation purposes, the Applicant, by checking this box, certifies that the use of this leased storage water complies with the moratorium on new consumptive uses as outlined in Rental Pool Procedure 3.4. Failure to meet the conditions contained in Rental Pool Procedure 3.4 may be grounds for denying the application.

If the leased storage is diverted by a diversion outside the area regulated by Water District #1, the applicant, by signing this agreement agrees to report to the Watermaster of the water district containing the diversion, the daily amounts of leased storage diverted during the year. The Watermaster of that district, according to Rental Pool Procedure 4.3.108, must then report to the Water District #1 Watermaster the daily rental diverted by November 30th. Failure to report the daily rental diversion may result in the rental not being delivered in Water District #1's final rental delivery records.

Lessor Signature Date Title, Canal Company

Lessee Signature 5/5/23 Date BGWD Canal Company or Diversion Name

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(official use only)

Date Lease Accepted by Watermaster: _____

Watermaster Signature: _____

STORAGE WATER LEASE

This Storage Water Lease ("Lease") is entered into between Enterprize Canal Co., whose mailing address is PO BOX 583, Ririe, ID 83443, ("Lessor"), and the Bonneville Jefferson Ground Water District whose mailing address is P.O. Box 51121, Idaho Falls, Idaho 83204.

RECITALS

A. Lessor has the right to use, lease, and assign storage water allocated and available to Lessor as a space holder in the Idaho Water District 1 reservoir system pursuant to Lessor's Storage Water Contracts with the United States Bureau of Reclamation ("Reclamation").

B. BONNEVILLE JEFFERSON GROUND WATER DISTRICT desires to lease storage water to satisfy mitigation obligations determined by the Director of the Idaho Department of Water Resources ("Department") and related purposes, such as aquifer recharge and converting farmland from ground to surface water irrigation.

C. Lessor desires to lease storage water to BONNEVILLE JEFFERSON GROUND WATER DISTRICT, and BONNEVILLE JEFFERSON GROUND WATER DISTRICT desires to lease storage water from Lessor, pursuant to the terms of this Lease.

LEASE

1. **Storage Water Lease.** Lessor hereby leases to Bonneville Jefferson Ground Water District 4,000 acre feet of storage water for 2023 only, at which the Bonneville Jefferson Ground Water District is required to pay rent at a rate of $[redacted].

2. **Term.** The initial term of this Lease shall be for a period of one (1) year, commencing January 1, 2023, and ending December 31, 2023.

3. **Payment of Rent.** Bonneville Jefferson Ground Water District will pay the rent to Lessor in two equal installments. The first installment on or before May 1, of 2023, and the final installment on or before November 1, of 2023.

4. **Administrative Fees.** BONNEVILLE JEFFERSON GROUND WATER DISTRICT will pay all administrative fees imposed by Water District 1 and the Idaho Water Resource Board.

5. **Use of Leased Water.**

5.1 The assignment, delivery, and use of leased storage water will be determined by BONNEVILLE JEFFERSON GROUND WATER DISTRICT and is subject to the final accounting for the year by the Watermaster of Water District 1

and any applicable Water District 1 Rental Pool Rules.

5.2 This Lease does not include any right to use storage water below Milner Dam.

5.3 The storage water available to Bonneville Jefferson Ground Water District under this Lease may be assigned and delivered by Bonneville Jefferson Ground Water District to any of its members or to any other person or entity for the authorized uses of recharge, mitigation, irrigation, or other lawful use at any time up to December 1 each year.

5.4 Any storage water not used or assigned by Bonneville Jefferson Ground Water District by December 1 shall remain in Lessor's Water District 1 storage account and then belong only to Lessor.

5.5 Lessor understands that any storage water leased may be subject to the Water District 1 Rental Pool Rules.

6. **Representations by Lessor.** Lessor covenants and represents that:

6.1 It will provide to Bonneville Jefferson Ground Water District all storage water leased under this Lease.

6.2 It is the true and lawful owner of the storage water and that nothing restricts or precludes Lessor from entering into this Lease.

7. **Breach.** If either party defaults in the performance of its obligations under this Lease, and such default is not cured within thirty (30) days after receipt of written notice thereof, the non-breaching party, at its option, may elect to pursue remedies for breach of contract in district court.

8. **Assignment.** This Lease may not be assigned by Bonneville Jefferson Ground Water District without the express written consent of Lessor, but the storage water leased by Bonneville Jefferson Ground Water District under this Lease may be assigned or otherwise made available to any other person or entity.

9. **Dispute Resolution.** Any substantial dispute between the parties shall be resolved in accordance with the following provisions.

9.1 Good Faith Negotiation. Upon written notice from one party to the other, authorized representatives of the parties will attempt in good faith to resolve the dispute by negotiation.

9.2 Mediation. If the dispute cannot be resolved by good faith negotiation, either party may demand that the dispute be subjected to mediation

by a mediator designated by mutual Lease of the parties. The mediation will be held in Bonneville County, Idaho, unless the parties mutually agree to a different location. Mediator costs will be split equally between the parties.

9.3 Litigation. Litigation is allowed between the parties only: (i) if the dispute is not resolved by mediation, (ii) for the purpose of enforcing a settlement Lease entered into between the parties, or (iii) to seek temporary injunctive relief if a party deems such action necessary to avoid irreparable damage. The pursuit or granting of temporary injunctive relief does not excuse the parties from participating in good faith negotiation and mediation as set forth above. The prevailing party in any litigation is entitled to recover reasonable attorney fees and costs.

9.4 Governing Law, Jurisdiction, and Venue. This Lease will be construed and interpreted in accordance with the laws of the State of Idaho. The parties agree that the courts of Idaho shall have exclusive jurisdiction, and agree that Bonneville County is the proper venue.

9.5 Exclusive Procedures. The procedures specified in this section 9 are the exclusive procedures for the resolution of disputes between the parties. All applicable statutes of limitation shall be tolled while the negotiation and mediation procedures specified in section 9.3 are pending.

10. **Notices.** All notices given pursuant to this Lease must be in writing and shall be sent in one of the following manners: (a) by certified mail, return receipt requested, postage prepaid; (b) by recognized overnight courier such as Federal Express; (c) by facsimile transmission; (d) by email if the receiving party acknowledges receipt of the emailed notice. Notices shall be deemed received on the earlier of actual receipt, three days after mailing for certified mail and regular mail, the next business day if given by fax, or the date the receiving party acknowledges receipt of email notice.

ADDRESSES TO BE USED FOR NOTICES AND DELIVERY OF LEASE PAYMENTS SHALL BE AS FOLLOWS:

Lessor: Enterprize Canal Co.
PO BOX 583
Ririe, ID 83443

Lessee: Bonneville Jefferson Ground Water District
PO Box 51121
Idaho Falls, ID 83405

Either party may change its designated address by providing written notice of such change to the other party.

11. **Binding Effect.** This Lease shall be binding upon the respective heirs, successors, and assigns of the parties.

LESSEE:

Bonneville Jefferson Ground Water District
PO Box 51121
Idaho Falls, ID 83405

4-21-23

By: Kirt Schwieder

Title: Treasurer Date

LESSOR:

Enterprize Canal Co.
PO BOX 583
Ririe, ID 83443

4/20/23

By: Darrel Kerr Date

Title: Chairman

STORAGE WATER LEASE

This Storage Water Lease ("Lease") is entered into between Idaho Irrigation District, whose address is 496 E 14th St, Idaho Falls, ID 83404, Idaho Falls, Idaho 83402 ("Lessor"), and the Bonneville Jefferson Ground Water District whose mailing address is P.O. Box 51121, Idaho Falls, Idaho 83204.

RECITALS

A. Lessor has the right to use, lease, and assign storage water allocated and available to Lessor as a space holder in the Idaho Water District 1 reservoir system pursuant to Lessor's Storage Water Contracts with the United States Bureau of Reclamation ("Reclamation").

B. BONNEVILLE JEFFERSON GROUND WATER DISTRICT desires to lease storage water to satisfy mitigation obligations determined by the Director of the Idaho Department of Water Resources ("Department") and related purposes, such as aquifer recharge and converting farmland from ground to surface water irrigation.

C. Lessor desires to lease storage water to BONNEVILLE JEFFERSON GROUND WATER DISTRICT, and BONNEVILLE JEFFERSON GROUND WATER DISTRICT desires to lease storage water from Lessor, pursuant to the terms of this Lease.

LEASE

1. **Storage Water Lease.** Lessor hereby leases to Bonneville Jefferson Ground Water District 4,000 acre feet of storage water for 2023 only, at which the Bonneville Jefferson Ground Water District is required to pay rent at a rate of $[redacted].

2. **Term.** The initial term of this Lease shall be for a period of one (1) year, commencing January 1, 2023, and ending December 31, 2023.

3. **Payment of Rent.** Bonneville Jefferson Ground Water District will pay the rent to Lessor in two equal installments. The first installment on or before ~~May~~ JULY 1, of 2023, and the final installment on or before November 1, of 2023.

4. **Administrative Fees.** BONNEVILLE JEFFERSON GROUND WATER DISTRICT will pay all administrative fees imposed by Water District 1 and the Idaho Water Resource Board.

5. **Use of Leased Water.**

5.1 The assignment, delivery, and use of leased storage water will be determined by BONNEVILLE JEFFERSON GROUND WATER DISTRICT and is subject to the final accounting for the year by the Watermaster of Water District 1

and any applicable Water District 1 Rental Pool Rules.

5.2 This Lease does not include any right to use storage water below Milner Dam.

5.3 The storage water available to Bonneville Jefferson Ground Water District under this Lease may be assigned and delivered by Bonneville Jefferson Ground Water District to any of its members or to any other person or entity for the authorized uses of recharge, mitigation, irrigation, or other lawful use at any time up to December 1 each year.

5.4 Any storage water not used or assigned by Bonneville Jefferson Ground Water District by December 1 shall remain in Lessor's Water District 1 storage account and then belong only to Lessor.

5.5 Lessor understands that any storage water leased may be subject to the Water District 1 Rental Pool Rules.

6. **Representations by Lessor.** Lessor covenants and represents that:

6.1 It will provide to Bonneville Jefferson Ground Water District all storage water leased under this Lease.

6.2 It is the true and lawful owner of the storage water and that nothing restricts or precludes Lessor from entering into this Lease.

7. **Breach.** If either party defaults in the performance of its obligations under this Lease, and such default is not cured within thirty (30) days after receipt of written notice thereof, the non-breaching party, at its option, may elect to pursue remedies for breach of contract in district court.

8. **Assignment.** This Lease may not be assigned by Bonneville Jefferson Ground Water District without the express written consent of Lessor, but the storage water leased by Bonneville Jefferson Ground Water District under this Lease may be assigned or otherwise made available to any other person or entity.

9. **Dispute Resolution.** Any substantial dispute between the parties shall be resolved in accordance with the following provisions.

9.1 Good Faith Negotiation. Upon written notice from one party to the other, authorized representatives of the parties will attempt in good faith to resolve the dispute by negotiation.

9.2 Mediation. If the dispute cannot be resolved by good faith negotiation, either party may demand that the dispute be subjected to mediation

11. **Binding Effect.** This Lease shall be binding upon the respective heirs, successors, and assigns of the parties.

LESSEE:

Bonneville Jefferson Ground Water District
PO Box 51121
Idaho Falls, ID 83405

4-21-23

By: Kirt Schwieder

Title: Treasurer Date

LESSOR:

Idaho Irrigation District
496 E 14th St.
Idaho Falls, ID 83404

4-18-2023

By: Alan Kelsch Date

Title: Chairman – Idaho Irrigation District

STORAGE WATER LEASE

This Storage Water Lease ("Lease") is entered into between Snake River Valley Irrigation District, whose address is 816 N. 700 E., with a mailing address at PO BOX 70, Basalt, ID 83218, ("Lessor"), and the Bonneville Jefferson Ground Water District whose mailing address is P.O. Box 51121, Idaho Falls, Idaho 83204.

RECITALS

A. Lessor has the right to use, lease, and assign storage water allocated and available to Lessor as a space holder in the Idaho Water District 1 reservoir system pursuant to Lessor's Storage Water Contracts with the United States Bureau of Reclamation ("Reclamation").

B. BONNEVILLE JEFFERSON GROUND WATER DISTRICT desires to lease storage water to satisfy mitigation obligations determined by the Director of the Idaho Department of Water Resources ("Department") and related purposes, such as aquifer recharge and converting farmland from ground to surface water irrigation.

C. Lessor desires to lease storage water to BONNEVILLE JEFFERSON GROUND WATER DISTRICT, and BONNEVILLE JEFFERSON GROUND WATER DISTRICT desires to lease storage water from Lessor, pursuant to the terms of this Lease.

LEASE

1. **Storage Water Lease**. Lessor hereby leases to Bonneville Jefferson Ground Water District 4,000 acre feet of storage water for 2023 only, at which the Bonneville Jefferson Ground Water District is required to pay rent at a rate of $[redacted].

2. **Term**. The initial term of this Lease shall be for a period of one (1) year, commencing January 1, 2023, and ending December 31, 2023.

3. **Payment of Rent**. Bonneville Jefferson Ground Water District will pay the rent to Lessor in two equal installments. The first installment on or before May 1, of 2023, and the final installment on or before November 1, of 2023.

4. **Administrative Fees**. BONNEVILLE JEFFERSON GROUND WATER DISTRICT will pay all administrative fees imposed by Water District 1 and the Idaho Water Resource Board.

5. **Use of Leased Water**.

5.1 The assignment, delivery, and use of leased storage water will be determined by BONNEVILLE JEFFERSON GROUND WATER DISTRICT and is subject to the final accounting for the year by the Watermaster of Water District 1 and any applicable Water District 1 Rental Pool Rules.

5.2 This Lease does not include any right to use storage water below Milner Dam.

5.3 The storage water available to Bonneville Jefferson Ground Water District under this Lease may be assigned and delivered by Bonneville Jefferson Ground Water District to any of its members or to any other person or entity for the authorized uses of recharge, mitigation, irrigation, or other lawful use at any time up to December 1 each year.

5.4 Any storage water not used or assigned by Bonneville Jefferson Ground Water District by December 1 shall remain in Lessor's Water District 1 storage account and then belong only to Lessor.

5.5 Lessor understands that any storage water leased may be subject to the Water District 1 Rental Pool Rules.

6. **Representations by Lessor**. Lessor covenants and represents that:

6.1 It will provide to Bonneville Jefferson Ground Water District all storage water leased under this Lease.

6.2 It is the true and lawful owner of the storage water and that nothing restricts or precludes Lessor from entering into this Lease.

7. **Breach**. If either party defaults in the performance of its obligations under this Lease, and such default is not cured within thirty (30) days after receipt of written notice thereof, the non-breaching party, at its option, may elect to pursue remedies for breach of contract in district court.

8. **Assignment**. This Lease may not be assigned by Bonneville Jefferson Ground Water District without the express written consent of Lessor, but the storage water leased by Bonneville Jefferson Ground Water District under this Lease may be assigned or otherwise made available to any other person or entity.

9. **Dispute Resolution**. Any substantial dispute between the parties shall be resolved in accordance with the following provisions.

9.1 Good Faith Negotiation. Upon written notice from one party to the other, authorized representatives of the parties will attempt in good faith to resolve the dispute by negotiation.

9.2 Mediation. If the dispute cannot be resolved by good faith negotiation, either party may demand that the dispute be subjected to mediation

by a mediator designated by mutual Lease of the parties. The mediation will be held in Bonneville County, Idaho, unless the parties mutually agree to a different location. Mediator costs will be split equally between the parties.

9.3 Litigation. Litigation is allowed between the parties only: (i) if the dispute is not resolved by mediation, (ii) for the purpose of enforcing a settlement Lease entered into between the parties, or (iii) to seek temporary injunctive relief if a party deems such action necessary to avoid irreparable damage. The pursuit or granting of temporary injunctive relief does not excuse the parties from participating in good faith negotiation and mediation as set forth above. The prevailing party in any litigation is entitled to recover reasonable attorney fees and costs.

9.4 Governing Law, Jurisdiction, and Venue. This Lease will be construed and interpreted in accordance with the laws of the State of Idaho. The parties agree that the courts of Idaho shall have exclusive jurisdiction, and agree that Bonneville County is the proper venue.

9.5 Exclusive Procedures. The procedures specified in this section 9 are the exclusive procedures for the resolution of disputes between the parties. All applicable statutes of limitation shall be tolled while the negotiation and mediation procedures specified in section 9.3 are pending.

10. **Notices**. All notices given pursuant to this Lease must be in writing and shall be sent in one of the following manners: (a) by certified mail, return receipt requested, postage prepaid; (b) by recognized overnight courier such as Federal Express; (c) by facsimile transmission; (d) by email if the receiving party acknowledges receipt of the emailed notice. Notices shall be deemed received on the earlier of actual receipt, three days after mailing for certified mail and regular mail, the next business day if given by fax, or the date the receiving party acknowledges receipt of email notice.

ADDRESSES TO BE USED FOR NOTICES AND DELIVERY OF LEASE PAYMENTS SHALL BE AS FOLLOWS:

Lessor: Snake River Valley
Irrigation District
816 N. 700 E.
PO Box 70
Basalt, ID 83218

Lessee. Bonneville Jefferson Ground Water District:
PO Box 51121
Idaho Falls, ID 83405

Either party may change its designated address by providing written notice of such change to the other party.

successors, and assigns of the parties.

LESSEE:

Bonneville Jefferson Ground Water District
PO Box 51121
Idaho Falls, ID 83405

4-21-23

By: Kirt Schwieder
Title: Treasurer Date

LESSOR:

Snake River Valley
Irrigation District
816 N. 700 E.
PO Box 70
Basalt, ID 83218

4-20-23

By:
Title: President Date

STORAGE WATER LEASE

This Storage Water Lease ("Lease") is entered into between Idaho Irrigation District, whose address is 496 E 14th St, Idaho Falls, ID 83404, Idaho Falls, Idaho 83402 ("Lessor"), and the Bonneville Jefferson Ground Water District whose mailing address is P.O. Box 51121, Idaho Falls, Idaho 83204.

RECITALS

A. Lessor has the right to use, lease, and assign storage water allocated and available to Lessor as a space holder in the Idaho Water District 1 reservoir system pursuant to Lessor's Storage Water Contracts with the United States Bureau of Reclamation ("Reclamation").

B. BONNEVILLE JEFFERSON GROUND WATER DISTRICT desires to lease storage water to satisfy mitigation obligations determined by the Director of the Idaho Department of Water Resources ("Department") and related purposes, such as aquifer recharge and converting farmland from ground to surface water irrigation.

C. Lessor desires to lease storage water to BONNEVILLE JEFFERSON GROUND WATER DISTRICT, and BONNEVILLE JEFFERSON GROUND WATER DISTRICT desires to lease storage water from Lessor, pursuant to the terms of this Lease.

LEASE

1. **Storage Water Lease.** Lessor hereby leases to Bonneville Jefferson Ground Water District 2500 acre feet of storage water for 2023 only, at which the Bonneville Jefferson Ground Water District is required to pay rent at a rate of [redacted] per acre-foot ([redacted] total).

2. **Term.** The initial term of this Lease shall be for a period of one (1) year, commencing January 1, 2023, and ending December 31, 2023.

3. **Payment of Rent.** Bonneville Jefferson Ground Water District will pay the rent to Lessor in two equal installments. The first installment on or before July 1, of 2023, and the final installment on or before November 1, of 2023.

4. **Administrative Fees.** BONNEVILLE JEFFERSON GROUND WATER DISTRICT will pay all administrative fees imposed by Water District 1 and the Idaho Water Resource Board.

5. **Use of Leased Water.**
   5.1 The assignment, delivery, and use of leased storage water will be determined by BONNEVILLE JEFFERSON GROUND WATER DISTRICT and is subject to the final accounting for the year by the Watermaster of Water District 1

and any applicable Water District 1 Rental Pool Rules.

5.2 This Lease does not include any right to use storage water below Milner Dam.

5.3 The storage water available to Bonneville Jefferson Ground Water District under this Lease may be assigned and delivered by Bonneville Jefferson Ground Water District to any of its members or to any other person or entity for the authorized uses of recharge, mitigation, irrigation, or other lawful use at any time up to December 1 each year.

5.4 Any storage water not used or assigned by Bonneville Jefferson Ground Water District by December 1 shall remain in Lessor's Water District 1 storage account and then belong only to Lessor.

5.5 Lessor understands that any storage water leased may be subject to the Water District 1 Rental Pool Rules.

6. **Representations by Lessor.** Lessor covenants and represents that:

6.1 It will provide to Bonneville Jefferson Ground Water District all storage water leased under this Lease.

6.2 It is the true and lawful owner of the storage water and that nothing restricts or precludes Lessor from entering into this Lease.

7. **Breach.** If either party defaults in the performance of its obligations under this Lease, and such default is not cured within thirty (30) days after receipt of written notice thereof, the non-breaching party, at its option, may elect to pursue remedies for breach of contract in district court.

8. **Assignment.** This Lease may not be assigned by Bonneville Jefferson Ground Water District without the express written consent of Lessor, but the storage water leased by Bonneville Jefferson Ground Water District under this Lease may be assigned or otherwise made available to any other person or entity.

9. **Dispute Resolution.** Any substantial dispute between the parties shall be resolved in accordance with the following provisions.

9.1 Good Faith Negotiation. Upon written notice from one party to the other, authorized representatives of the parties will attempt in good faith to resolve the dispute by negotiation.

9.2 Mediation. If the dispute cannot be resolved by good faith negotiation, either party may demand that the dispute be subjected to mediation

by a mediator designated by mutual Lease of the parties. The mediation will be held in Bonneville County, Idaho, unless the parties mutually agree to a different location. Mediator costs will be split equally between the parties.

9.3 Litigation. Litigation is allowed between the parties only: (i) if the dispute is not resolved by mediation, (ii) for the purpose of enforcing a settlement Lease entered into between the parties, or (iii) to seek temporary injunctive relief if a party deems such action necessary to avoid irreparable damage. The pursuit or granting of temporary injunctive relief does not excuse the parties from participating in good faith negotiation and mediation as set forth above. The prevailing party in any litigation is entitled to recover reasonable attorney fees and costs.

9.4 Governing Law, Jurisdiction, and Venue. This Lease will be construed and interpreted in accordance with the laws of the State of Idaho. The parties agree that the courts of Idaho shall have exclusive jurisdiction, and agree that Bonneville County is the proper venue.

9.5 Exclusive Procedures. The procedures specified in this section 9 are the exclusive procedures for the resolution of disputes between the parties. All applicable statutes of limitation shall be tolled while the negotiation and mediation procedures specified in section 9.3 are pending.

10. **Notices.** All notices given pursuant to this Lease must be in writing and shall be sent in one of the following manners: (a) by certified mail, return receipt requested, postage prepaid; (b) by recognized overnight courier such as Federal Express; (c) by facsimile transmission; (d) by email if the receiving party acknowledges receipt of the emailed notice. Notices shall be deemed received on the earlier of actual receipt, three days after mailing for certified mail and regular mail, the next business day if given by fax, or the date the receiving party acknowledges receipt of email notice.

ADDRESSES TO BE USED FOR NOTICES AND DELIVERY OF LEASE PAYMENTS SHALL BE AS FOLLOWS:

Lessor: Idaho Irrigation District
496 E 14th St
Idaho Falls, ID 83404

Lessee: Bonneville Jefferson Ground Water District:
PO Box 51121
Idaho Falls, ID 83405

Either party may change its designated address by providing written notice of such change to the other party.

11. **Binding Effect.** This Lease shall be binding upon the respective heirs, successors, and assigns of the parties.

LESSEE:

Bonneville Jefferson Ground Water District
PO Box 51121
Idaho Falls, ID 83405

Kirt Schwieder

By: Kirt Schwieder

Title: Treasurer Date

LESSOR:

Idaho Irrigation District
496 E 14th St.
Idaho Falls, ID 83404

Alan Kelsch

By: Alan Kelsch Date

Title: Chairman – Idaho Irrigation District

WATER DISTRICT #1 RENTAL POOL - PRIVATE LEASE AGREEMENT

Idaho Irrigation District (lessor) agrees to lease 2500 acre-feet of storage to Bonneville Jefferson Ground Water District (lessee) for the 2023 irrigation season at a price of $325,000.00 according to the rules and regulations contained in the Water District #1 Rental Pool Procedures.

Description of Lease:

Name of River or Stream from which lease is diverted: Snake River

Canal or Pump Name and location: To be determined

Place of Use description: To be determined

Water Right Appurtenant to Lands: To be determined

An Idaho Water Resources Board surcharge (10% of the purchase price) plus a $1.30 per acre-foot administrative fee must be received by Water District #1 prior to the approval of the storage lease).

If the reservoir storage system fails to fill in the season following the year leased, the lessor's storage allocation shall be reduced by the amount leased to offset any impacts to other spaceholders' storage accruals according to the approved Water District #1 Rental Pool Procedures pursuant to Idaho Code Section 42-1765. The lessor understands the net effect of this rule is to make an amount of the lessor's space (equal to the amount leased) last-to-fill in the reservoir system for the irrigation season following the lease.

[X] If the lease is for irrigation purposes, the Applicant, by checking this box, certifies that the use of this leased storage water complies with the moratorium on new consumptive uses as outlined in Rental Pool Procedure 3.4. Failure to meet the conditions contained in Rental Pool Procedure 3.4 may be grounds for denying the application.

If the leased storage is diverted by a diversion outside the area regulated by Water District #1, the applicant, by signing this agreement agrees to report to the Watermaster of the water district containing the diversion, the daily amounts of leased storage diverted during the year. The Watermaster of that district, according to Rental Pool Procedure 4.3.108, must then report to the Water District #1 Watermaster the daily rental diverted by November 30th. Failure to report the daily rental diversion may result in the rental not being delivered in Water District #1's final rental delivery records.

Alan Kelsch
Alan Kelsch (May 9, 2023 07:25 MDT)

Lessor Signature | Date | Title, Canal Company

Lessee Signature | Date | Canal Company or Diversion Name

(official use only)

Date Lease Accepted by Watermaster: _____

Watermaster Signature: _____

2023.05 Idaho Irrigation WaterLease 2500 AF

Final Audit Report 2023-05-09

Created:	2023-05-08
By:	Brad Buttars (brad@bjgwdistrict.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAAP7PyKRz1fh-VptwGFvO5n297fMbHBDzB

"2023.05 Idaho Irrigation WaterLease 2500 AF" History

Document created by Brad Buttars (brad@bjgwdistrict.com)
2023-05-08 - 8:57:13 PM GMT

Document emailed to Kirt Schwieder (idahosod@gmail.com) for signature
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Email viewed by Kirt Schwieder (idahosod@gmail.com)
2023-05-09 - 3:22:22 AM GMT

Document e-signed by Kirt Schwieder (idahosod@gmail.com)
Signature Date: 2023-05-09 - 3:23:05 AM GMT - Time Source: server

Document emailed to alankelsch@icloud.com for signature
2023-05-09 - 3:23:06 AM GMT

Email viewed by alankelsch@icloud.com
2023-05-09 - 1:21:27 PM GMT

Signer alankelsch@icloud.com entered name at signing as Alan Kelsch
2023-05-09 - 1:25:10 PM GMT

Document e-signed by Alan Kelsch (alankelsch@icloud.com)
Signature Date: 2023-05-09 - 1:25:12 PM GMT - Time Source: server

Agreement completed.
2023-05-09 - 1:25:12 PM GMT

Adobe Acrobat Sign

MULTI-YEAR TRIBAL WATER LEASE AGREEMENT

This WATER LEASE ("**Lease Agreement**") is made and entered into by and between the SHOSHONE-BANNOCK TRIBES of the Fort Hall Reservation ("Tribes"), acting through the Tribal Rental Pool Committee in the operation of the Tribal Water Supply Bank and the Fort Hall Business Council, and the IDAHO GROUND WATER APPROPRIATORS, INC. , a non-profit corporation, acting for and on behalf of North Snake Ground Water District, Magic Valley Ground Water District, Southwest Irrigation District, American Falls – Aberdeen Ground Water District and Carey Valley Ground Water District, (collectively "IGWA") and is effective on the date executed by both parties hereto.

RECITALS

A. Pursuant to *The 1990 Fort Hall Indian Water Rights Agreement*, the Tribes are entitled to federal storage contract rights, held in trust for the Tribes by the United States, in an amount of 2.8059% of the storage space in American Falls Reservoir and 6.9917% of the storage space in Palisades Reservoir. These contract storage rights are equivalent to full capacity volumes of 46,931 acre-feet in American Falls Reservoir and 83,900 acre-feet in Palisades Reservoir, and those water rights and the associated volumes of water are referred to herein as the "**Tribal Water Supply Bank**." Due to sedimentation, the maximum annual volumes accrued to each of the contract storage rights are less than the stated capacity volumes.

B. The Shoshone-Bannock Tribes have adopted the Shoshone-Bannock Tribal Water Supply Bank Rules, which have been duly approved by the Idaho Water Resources Board, for the purposes of leasing storage water held by the Tribes in American Falls Reservoir for delivery and use in the Snake River Basin anywhere within Idaho, and for leasing storage water held by the Tribes in Palisades Reservoir for delivery and use in the Snake River Basin above Milner Dam.

C. IGWA is a non-profit corporation which was established to represent its membership, which is currently comprised of eight groundwater districts, two irrigation districts, and numerous other municipal, commercial, and industrial groundwater users in Idaho. IGWA has entered into an agreement with the Surface Water Coalition to resolve disputes related to the impacts of groundwater use on surface water rights. IGWA desires to lease storage water from the Tribes based on the terms herein for use as mitigation flow in the Snake River and for use in meeting other aspects of the agreement.

Now, therefore, and in consideration of the covenants, obligations, and other valuable consideration referred to herein, the Tribes and IGWA agree as follows:

1. Quantity of Leased Water. The water that is the subject of this Lease Agreement is referred to herein as the "**Rental Volume**". The quantity of Rental Volume shall be defined under the terms below.
   a. Each year of the Lease Agreement, the Tribes will commit to provide and IGWA will commit to rent from the Tribes a volume of up to 25,000 acre-feet, subject to the terms and conditions provided below.

b. The Rental Volume will be supplied from the Tribal Water Supply Bank, which is comprised of the Tribes' federal contract storage rights in American Falls and Palisades Reservoirs, as defined in the *1990 Fort Hall Indian Water Rights Agreement* and decreed in the Snake River Basin Adjudication. Subject to Section 1.f below, the Tribal Water Supply Bank water that will be available for the Rental Volume excludes all other water rights and water assets of the Tribes, and such water rights and assets are not a part of this Lease Agreement.

c. The Tribes and IGWA agree that the Tribes' obligation to deliver water under this Lease Agreement is contingent on the availability of water from the Tribal Water Supply Bank for rental. Each year, the Tribes will declare the quantity of water in the Tribal Water Supply Bank available as Rental Volume to IGWA within 5 business days of the Water District 1 publication date of storage allocation.

d. The quantity of water in the Tribal Water Supply Bank available as Rental Volume will be calculated by the Tribes as the Tribal Water Supply Bank storage allocation remaining after satisfaction of: (1) the estimated Michaud Unit irrigation demands, (2) an additional volume of storage water, not to exceed 5,000 acre-feet, to mitigate uncertainty, and (3) other lease contracts, separate from this Lease Agreement, entered into by the Tribes for use of the Tribal Water Supply Bank that carry a higher annual lease price as described in Section 1.e below. The quantity of available water may also be limited by court orders or other regulatory enforcement of applicable laws and regulations applicable to the Tribal Water Supply Bank water.

e. Nothing in this Lease Agreement shall operate to prevent the Tribes from leasing additional water from the Tribal Water Supply Bank to another party or parties. The total annual water supplies available to satisfy lease contracts from the Tribal Water Supply Bank will be determined as stated in Section 1.d above and allocated to each lease contract, which is active on the publication date of storage allocation, as follows: (1) the lease contract with the highest lease price ($/acre-foot) will be satisfied in full up to its annual contract volume, (2) the lease contract with the second-highest lease price will next be satisfied in full up to its annual contract volume, and (3) additional lease contracts will be satisfied in a similar fashion with priority for supply given to lease contracts based on lease prices. The allocation of annual supplies to active lease contracts does not apply to Carryover Volume and Additional Volume described below.

f. The Tribes hold a "**Reserve Supply**" equal to 25,276 acre-feet that was secured under a 2015 settlement agreement. The Tribes may request delivery of the Reserve Supply each year up to an annual volume of 10,000 acre-feet and the Reserve Supply is administered as Tribal storage allocation in American Falls Reservoir. Each year of this Lease Agreement, the Tribes, in their sole discretion, may elect to use the Reserve Supply to fulfill Rental Volume commitments defined in Section 1.a above. The Reserve Supply will be provided through the Tribal Water Supply Bank.

g. Subject to reservoir space being available in the Tribal Water Supply Bank and approval by the Tribes, IGWA may elect to hold and carryover a portion of the Rental Volume in storage and not take delivery of that carryover water in the same year that it was declared available by the Tribes. This volume of water is referred to herein as "**Carryover Volume**". The Carryover Volume shall be accounted for as an independent volume of water within the Tribal Water Supply Bank, such that the annual Rental Volume calculation and other Tribal uses of its federal contract storage rights identified in Section 1.d shall not be drawn from the Carryover Volume. The Carryover Volume shall be annually reduced based on a pro-rata portion of the annual evaporative losses applied to the Tribal Water Supply Bank. The total Carryover Volume accumulated in previous years shall not exceed 10,000 acre-feet.

h. The Carryover Volume shall be reset to zero when the Tribal Water Supply Bank refills, indicated by a combined allocation of at least 128,000 acre-feet to the Tribes' federal contract storage rights in American Falls and Palisades Reservoirs. No repayment or reimbursement shall be due to IGWA for lost Carryover Volume due to a reset. The Carryover Volume shall reset to zero at the end of this Lease Agreement term, unless otherwise agreed to in a separate writing by the Parties.

i. IGWA will have the option to lease additional water from the Tribal Water Supply Bank, in excess of 25,000 acre-feet, if it is made available for rental by the Tribes. This volume of water is referred to herein as "**Additional Volume**". It is understood and acknowledged by IGWA and the Tribes that Additional Volume rentals may impact the availability of water as Rental Volume in future years. IGWA shall communicate to the Tribes an interest in leasing Additional Volume by April 1 of the year in which the Additional Volume is requested. The Tribes' approval of Additional Volume leases shall be at the sole discretion of the Tribes and shall not be subject to the calculations defined in Section 1.d.

2. Water Delivery and Administration. Delivery of the Rental Volume shall occur when the Rental Volume has been released from either Palisades or American Falls Reservoir, and appropriately deducted from the Tribes' storage account in these reservoirs. The Tribes and IGWA shall cooperatively work together to ensure the delivery of the Rental Volume to IGWA and the appropriate administration of such water.

   a. The quantity of water to be leased under this Lease Agreement under Paragraph 1 has been reviewed by the Tribal Rental Pool Committee as required by the Shoshone-Bannock Tribal Water Supply Bank Rules.

   b. Any carriage or other losses of Rental Volume that may occur downstream from American Falls Reservoir or Palisades Reservoir, as the source of water, shall be the responsibility of IGWA.

   c. The scheduling of releases of the Rental Volume shall be in the sole discretion of IGWA, provided however, that IGWA will notify and cooperate with the Tribes and the U.S. Bureau of Reclamation (Reclamation) to implement any storage release request. The

Tribes and IGWA will cooperate with Reclamation and Water District 1 in measuring and accounting for the Rental Volume at the outflow of American Falls Reservoir and/or Palisades Reservoir.

d. The Rental Volume, Carryover Volume, and Additional Volume leases shall only be available for use by IGWA or assignment to the Surface Water Coalition to satisfy IGWA's obligations, and shall not otherwise be available for re-marketing or assignment to a third party, unless such re-marketing or assignment is agreed upon in writing by the Tribes.

3. Term. The term of this Lease Agreement shall be for five (5) years commencing on April 1, 2021 and terminating on October 31, 2025.

   a. After the initial term, the Lease Agreement will be automatically renewed on an annual basis, unless a termination letter is sent by the Tribes or IGWA six (6) months prior to the desired termination date of the Lease Agreement.

4. Agreement Contingencies. This Lease Agreement, and obligations hereunder, are expressly contingent upon:

   a. Acquiring all approvals that may be required for the rental, release, delivery, and use of the Rental Volume by IGWA;

   b. Payment by IGWA pursuant to Paragraph 5 below;

   c. Delivery of the Rental Volume by the Tribes to IGWA prior to October 31 of each year during the term of this agreement, subject to the provisions of Paragraphs 5-7 below.

5. Payment. The "**Annual Lease Payment**" shall be calculated as the Rental Volume declared and made available for lease by the Tribes multiplied by the Lease Price. The Lease Price during the 5-year term shall be calculated as follows:

Year	Lease Price Adjustment ($/acre-foot)	Lease Price ($/acre-foot)
2021	$0	$[redacted]
2022	Maximum of $1 per acre-foot or % change in Consumer Price Index for All Urban Consumer (CPI) from January 1, 2021 to December 31, 2021 multiplied by the 2021 Lease Price, rounded to the nearest dollar.	2021 Lease Price + 2022 Adjustment
2023	Maximum of $1 per acre-foot or % change in CPI from 1/1/2022 to 12/31/2022 multiplied by the 2022 Lease Price, rounded to the nearest dollar	2022 Lease Price + 2023 Adjustment
2024	Maximum of $1 per acre-foot or % change in CPI from 1/1/2023 to 12/31/2023 multiplied by the 2023 Lease Price, rounded to the nearest dollar	2023 Lease Price + 2024 Adjustment
2025	Maximum of $1 per acre-foot or % change in CPI from 1/1/2024 to 12/31/2024 multiplied by the 2024 Lease Price, rounded to the nearest dollar	2024 Lease Price + 2025 Adjustment

a. If the full Rental Volume is not available in any particular year, IGWA shall pay the dollar per acre-foot Lease Price stated above for that year for the Rental Volume available.

b. IGWA shall be obligated to make the Annual Lease Payment each year whether or not IGWA takes delivery of any amount of the Rental Volume by October 31 of each year.

c. IGWA shall make payments for the Carryover Volume in the year that the water is first declared available as Rental Volume by the Tribes, and shall not make a second payment for the water in subsequent years when it is delivered for use.

d. The annual lease price adjustment shown in the table above shall be applied in each subsequent year that the Lease Agreement is renewed under Section 3.a after the initial 5-year term.

e. Payments for Additional Volume leases shall be based on the lease price stated above for the year in which the Additional Volume lease takes place, and such payments shall represent an addition to the Annual Lease Payment due to the Tribes.

6. Payment Schedule. The lease payments shall be payable by IGWA as follows:

a. 50% of the total Annual Lease Payment is due by July 1 of each year of the Lease Agreement;

b. The balance of the total Annual Lease Payment is due by November 1 of each year of the Lease Agreement;

c. Payments for Additional Volume leases shall follow the payment schedule defined above for the Rental Volume leases.

d. All payments are payable by wire transfer to the Tribes within five (5) business days of due date stated above.

7. Termination. Either the Tribes or IGWA may terminate this Lease Agreement in accordance with the provisions below:

a. Either the Tribes or IGWA may terminate this Lease Agreement:

i. For any violation or breach of the terms of this Lease Agreement; or
ii. If any of the terms and conditions of any approval of the lease arrangement, or other applicable state or federal law, rule, or regulation, or the administration of the leased water, are inconsistent with the terms of this Lease Agreement.

b. Termination shall be effective within 30 days of provision of written notice to the other party detailing the basis for such termination. The party against whom such termination

is asserted shall have 30 days to cure the violation or breach that is the basis for the termination.

c. Termination may be subject to the Conflict Resolution provisions of Section 8.e, if the party against whom termination is sought disagrees with the basis of the termination.

d. In the event of any such termination, there shall be an accounting of lease payments paid by IGWA and leased water delivered by the Tribes as of the termination date. IGWA shall pay for all leased water delivered. In the event IGWA has submitted payment for leased water that remains undelivered by the termination date, the Tribes shall refund any lease payments received for leased water that remains undelivered, and the Tribes will not be obligated to provide such water unless the parties otherwise agree in writing.

8. Miscellaneous Provisions.

a. Amendments. No amendment or modification of this Lease Agreement or its provisions shall be effective unless documented in writing and approved and executed by all parties with the same formality as this Lease Agreement.

b. Force Majeure. Delays or inability to perform any of the requirements of this Lease Agreement within the term or time limits prescribed herein shall be excused to the extent that performance is rendered impossible by any event beyond the control of either party including but not limited to drought, governmental acts or orders or restrictions, existing legal obligations, failure of suppliers, war, terrorism or any other reason where failure to perform is beyond the reasonable control of and is not caused by the conduct of the non-performing party. A force majeure event shall not include financial inability to complete performance of an obligation.

c. Notices. All notices and other communications under this Lease Agreement shall be in writing. Notices shall be deemed as duly received on the date of service, if served personally on the party to whom notice is to be given. Notices shall also be deemed as duly received five (5) days from the date said notice is mailed to the party to whom notice is to be given, either by first class mail, registered or certified, postage prepaid or by express delivery with handling prepaid, and properly addressed as follows:

If to the Shoshone-Bannock Tribes:

Chairman, Fort Hall Business Council
Shoshone-Bannock Tribes
P.O. Box 306
Fort Hall, Idaho 83203

With a Copy to:

Tribal Water Engineer
Shoshone-Bannock Tribes Water Resources Department
P.O. Box 306

Fort Hall, Idaho 83203
Phone: (208) 239-4580

If to IGWA:

President
Idaho Ground Water Appropriators, Inc.
%Racine Olson, PLLC
Pocatello, ID 83204

With a Copy to:

Randall Budge, T.J. Budge, Counsel
Racine Olsen, PLLC
P.O. Box 1391
Pocatello, ID 83204
Phone: (208) 232-6101

d. Compliance with Laws and Usage. The Parties, at their own expense, will comply with all federal, state, and tribal laws, ordinances, rules, and regulations applicable to this Lease Agreement and the business conducted pursuant thereto.

e. Conflict Resolution. In the event of any dispute, claim, question, or disagreement arising from or relating to the Lease Agreement or the breach thereof, the Tribes and IGWA agree as follows:

   i. The Tribes and IGWA agree to initially submit such dispute to non-binding mediation in an effort to resolve the same.
   ii. In the event that formal legal proceedings are commenced in connection with this Agreement, the parties agree that the Shoshone-Bannock Tribal Court shall be the sole, proper and exclusive forum and venue for such proceedings.
   iii. The laws and regulations of the Shoshone-Bannock Tribes shall govern the interpretation of this Lease Agreement and/or any formal legal proceedings commenced regarding this Lease Agreement.

f. Attorneys' Fees. In any action concerning the terms or enforcement of this Lease Agreement, the prevailing party shall be entitled to recover reasonable costs and attorneys' fees, including any costs and attorneys' fees incurred in appellate proceedings.

g. Binding Effect. All of the covenants, conditions, and provisions of this Lease Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

h. Entire Agreement. This Lease Agreement constitutes the entire agreement between the parties and supersedes any prior understandings or oral or written agreements between the parties respecting the within subject matter.

i. Severability. If any provision of this Lease Agreement shall ever be held to be invalid or unenforceable, such invalidity or unenforceability shall not affect any other provision of this Lease Agreement, but such other provisions shall continue in full force and effect.

j. Headings. The headings of paragraphs and sections in this Lease Agreement are inserted only as a matter of convenience and for reference purposes, and they do not define, limit, or describe the scope of this Lease Agreement or the intent of any of the provisions thereof.

k. Sovereign Immunity. Neither the execution of this Lease Agreement, nor any provision contained herein shall be interpreted to act as a waiver of the Shoshone-Bannock Tribes' sovereign immunity. The Shoshone-Bannock Tribes hereby specifically reserves and retains its sovereign immunity and any rights appurtenant thereto. The Shoshone-Bannock Tribes' sovereign immunity from suit may only be waived by resolution of the Fort Hall Business Council.

l. Contract Interpretation. The parties have participated jointly in the negotiation and drafting of this Lease Agreement. In the event an ambiguity or question of intent or interpretation arises, this Lease Agreement shall be construed as if drafted jointly by the parties and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Lease Agreement.

m. No Third Party Beneficiary. This Lease Agreement is exclusively for the benefit of and governs only the parties hereto. The Tribes and IGWA are the only parties to this Compact and are the only parties entitled to enforce the terms of this Lease Agreement. Nothing in this Lease Agreement gives, or is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to third persons.

n. Indemnification. IGWA indemnifies the Tribes and its officers, subsidiaries, agents, and employees (the "Indemnitees") and IGWA shall hold the Indemnitees harmless for any damages, claims, demands, personal injury, illness, death, property damage, or other loss resulting in any manner in connection with IGWA's use of the water leased pursuant to this Lease Agreement.

o. No Waiver. Forbearance in enforcing any right or remedy under this Lease Agreement shall not be deemed a wavier nor shall it be the basis for an inference that any party hereto has waived any provision hereof or that a party has waived any right hereunder.

This Lease Agreement shall be signed in triplicate and shall be effective when signed by both the Tribes and IGWA.

SHOSHONE-BANNOCK TRIBES:

Date: 10-6-20 By: _____

Devon Boyer, Chairman
Fort Hall Business Council

IDAHO GROUND WATER APPROPRIATORS, INC.

Date: 10-27-2020 By: _____

Tim Deeg, President

STORAGE WATER LEASE
This Storage Water Lease ("Agreement") is entered into between North Fork Reservoir Company, ("Lessor"), and **Henry's Fork Groundwater District** (the "District").
RECITALS

A. Lessor has the right to use, lease, and assign storage water allocated and available to Lessor as a space holder in the Idaho Water District 1 reservoir system pursuant to Lessor's Storage Water Contracts with the United States Bureau of Reclamation ("Reclamation").

B. THE DISTRICT desires to lease storage water to satisfy mitigation obligations determined by the Director of the Idaho Department of Water Resources ("Department") and related purposes, such as aquifer recharge and converting farmland from ground to surface water irrigation.

C. Lessor desires to lease storage water to the DISTRICT, and the DISTRICT desires to lease storage water from Lessor, pursuant to the terms of this Lease.

LEASE

1. Storage Water Lease. Lessor hereby leases to the DISTRICT storage water for 2021-2025 only, at which the DISTRICT is required to pay rent as follows:

1,500 acre-feet at $20.00 per acre-foot. **IGWA will pay** $1.30 acre-foot Water District 01 administrative fee and $2.00 State Water Supply Bank Fee for a total payment of $3.30 per acre-foot.
2. Term. The initial term of this Lease shall commence March 13, 2021, and end November 30, 2025.

3. Payment of Rent. The DISTRICT will pay the rent to Lessor in one installment, on or before 1st day October, of each year.

4. Administrative Fees. IGWA will pay all administrative fees imposed by Water District 1 and the Idaho Water Resource Board.

5. Use of Leased Water.

5.1 The assignment, delivery, and use of leased storage water will be determined by the DISTRICT and is subject to the final accounting for the year by the Water-master of Water District 1 and any applicable Water District 1 Rental Pool Rules.
5.2 This Lease does not include any right to use storage water below Milner Dam.
5.3 The storage water available to the DISTRICT under this Lease may be assigned and delivered by the DISTRICT to any of its members or to any other person or entity for the authorized uses of recharge, mitigation, irrigation, or other lawful use at any time up to December 1 each year.
5.4 Any storage water not used or assigned by the DISTRICT by December 1 shall remain in Lessor's Water District 1 storage account and then belong only to Lessor.
5.5 Lessor understands that any storage water leased may be subject to the Water District 1 Rental Pool Rules.

6. Representations by Lessor. Lessor covenants and represents that:

6.1 It will provide to the DISTRICT all storage water leased under this Lease.
6.2 It is the true and lawful owner of the storage water and that nothing restricts or precludes Lessor from entering this Lease.

7. Breach. If either party defaults in the performance of its obligations under this Lease, and such default is not cured within thirty (30) days after receipt of written notice thereof, the non-breaching party, at its option, may elect any or all of the following cumulative remedies:

(a) Terminate this Lease.
(b) Seek specific performance of this Lease;

8. Assignment. This Lease may not be assigned by the DISTRICT without the express written consent of Lessor, but the storage water leased by the DISTRICT under this Lease may be assigned or otherwise made available to any other person or entity.

9. Dispute Resolution. Any substantial dispute between the parties shall be resolved in accordance with the following provisions.

9.1 Good Faith Negotiation. Upon written notice from one party to the other, authorized representatives of the parties will attempt in good faith to resolve the dispute by negotiation.
9.2 Mediation. If the dispute cannot be resolved by good faith negotiation, either party may demand that the dispute be subjected to mediation by a mediator designated by mutual Lease of the parties. The mediation will be held in **Fremont** County, Idaho, unless the parties mutually agree to a different location. Mediator costs will be split equally between the parties.
9.3 Litigation. Litigation is allowed between the parties only: (i) if the dispute is not resolved by mediation, (ii) for the purpose of enforcing a settlement Lease entered into between the parties, or (iii) to seek temporary injunctive relief if a party deems such action necessary to avoid irreparable damage. The pursuit or granting of temporary injunctive relief does not excuse the parties from participating in good faith negotiation and mediation as set forth above. The prevailing party in any litigation is entitled to recover reasonable attorney fees and costs.
9.4 Governing Law, Jurisdiction, and Venue. This Lease will be construed and interpreted in accordance with the laws of the State of Idaho. The parties agree that the courts of Idaho shall have exclusive jurisdiction and agree that **Fremont** County is the proper venue.
9.5 Exclusive Procedures. The procedures specified in this section 9 are the exclusive procedures for the resolution of disputes between the parties. All applicable statutes of limitation shall be tolled while the negotiation and mediation procedures specified in section 9.1 and 9.2 are pending.

10. Notices. All notices given pursuant to this Lease must be in writing and shall be sent in one of the following manners: (a) by certified mail, return receipt requested, postage prepaid; (b) by recognized overnight courier such as Federal Express; (c) by facsimile transmission; (d) by email if the receiving party acknowledges receipt of the emailed notice. Notices shall be deemed received on the earlier of actual receipt, three days after mailing

for certified mail and regular mail, the next business day if given by fax, or the date the receiving party acknowledges receipt of email notice.

ADDRESSES TO BE USED FOR NOTICES AND DELIVERY OF LEASE PAYMENTS SHALL BE AS FOLLOWS:
Lessor: North Fork Reservoir Company
Michael Rasmussen, President
Address: PO Box 250
Rexburg, Idaho 83201

DISTRICT: **Henry's Fork Groundwater District**
Aaron Dalling, **Secretary**
Address: **PO BOX 15 St. Anthony, Idaho 83445**
Phone: 208-403-8474
Email: aaron.fmid@myidahomail.com
Either party may change its designated address by providing written notice of such change to the other party.

11. Binding Effect. This Agreement shall be binding upon the respective heirs, successors, and assigns of the parties.

DATED this 26 day of Aug, 2022.

LESSEE:
Henry's Fork Groundwater District

By: _____
Aaron Dalling-Secretary

DATED this 26 day of Aug, 2022.

LESSOR:
North Fork Reservoir Company
PO Box 250
Rexburg, ID 83440

By: _____
Michael Rasmussen-President

January 5, 2023

ONE-YEAR TRIBAL WATER LEASE AGREEMENT

This One-Year Tribal Water Lease Agreement ("Lease Agreement") is entered into between the SHOSHONE-BANNOCK TRIBES of the Fort Hall Reservation ("Tribes"), acting through the Tribal Lease Pool Committee in the operation of the Tribal Water Supply Bank and the Fort Hall Business Council, and the following three groundwater districts: North Snake Ground Water District, Magic Valley Ground Water District, and American Falls-Aberdeen Ground Water District (collectively, "Districts"). The Tribes and Districts may be referred to herein collectively as the "parties" and individually as a "party." This Lease Agreement shall be effective on the date executed by both parties.

RECITALS

A. Pursuant to *The 1990 Fort Hall Indian Water Rights Agreement*, the Tribes are entitled to federal storage contract rights, held in trust for the Tribes by the United States, in an amount of 2.8059% of the storage space in American Falls Reservoir and 6.9917% of the storage space in Palisades Reservoir. These contract storage rights are equivalent to full capacity volumes of 46,931 acre-feet in American Falls Reservoir and 83,900 acre-feet in Palisades Reservoir. These water rights and associated volumes of storage water are referred to herein as the "Tribal Water Supply Bank." Due to sedimentation, the maximum annual volumes accrued to each of the contract storage rights are less than the stated capacity volumes.

B. The Shoshone-Bannock Tribes have adopted the Shoshone-Bannock Tribal Water Supply Bank Rules, which have been duly approved by the Idaho Water Resources Board, for the purposes of leasing storage water held by the Tribes in American Falls Reservoir for delivery and use in the Snake River Basin anywhere within Idaho, and for leasing storage water held by the Tribes in Palisades Reservoir for delivery and use in the Snake River Basin above Milner Dam.

C. The Districts are members of the Idaho Ground Water Appropriators, Inc. ("IGWA") which has entered into an agreement with the Surface Water Coalition to resolve disputes related to the impacts of groundwater use on surface water rights. The Districts desire to lease storage water from the Tribes based on the terms herein for use in meeting aspects of that agreement.

AGREEMENT

Now, therefore, and in consideration of the covenants and obligations set forth herein, and for other good and valuable consideration, the Tribes and Districts agree as follows:

1. **Leased Water.** The Tribes will provide to the Districts, and the Districts will rent from the Tribes, a volume of 10,000 acre-feet (the "Lease Volume"), subject to the following terms and conditions:

   1.1 The Lease Volume will be supplied from the Tribal Water Supply Bank. Water available for the Lease Volume excludes all other water rights and water assets of the Tribes, and such water rights and assets are not a part of this Lease Agreement.

   1.2 The Tribes hold a "Reserve Supply" equal to 25,276 acre-feet that was secured under a 2015 settlement agreement. The Tribes may request delivery of the Reserve Supply each year up to an annual volume of 10,000 acre-feet to be administered as Tribal storage allocation in American Falls Reservoir. The Tribes, in their sole discretion, may elect to use the Reserve Supply to fulfill Lease Volume commitment defined in Section 1 above. The Reserve Supply will be provided through the Tribal Water Supply Bank.

2. **Water Delivery and Administration.** Delivery of the Lease Volume shall occur when the Lease Volume has been released from either Palisades or American Falls Reservoir, and appropriately deducted from the Tribes' storage account in these reservoirs. The Tribes and Districts shall cooperatively work together to ensure the delivery of the Lease Volume to the Districts and the appropriate administration of such water.

   2.1 The quantity of water to be leased under this Lease Agreement under Paragraph 1 will be reviewed by the Tribal Rental Pool Committee as required by the Shoshone-Bannock Tribal Water Supply Bank Rules.

   2.2 Any carriage or other losses of Lease Volume that may occur downstream from American Falls Reservoir or Palisades Reservoir shall be the responsibility of the Districts.

   2.3 The scheduling of releases of the Lease Volume shall be in the sole discretion of the Districts; provided however, that the Districts will notify and cooperate with the Tribes and the U.S. Bureau of Reclamation (Reclamation) to implement any storage release request. The Tribes and Districts will cooperate with Reclamation and Water District 1 in measuring and accounting for the Lease Volume at the outflow of American Falls Reservoir and/or Palisades Reservoir.

   2.4 The Lease Volume shall only be available for use by the Districts or assignment to the Surface Water Coalition to satisfy IGWA's obligations and shall not otherwise be available for re-marketing or assignment to a third party, unless such re-marketing or assignment is agreed to in writing by the Tribes.

3. **Term.** The term of this Lease Agreement shall be for one (1) year commencing April 1, 2023, and terminating on October 31, 2023.

4. **Agreement Contingencies.** This Lease Agreement, and all obligations hereunder, are expressly contingent upon:

   4.1 Payment by the Districts pursuant to Section 5 below;

   4.2 Delivery of the Lease Volume by the Tribes to the Districts prior to October 31, 2023, subject to the provisions of Paragraphs 5-7 below.

5. **Payment.** The "Lease Payment" shall be [redacted]. The Districts shall be obligated to make the Lease Payment whether or not the Districts take delivery of any amount of the Lease Volume by October 31, 2023. Provided, however, that if the Tribes are unable to make available for delivery the full Lease Volume, the Districts shall pay [redacted] per acre foot of water the Tribes make available for delivery.

6. **Payment Schedule.** The Lease Payment shall be payable by the Districts as follows:

   6.1 50% of the Lease Payment is due by July 15, 2023;

   6.2 The balance of the Lease Payment is due by November 1, 2023;

   6.3 All payments are payable by wire transfer to the Tribes within five (5) business days of due date stated above.

7. **Termination.** Either the Tribes or the Districts may terminate this Lease Agreement in accordance with the provisions below:

   7.1 The Tribes or Districts may terminate this Lease Agreement:

   (a) For any uncured violation or breach of the terms of this Lease Agreement; or

   (b) If any of the terms and conditions of any approval of the lease arrangement, or other applicable state or federal law, rule, or regulation, or the administration of the leased water, are inconsistent with the terms of this Lease Agreement.

   7.2 Termination shall be effective within 30 days of provision of written notice to the other party detailing the basis for such termination. The party against whom such termination is asserted shall have 30 days to cure the violation or breach that is the basis for the termination.

   7.3 Termination may be subject to the Conflict Resolution provisions of Section 10 if the party against whom termination is sought disagrees with the basis of the termination.

   7.4 In the event of any such termination, there shall be an accounting of the Lease Payment paid by the Districts and the Lease Water delivered by the Tribes as of the termination date. The Districts shall pay for all Lease Water delivered. If the Districts have submitted payment for Lease Water that remains undelivered by the termination date, the Tribes shall refund the portion of the Lease Payment received for water that remains undelivered, and the Tribes will not be obligated to provide such water unless the parties otherwise agree in writing.

8. **Miscellaneous Provisions.**

   8.1 Amendments. No amendment or modification of this Lease Agreement or its provisions shall be effective unless documented in writing and approved and executed by all parties with the same formality as this Lease Agreement.

   8.2 Force Majeure. Delays or inability to perform any of the requirements of this Lease Agreement within the term or time limits prescribed herein shall be excused to the extent that performance is rendered impossible by any event beyond the control of either party including but not limited to drought, governmental acts or orders or restrictions, war, terrorism or any other reason where failure to perform is beyond the reasonable control of and is not caused by the conduct of the non-performing party. A force majeure event shall not include financial inability to complete performance of an obligation.

   8.3 Notices. All notices and other communications under this Lease Agreement shall be in writing. Notices shall be deemed as duly received on the date of service, if served personally on the party to whom notice is to be given. Notices sent by mail shall be deemed as duly received five (5) days from the date said notice is mailed to the party to whom notice is to be given, either by first class mail, registered or certified, postage prepaid or by express delivery with handling prepaid. Notices sent by email shall be deemed delivered when the intended recipient acknowledges receipt via reply email. Either party may change its address for notices by sending written notice to the other party in accordance herewith. Notices shall be addressed as follows:

If to the Shoshone-Bannock Tribes:

Chairman, Fort Hall Business Council
Shoshone-Bannock Tribes
P.O. Box 306
Fort Hall, Idaho 83203

With a Copy to:

Tribal Water Resources Director
Shoshone-Bannock Tribes Water Resources Department
P.O. Box 306
Fort Hall, Idaho 83203
Phone: (208) 239-4580

With a Copy to:

T.J. Budge
Racine Olson
201 E. Center Street
Pocatello,ID 83204
(208) 232-6101
tj@racineolson.com

9. **Compliance with Laws and Usage.** The parties, at their own expense, will comply with all federal, state, and tribal laws, ordinances, rules, and regulations applicable to this Lease Agreement and the business conducted pursuant thereto.

10. **Conflict Resolution.** In the event of any dispute, claim, question, or disagreement arising from or relating to the Lease Agreement or the breach thereof, the Tribes and Districts agree as follows:

    (a) The parties will initially engage in good faith negotiation in an attempt to resolve the conflict cooperatively.

    (b) If the conflict is not resolved to the satisfaction of either party through good faith negotiation, the parties agree to submit such dispute to non-binding mediation in an effort to resolve the same.

    (c) If formal legal proceedings are commenced in connection with this Lease Agreement, the parties agree that the Shoshone-Bannock Tribal Court shall be the sole, proper, and exclusive forum and venue for such proceedings.

(d) The laws and regulations of the Shoshone-Bannock Tribes shall govern the interpretation of this Lease Agreement and/or any formal legal proceedings commenced regarding this Lease Agreement.

11. **Attorneys' Fees.** In any action concerning the interpretation or enforcement of this Lease Agreement, the prevailing party shall be entitled to recover reasonable costs and attorneys' fees and costs incurred, including any costs and attorneys' fees incurred in appellate proceedings.

12. **Binding Effect.** All of the covenants, conditions, and provisions of this Lease Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

13. **Entire Agreement.** This Lease Agreement constitutes the entire agreement between the parties and supersedes any prior understandings or oral or written agreements between the parties respecting the subject matter hereof.

14. **Severability.** If any provision of this Lease Agreement is held to be invalid or unenforceable, such invalidity or unenforceability shall not affect any other provision of this Lease Agreement, and such other provisions shall continue in full force and effect, unless Sections 1, 5 or 6 are held to be invalid or unenforceable.

15. **Headings.** The headings of paragraphs and sections in this Lease Agreement are inserted only as a matter of convenience and for reference purposes, and they do not define, limit, or describe the scope of this Lease Agreement or the intent of any of the provisions thereof.

16. **Sovereign Immunity.** Neither the execution of this Lease Agreement, nor any provision contained herein shall be interpreted to act as a waiver of the Shoshone-Bannock Tribes' sovereign immunity. The Shoshone-Bannock Tribes hereby specifically reserves and retains its sovereign immunity and any rights appurtenant thereto. The Shoshone-Bannock Tribes' sovereign immunity from suit may only be waived by resolution of the Fort Hall Business Council.

17. **Contract Interpretation.** The parties have participated jointly in the negotiation and drafting of this Lease Agreement. If an ambiguity or question of intent or interpretation arises, this Lease Agreement shall be construed as if drafted jointly by the parties and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Lease Agreement.

18. **No Third-Party Beneficiary.** This Lease Agreement is exclusively for the benefit of and governs only the parties hereto. The Tribes and Districts are the only parties to this Lease Agreement and are the only parties entitled to enforce the terms of this Lease Agreement. Nothing in this Lease Agreement gives, or is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to third persons.

19. **Indemnification.** The Districts indemnify the Tribes and its officers, subsidiaries, agents, and employees (the "Indemnitees") and the Districts shall hold the Indemnitees harmless for any damages, claims, demands, personal injury, illness, death, property damage, or other loss resulting in any manner in connection with the Districts' use of the water leased pursuant to this Lease Agreement.

20. **No Waiver.** Forbearance in enforcing any right or remedy under this Lease Agreement shall not be deemed a wavier nor shall it be the basis for an inference that any party hereto has waived any provision hereof or that a party has waived any right hereunder.

January 5, 2023

This Lease Agreement shall be effective when signed by both the Tribes and the Districts.

SHOSHONE-BANNOCK TRIBES:

Date: _____ By: _____

Chairman
Fort Hall Business Council

GROUNDWATER DISTRICTS:

Date: 1/17/23 By: _____

Lynn Carlquist, Chairman, North Snake Ground Water District

Date: _____ By: _____

Dean Stevenson, Chairman, Magic Valley Ground Water District

Date: 1-17-2023 By: Timothy P. Deeg

Tim Deeg, Chairman, American Falls-Aberdeen Ground Water District

This Lease Agreement shall be effective when signed by both the Tribes and the Districts.

SHOSHONE-BANNOCK TRIBES:

Date: 5/4/23 By: Nathan Small

Chairman
Fort Hall Business Council

GROUNDWATER DISTRICTS:

Date: _____ By: _____

Lynn Carlquist, Chairman, North Snake Ground Water District

Date: 1.14.2023 By: _____

Dean Stevenson, Chairman, Magic Valley Ground Water District

Date: _____ By: _____

Tim Deeg, Chairman, American Falls-Aberdeen Ground Water District

RESOLUTION

WHEREAS, the Fort Hall Business Council has the ultimate responsibility for budget approvals and overseeing the administration of all Tribal funding as well as those funds awarded to the Shoshone-Bannock Tribes through contracts, grants and cooperative agreements, regardless of the source; and

WHEREAS, the Tribal Water Bank was established for the benefit of the Shoshone-Bannock Tribes, pursuant to the "1990 Fort Hall Indian Water Rights Agreement", that utilizes the Tribes' contract storage rights in the American Falls and Palisades Reservoirs; and

WHEREAS, in 2015 the Tribes negotiated a Settlement Agreement for 25,276 acre-feet of storage water with the Committee of Nine for impacts that the Water District 01 Common Rental Pool had to the Tribes' storage supplies, of which 15,276 acre-feet is available and 10,000 acre-feet can be used annually; and

WHEREAS, three water districts: North Snake Ground Water District, Magic Valley Ground Water District and the American Falls-Aberdeen Ground Water District (Districts) have applied to rent 10,000 acre-feet of storage water for one-year from the Tribal Water Bank; and

WHEREAS, the Tribes have an adequate supply for 2023 to provide an additional 10,000 acre-feet of storage water; and

WHEREAS, the Tribal Water Resources Department (TWRD) is recommending that the Tribes' enter into a one-year Tribal lease agreement with the Districts for 10,000-acre feet; now

THEREFORE, BE IT RESOLVED BY THE BUSINESS COUNCIL OF THE SHOHONE-BANNOCK TRIBES, that the Tribal Water Resources Department is hereby approved to enter into one-year Tribal lease agreement with the North Snake Ground Water District, Magic Valley Ground Water District and the American Falls-Aberdeen Ground Water District for a 10,000 acre-feet at a rate of [redacted] dollars per acre-feet; and

BE IT FURTHER RESOLVED, that monies derived from this one-year Tribal lease agreement will be utilized to assist with costs associated with monitoring programs, water projects and TWRD costs towards the implementation and administration of the "1990 Fort Hall Indian Water Rights Agreement"; and

BE IT FURTHER RESOLVED, that the Tribal Chairman or official designee is authorized to sign the one-year Tribal lease agreement between the Tribes and the water districts: North Snake Ground Water District, Magic Valley Ground Water District, and the American Falls-Aberdeen Ground Water District; and

BE IT FURTHER RESOLVED, that the Interim TWRD Director is authorized to sign a letter to Water District 01 and Committee of Nine stating that the Tribes are electing to use 10,000 acre-feet of Settlement Water for 2023, if necessary.

Authority for the foregoing resolution is found in the Indian Reorganization Act of June 18, 1934 (48 Stat., 984), as amended, and in the Shoshone-Bannock Tribes Constitution and Bylaws of the Fort Hall Reservation, as amended, including, but not limited to the authority found in the Constitution, Article VI.

Dated this 31st day of January 2023

Nathan Small

Nathan Small, Chairman
Fort Hall Business Council

S E A L

CERTIFICATION

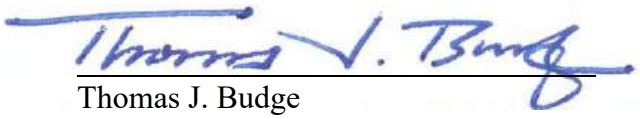
I HEREBY CERTIFY, that the foregoing resolution was passed while a quorum of the Business Council was present by a vote of 5 in favor, 1 absent (DKT) and 1 not voting (NS) on the date this bears.

Claudia J. Washakie, Tribal Secretary
Fort Hall Business Council

CTRT-2023-0076

CERTIFICATE OF SERVICE

I hereby certify that on this 1st day of June, 2023, I served the foregoing document on the persons below via email or as otherwise indicated:



Thomas J. Budge

Director Gary Spackman Garrick Baxter Sarah Tschohl Idaho Department of Water Resources 322 E Front St. Boise, ID 83720-0098	gary.spackman@idwr.idaho.gov garrick.baxter@idwr.idaho.gov sarah.tschohl@idwr.idaho.gov file@idwr.idaho.gov
Dylan Anderson DYLAN ANDERSON LAW PO Box 35 Rexburg, Idaho 83440	dylan@dylanandersonlaw.com
Skyler C. Johns Nathan M. Olsen Steven L. Taggart OLSEN TAGGART PLLC 1449 E 17th St, Ste A PO Box 3005 Idaho Falls, ID 83403	sjohns@olsentaggart.com nolsen@olsentaggart.com staggart@olsentaggart.com
John K. Simpson Travis L. Thompson MARTEN LAW P. O. Box 63 Twin Falls, ID 83303-0063	tthompson@martenlaw.com jsimpson@martenlaw.com jnielsen@martenlaw.com
W. Kent Fletcher FLETCHER LAW OFFICE P.O. Box 248 Burley, ID 83318	wkf@pmt.org
Kathleen Marion Carr US Dept. Interior 960 Broadway Ste 400 Boise, ID 83706	kathleenmarion.carr@sol.doi.gov

David W. Gehlert Natural Resources Section Environment and Natural Resources Division U.S. Department of Justice 999 18th St., South Terrace, Suite 370 Denver, CO 80202	david.gehlert@usdoj.gov
Matt Howard US Bureau of Reclamation 1150 N Curtis Road Boise, ID 83706-1234	mhoward@usbr.gov
Sarah A Klahn Somach Simmons & Dunn 2033 11th Street, Ste 5 Boulder, Co 80302	sklahn@somachlaw.com dthompson@somachlaw.com
Rich Diehl City of Pocatello P.O. Box 4169 Pocatello, ID 83205	rdiehl@pocatello.us
Candice McHugh Chris Bromley MCHUGH BROMLEY, PLLC 380 South 4th Street, Suite 103 Boise, ID 83 702	cbromley@mchughbromley.com cmchugh@mchughbromley.com
Robert E. Williams WILLIAMS, MESERVY, & LOTHSPEICH, LLP P.O. Box 168 Jerome, ID 83338	rewilliams@wmlattys.com
Robert L. Harris HOLDEN, KIDWELL, HAHN & CRAPO, PLLC P.O. Box 50130 Idaho Falls, ID 83405	rharris@holdenlegal.com
Randall D. Fife City Attorney, City of Idaho Falls P.O. Box 50220 Idaho Falls, ID 83405	rfife@idahofallsidaho.gov
Corey Skinner IDWR-Southern Region 1341 Fillmore St., Ste. 200 Twin Falls, ID 83301-3033	corey.skinner@idwr.idaho.gov

Tony Olenichak IDWR-Eastern Region 900 N. Skyline Drive, Ste. A Idaho Falls, ID 83402	Tony.Olenichak@idwr.idaho.gov
COURTESY COPY TO: William A. Parsons PARSONS SMITH & STONE P.O. Box 910 Burley, ID 83318	wparsons@pmt.org

RECEIVED
Jun 16, 2023
DEPARTMENT OF
WATER RESOURCES

John K. Simpson, ISB #4242
Travis L. Thompson, ISB #6168
MARTEN LAW LLP
163 Second Ave. West
P.O. Box 63
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Telephone: (208) 733-0700
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Attorneys for A&B Irrigation District, Burley Irrigation District, Milner Irrigation District, North Side Canal Company, and Twin Falls Canal Company

W. Kent Fletcher, ISB #2248
FLETCHER LAW OFFICE
P.O. Box 248
Burley, Idaho 83318
Telephone: (208) 678-3250
Email: wkf@pmt.org

Attorneys for American Falls Reservoir District #2 and Minidoka Irrigation District

BEFORE THE DEPARTMENT OF WATER RESOUCES

OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY OR FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY	Docket No. CM-DC-2010-001 **SURFACE WATER COALITION'S POST-HEARING BRIEF**

COME NOW, A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGAITON DISTRICT, NORTH SIDE CANAL COMPANY, and TWIN FALLS CANAL COMPANY ("Surface Water Coalition" or "Coalition"), by and through counsel of record, and hereby submits its post-hearing brief in response to the Director's instructions and request at the close of the administrative hearing held June 6-9, 2023.

The Director held an administrative hearing on the April 21, 2023 *Fifth Amended Final Order Regarding Methodology for Determining Material Injury to Reasonable In-Season Demand and Reasonable Carryover* ("*Fifth Order*") (Ex. 300) and the *Final Order Regarding April 2023 Forecast Supply (Methodology Steps 1-3)* ("*April As Applied Order*") (Ex. 301) on June 6-9, 2023. Various parties had filed requests for hearing and identified statements of issue to be addressed. At the hearing, the Director heard testimony from various lay and expert witnesses and admitted additional exhibits to assist in the review.

At the close of the hearing the Director identified certain questions for the parties to address in post-hearing briefing including:

1) Who bears the burden regarding uncertainty in the information presented (i.e. IDWR, seniors, juniors)?
2) What have the courts told us and what are those standards?
3) What is the appropriate due process for this type of hearing?

The Director recognized that this proceeding involves an on-going delivery call and that material injury has already been determined. The Director noted that there is a presumption that a senior water right holder is entitled to water pursuant to its decree and that groundwater pumping in the ESPA depletes flows to the Snake River that supplies the Surface Water Coalition's senior water rights. The Director further noted that the methodology order is the Department's implementation of the conjunctive management rules ("CM Rules") to evaluate water use by the senior and determine whether some adjustment is appropriate pursuant to the "clear and convincing evidence" standard. Finally, due process must take these factors into account. This post-hearing brief addresses those questions in context as well as the updates to the Fifth Order and additional evidence relevant to the April As Applied Order.

I. Burden of Proof in Conjunctive Administration

The Idaho Supreme Court affirmed the burden of proof and evidentiary standard to apply in conjunctive administration cases in *A&B Irr. Dist. v. Spackman*, 153 Idaho 500, 284 P.3d 225 (2012). In that decision the Court held:

> It is Idaho's longstanding rule that proof of "no injury" by a junior appropriator in a water delivery call must be by clear and convincing evidence. Once a decree is presented to an administering agency or court, all changes to that decree, permanent or temporary, must be supported by clear and convincing evidence.

155 Idaho at 524, 284 P.3d at 224.

The Court also recited the district court's reasoning behind this standard in water right administration which provides further insight into its basis:

> The application of the clear and convincing standard of proof only makes sense from a common sense perspective. If the Director determines that a senior can satisfy the decreed purpose of use on less than the decreed quantity reflected, he needs to be certain to a standard of clear and convincing evidence. In making a determination of whether or not to regulate juniors, the Director is required to evaluate whether the quantity available meets or exceeds the quantity the senior can put to beneficial use. If the Director regulates juniors to satisfy the senior's decreed quantity there is no risk of injury to the senior. However, if the Director regulates juniors to satisfy a quantity less than decreed, there is risk to the senior that the Director's determination is incorrect. There is no remedy for the senior if the Director's determination turns out to be in error and the senior comes up short of water during the irrigation season. **Any burden of this uncertainty should be borne by the junior** . . . [I]f the Director's determination is only based on a finding "more probable than not." The senior's right is put at risk and the junior is essentially accorded the benefit of uncertainty. The requisite high standard accords appropriate presumptive weight to the decree.

155 Idaho at 517, 284 P.3d at 242 (emphasis added).

The above conclusions have guided conjunctive administration in Idaho for well over a decade now. The Director has expressly acknowledged the same in the Fifth Order. *See* Ex. 300 at 33, ¶ 11. The baseline year, its criteria, and subsequent adjustments to in-season demand, take

this standard into account. Therefore, in response to the Director's question it is clear that Idaho courts have placed the burden of "uncertainty" squarely upon junior appropriators for purposes of water right administration. If the Director is unsure as to certain questions, and juniors are going to receive the benefit of out-of-priority diversions, then those juniors must prove defenses by the heightened standard to protect the seniors in times of shortage.

II. Director's Updates to Methodology in the Fifth Methodology Order

The Director first derived the framework for the methodology in the spring of 2010. The original methodology was challenged and litigated through judicial review. *See Memorandum Decision and Order on Petitions for Judicial Review*, Gooding County Dist. Ct., Fifth Jud. Dist., Consolidated Case No. CV-2010-382 (Sept. 26, 2014) ("2014 Order").[1] No party appealed that decision to the Idaho Supreme Court. Since that decision the Director has issued additional updates to the methodology through amended orders. The Fifth Order incorporated new data (2015-2021) not available when the Fourth Order was issued in 2016, and identified the following updates in response.

A. Baseline Year

The methodology's baseline year "is a year or average of years when irrigation demand represents conditions that predict need in the current year of irrigation at the start of the irrigation season." *Fifth Order* at 3, ¶ 7. A baseline year "should represent a year(s) of above average diversions . . . and should also represent a year(s) of above average temperatures and reference ET, and below average precipitation to ensure that increased diversions were a function of crop water need and not other factors . . .[and] actual supply should be analyzed to assure that the BLY is not a year of limited supply." *Id.* at 3-4, ¶ 9. The criteria for selecting a baseline year

[1] A full copy of the court's decision is in the record attached as Ex. A to the SWC's *Motion to Limit Scope of Hearing* (June 5, 2023).

has not changed since the Director issued the *Second*, *Third*, and *Fourth Orders*.[2] However, what has changed is the number of years the Director has available to analyze against that criteria. *See Fifth Order* at 11 ("the years 2000-2021 were considered for the BLY selection").

As a result of the updated data, the Director found that "BLY 06/08/12 no longer satisfies the presumption criteria that total diversions in the BLY should exceed the average annual diversions." *Id.* Consequently, the Director concluded that "total diversions for 2018 adequately protect senior water rights when predicting the demand shortfall at the start of the irrigation season and selects 2018 as the BLY." *Id.* at 12, ¶ 27. IDWR staff recommended changing the baseline year to 2018 in its December 23, 2022 staff memorandum. Ex. 914. The Ground Water Users dispute the use of 2018 and the Director's criteria for a baseline year in the methodology. Various positions were advanced advocating for an "average" year of diversions. *See generally*, Exs. 347A; 837A. The use of an "average" year was previously rejected by the District Court:

> The Director did not err in his intentional adoption of a baseline year based on above average temperatures and evapotranspiration and below average precipitation. The Court agrees that use of such data is necessary to protect senior rights if the Director is going to administer to an amount less than the full decreed quantity of the Coalition's rights. The arguments set forth by the City of Pocatello and IGWA that the Director must use data associate with an average year fail to take into account the legal limitations placed on the Director in responding to a delivery call. . . . As set forth above, using data associated with an average year in order to administer to less than the full decreed quantity of the Coalitions' water rights would not meet a clear and convincing evidenced standard. Therefore, the arguments set forth by IGWA and the City of Pocatello are unavailing.

2014 Order at 33-34.

[2] The Director has updated the baseline year before. In 2016, the Director updated the baseline year from the 06/08 average used in the *Second Order* to a new average of 06/08/12 because at that time "the 06/08 diversions are no longer above average." *See Fourth Order* at 11.

The use of 2018 as a baseline year is further supported by the data showing increased water demand in recent years. For example, since 2012 seven out of ten years have experienced below average growing season precipitation. *See Fifth Order* at 4. Over that same period nine out of ten years have experienced above average number of growing degree days. *See id.* at 7. Coupled with increases in higher consumptive use crops like corn and alfalfa, it is clear that the Coalition has witnessed increased water demands from their shareholders and landowners.[3] *See generally* Ex. 1 (pp. 4-9); Ex. 4 (pp. 7-11); *Barlogi Test.* Whereas junior groundwater users have the benefit of a firm water supply every year, it is appropriate to guard against dry and hot conditions for the senior by using the criteria selected by the Director. The 2018 baseline year is only one of two years that fit the methodology criteria and therefore it was appropriate for the Director to update the methodology. *See* Ex. 4 (p. 15).

B. Transient Use of ESPAM

The Eastern Snake Plain Aquifer Model (ESPAM) Version 2.2 has been adopted by the Eastern Snake Plain Hydrologic Modeling Committee (ESHMC) and has been used by IDWR in conjunctive administration, including in response to the Coalition's delivery call. *See* Ex. 3 (p. 3); *see also*, *Clear Springs Foods, Inc. v. Spackman*, 150 Idaho 790, 814, 252 P.3d 71, 95 (2011). Although certain consultants raised questions concerning ESPAM 2.2, the juniors did not carry their burden to show that the model is unreliable or cannot be used for conjunctive administration. *See e.g. Final Order* at 24-25 (Docket No. AA-WRA-2021-001) (June 28, 2021) (Director noting that junior ground water users carried the burden to prove by clear and convincing evidence that groundwater model could not be used for administration).

[3] For purposes of the CWN crop mix calculator, IDWR should go back and adjust each year once that data becomes available to ensure the 3-year average is up to date. *See* Ex. 4 (pp. 8-9).

The Director identified how the ESPAM groundwater model has been and can be run to identify a curtailment date for junior groundwater rights causing material injury. *See Fifth Order* at 29-30. If a ground water right is not covered by an approved and effectively operating mitigation plan, then curtailment is the Director's only remedy to prevent material injury to the senior right. *See* CM Rule 40.05.

A steady-state analysis analyzes the impact of curtailment on the aquifer and connected river reaches long-term (i.e. 50 years), whereas a transient analysis predicts the timing of changes that would occur during the irrigation season. *See id.* at 30. The Director acknowledged that only "9% to 15% of the steady state response is predicted to accrue to the near Blackfoot to Minidoka reach between May 1 and September 30 of the same year." *See id.* In other words, if curtailment is based upon a steady-state analysis, it severely under-mitigates a predicted injury to the Coalition's senior water rights. Consequently, the Director adopted a transient analysis as being "necessary to simulate the short-term curtailments prescribed in the methodology."[4] *Id.* at 31.

The Director's transient use of ESPAM 2.2 is appropriate for calculating the in-season reach gains to the Near Blackfoot to Minidoka reach that would result from the curtailment of groundwater pumping. *See* Ex. 3 (p. 3). No expert testified that a steady-state run would fully mitigate the forecasted demand shortfall. The Director's transient use of the model to identify a curtailment date that would mitigate the in-season demand shortfall conforms to judicial precedent on this issue as well. *See Memorandum Decision and Order*, *Rangen, Inc. v. IDWR*, Twin Falls County Dist. Ct., Fifth Jud. Dist., Case No. CV-2014-4970 (June 1, 2015); *Memorandum Decision and Order*, *Rangen, Inc. v. IDWR*, Twin Falls County Dist. Ct., Fifth

[4] Such a finding is consistent with the Director's approval of mitigation plans where he allows the delivery of storage equal to the amount of an injury finding.

Jud. Dist., Case No. CV-2014-2446 (Dec. 3, 2014); *see also*, *Amended Final Order Regarding Compliance with Approved Mitigation Plan* at 17-19 (Docket No. CM-MP-2016-001, Apr. 24, 2023). Stated another way, if junior water users cannot mitigate the predicted in-season demand shortfall, Idaho law does not contemplate curtailment that would only supply between 9-15% of that shortfall during the irrigation season. In sum, the Dirctor's transient use of the model is required by Idaho's prior appropriation doctrine and is supported by the record. If juniors desire to pump out-of-priority and cannot replace the predicted in-season shortfall as required, curtailment must be sufficient to mitigate that shortfall during the irrigation season. A steady-state use of the model does not identify the proper curtailment date for that purpose.

III. Twin Falls Canal Company Water Use / Irrigated Acres

In his ruling following the 2008 hearing, the Hearing Officer (former Chief Justice Gerald Schroder) concluded:

> The evidence does not show substandard facilities for diversion or conveyance. The members of the Surface Water Coalition have improved their conveyance practices since the time the water rights were licensed or decreed. . . .
>
> There are various factors that might be considered that cause difference in the efficiency of diversion and conveyance within the irrigation districts. For example, the North Side Canal Company is very long, requiring more time for water to move from the initial diversion to the end of the system. There will be differences in the amount of evaporation and potentially of conveyance losses. Additionally, if the delivery of water at the beginning of the system is shut off, when the water is again turned on it takes considerable time for water to reach the far end of the system. Damage to the crops may occur during the delay. This simply says that there is no precise formula that can be applied from one SWC member to another. Differences exist. This does not mean that one district is using reasonable facilities and practices and another not. There is no evidence of decayed or damaged systems that are allowed to continue or practices that cause water to be wasted in transit. The evidence in this case indicates that each of the SWC members is operating with reasonable diversion and conveyance efficiency.

R. Vol. 37 at 7101-02.

This finding was echoed by the District Court on judicial review of the first methodology order:

> Furthermore, both the Hearing Officer and the Director found, in considering the Rule 42 factors, that the Coalition members operate reasonable and efficient irrigation projects. The Director found that "as found by the hearing officer in his recommended order, members of the SWC operate reasonably and without waste," and hat he will not "impose greater project efficiencies upon members of the SWC than have been historically realized."

2014 Order at 30-31.

The evidence at the June 6-9, 2023 hearing further showed that the Coalition members continue to operate reasonable and efficient irrigation projects. Specifically, TFCC's manager Jay Barlogi provided testimony about the company's water delivery operations as well as recent maintenance and conservation projects. *See generally*, Ex. 1 (pp. 3-23). Mr. Barlogi noted the increase in consumptive use crops across the project and how changes to sprinkler and residential use have created operational demands within the TFCC system. The company has implemented a number of projects to keep pace with operational demands and continues to look at ways to improve delivery and maintenance of the canal system. In other words, there was no evidence of "decayed or damaged" systems or water being wasted on the TFCC project.

That TFCC continues to put water to beneficial use and use water reasonably was confirmed by Mr. Barlogi as well. Mr. Barlogi described a general overview of operations for the irrigation season which is supported by the Director's previous finding that although crop water needs may vary, water is still put to beneficial use at these times. *See* Ex. 1 (pp. 4-8); *see also Order on Reconsideration of Final Order et al.* at 4, ¶ 16 (June 16, 2010) ("Computing a seasonal Ep that is weighted to monthly CWN is misleading because the computation ignores or dampens the effects of beneficial diversions of water necessary to rear crops that lie beyond simply meeting the consumptive requirement of the plant (i.e. canal charging, availability of a

steady supply of water, chemigation, soil tillage, etc.)"). These beneficial uses were supported by the testimony of the Coalition's experts in evaluating project efficiencies as well. *See* Ex. 4 (pp. 7-13).

Increased consumptive use crops (i.e. corn, alfalfa), as well as double-cropping, have an impact on water demands. *See* Ex. 1 (pp. 7-9); Ex. 4 (pp. 10-11). A review of Water District 01 delivery records confirms that TFCC operates within an accepted acre-feet per acre standard demonstrated by other large open canal systems within the district. *See* Ex. 8. Watermaster Tony Olenichak further testified that it was his opinion that TFCC operated and delivered water in a reasonable manner. *See generally, Olenichak Test.* This opinion was supported by other expert witnesses that testified at the hearing. *See Brockway Test.*, *Shaw Test.* On the other hand, the ground water users did not prove by clear and convincing evidence that TFCC was not putting water that it diverts to beneficial use. Even the exhibit offered by the Cities' consultant showed that measured returns in certain coulees across the TFCC project had remained stable (close to 50,000 acre-feet) and have even decreased over the last three years.[5] *See* Ex. 365.

There was considerable testimony concerning the number of irrigated acres within the TFCC project. The legal status of TFCC's decreed place of use (including the number of authorized acres) and the presumption IDWR must apply is outlined in the Step 1 letter from counsel to Director Spackman dated March 29, 2013. *See* Ex. 938. TFCC submitted an irrigated area shapefile to IDWR in 2013 and since then has sent letters confirming that the acreage has no changed by more than 5% from the prior year.

IDWR staff Matt Anders testified that IDWR previously used 183,589 acres in its irrigated acreage calculations before 2015. *See Anders Test.* This may have been based upon an

[5] The trend is similar for the "tributary gages" which include both natural streamflow and some irrigation return flows during the irrigation season. Certainly the type of water year will influence water availability and the amount of water identified in the flow measurements.

erroneous acceptance of a report presented at the 2008 hearing. *See* Ex. 938 (3/29/13 letter to Director Spackman noting the errors in the 2007 SPF report and fact that it was not adopted by the Hearing Officer). Further, IDWR did not have the benefit of the Court's 2014 Order and confirmation about how the Department must apply the "clear and convincing evidence" standard in conjunctive administration, particularly in application of the methodology.

The Coalition's expert report details issues with the 2017 irrigated lands dataset. *See* Ex. 4 (pp. 1-2). A review of that shapefile overlaid on 2021 aerial imagery shows lands that are irrigated have been removed and classified as "non-irrigated." *See* Ex. 6. Whereas the status of certain lands can change from year to year, and water can be transferred within the TFCC project, identifying exact irrigated acreage in the current year can be a challenge, particularly on a project TFCC's size. With the status of information that it had, IDWR properly relied upon its review of TFCC's 2013 shapefile and the juniors did not carry their burden to show by clear and convincing evidence a different number was justified.

Regardless of the irrigated acreage number and its application in the CWN calculator, a reduction in acreage does not automatically reduce demand or beneficial use of TFCC's water right. TFCC's manager explained that increased consumptive use crops, longer growing seasons, and even double-cropping, have all contributed to increased demands. Ex. 1 (pp. 8-9). Further, conversion to sprinklers have reduced historical returns back to the canal system, reducing water available for reuse. *See id.* (pp. 24-25). Although fewer acres may be irrigated, that would only slightly reduce overall project efficiency and not mean that less water is required for successful canal operations. Ex. 4 (pp. 13-14).

IV. AFRD#2 Baseline Year Diversion Volume

On rebuttal testimony the last day of the hearing (June 9), Matt Anders clarified an error regarding AFRD#2's total diversion volume in 2018. Evaluation of certain recharge water showed that the total volume diverted by AFRD#2 for its irrigation purposes was understated. IDWR should correct the 2018 baseline year data for AFRD#2 accordingly.

V. A&B Surface Water Delivery to Converted Lands / Proportionate Share in April As Applied Order

The April As Applied Order identified A&B's proportionate share of the projected in-season demand shortfall to be 458 acre-feet. *See* Ex. 301 (p. 5, n. 5). This calculation was made using a steady-state run of ESPAM to apportion respective responsibility for the shortfall and mitigation obligation. *See Sukow Test.*

A&B Irrigation District now delivers surface water to 3,576 acres that were formerly solely irrigated with groundwater. *See* Ex. 2. While successful operation of its pipeline requires certain groundwater use for pressurization, the lands are primarily supplied by surface water. It appears that IDWR created the "proportionate share" table using a simulated curtailment of A&B's water rights junior to December 30, 1953. *See April Background Information* (excel spreadsheet).[6] The simulation used a crop irrigation requirement of 2.59 acre-feet per acre and assigns a value of 10,629 acre-feet to the 4,107.9 acres authorized under the District's junior priority water rights (36-15127A et al.). Since A&B has replaced groundwater with surface water delivery on certain lands, that should be taken into account when analyzing the proportionate share of any in-season demand shortfall predicted for the Surface Water Coalition. *See* Ex. 2. In other words, the District is not pumping 10,629 acre-feet for those lands every year as identified in IDWR's background information.

[6] Available at: https://idwr.idaho.gov/legal-actions/delivery-call-actions/SWC/

VI. Non-Participation in Water District 01 Rental Pool.

The Fifth Order notes that "water supplied to private leases or to the rental pool by a SWC member will be included as part of the SWC supply for that member because non-inclusion would unjustifiably increase the shortfall obligation." Ex. 300 at 13, ¶ 30. Questions arose in 2022 as to whether or not an injured Coalition member could receive an assignment of mitigation storage if that member was not a "participant" in the Water District 01 rental pool. *See SWC Request for Status Conference* at 3-5 (Apr. 27, 2022).

Tony Olenichak provided testimony at the hearing that a Coalition member could receive an assignment of storage water for mitigation purposes even if that member was not a participant in the rental pool. *See Olenichak Test.* The Director should clarify that fact going forward so that if a Coalition member decides to not participate in the rental pool in a given year, that would not preclude assignment of mitigation storage water if necessary, either as part of an approved mitigation plan or for delivery to mitigate injury.

VII. Due Process Concerns Addressed.

Finally, in response to the Director's note at the close of the hearing, while certain parties alleged concerns with the timing of the proceeding and schedules, all parties were subject to the same deadlines. Further, the unique issues related to timely water right administration in this case were explained as follows by the District Court:

> That segues us into issues pertaining to due process. Petitioners raised due process concerns pertaining to the hearing process utilized by the director for the administrative hearing to commence June 6th. In evaluating the due process concerns raised by the petitioners, the Court must be cognizant of the director's duty to timely administer water rights in priority. The Idaho Supreme Court instructed in Musser vs. Higginson that the director's duty to administer water is clear and executive. Time is of the essence in water administration. In any given year the reality is, there is a short timeframe between when water supply determinations can be made and when water users' demands for irrigation water begin. Any process employed by the director must account for the exigencies of

these time constraints. These exigencies were recognized by the drafters of our Constitution as set forth in the Idaho Supreme Court and American Falls Reservoir District Number 2. The Court found the drafters intended that there be no unnecessary delay in the delivery of water pursuant to a valid water right and that a timely response is clearly required when a delivery call is made and water is necessary to respond to that call. That's AFRD Number 2, 143 Idaho at 874. This analysis recognizes the failure of the director to timely administer in priority can result to senior rights in times of shortage. In conjunction, the Idaho Supreme Court further determined that neither the Constitution nor the statutes place any specific time frames on this process.

In this case the record reflects the Department began notifying individuals in September, 2022, that it would be reviewing data used in the Fourth Methodology Order. In November and December, 2022, the Department conducted six meetings regarding possible amendments to the Fourth Methodology Order where staff presented new data and analyses with respect to methodology. Later in December the Department released a document setting forth preliminary recommendations for amendments to the Fourth Methodology Order. The preliminary recommendations stated that the Department will continue to evaluate the integration of these recommendations and others into the methodology. The recommendations also invited outside consultants to submit written comments by January 16, 2023, which some outside experts did by submitting preliminary comments.

On April 21st, 2023, the director issued the Fifth Amended Methodology Order and Final Order regarding the April, 2023, forecast supply. In the final order regarding the April, 2023, forecast supply, the director predicted an in-season demand shortfall to the Twin Falls Canal Company in the amount of 75,200-acre feed. The order gave affected juniors until May 5, 2023, to establish they can mitigate for their proportionate share of the predicted demand shortfall. For those juniors who could not, the order stated that the director would issue a curtailment order.

The director did not hold a hearing prior to issuing the April 21st, 2023, orders. However, he has set a hearing --and he has set a hearing to commence June 6th, 2023, on the orders pursuant to Idaho Code Section 42-1701A(3). Idaho Code Section 42-1701A(3) governs hearings before the director. Subsection 3 applies where the director takes action without a hearing. Normally a party has 15 days to request a hearing under Subsection 3. However, because the director found time was of the essence and because he anticipated multiple parties would request a hearing, he took the proactive step of sua sponte noticing up a hearing to save time. He also set a prehearing conference for April 28th, 2023. The director subsequently denied a request from the petitioners to continue the June 6th hearing until December or January. He also denied a request from the petitioners to appoint an independent hearing officer. On May 2nd, 2023, the director issued a scheduling order, directing that discovery be completed by May 31st, 2023. Then on May 5th, 2023, the director issued an order limiting discovery to preclude questions regarding the director's deliberative process. Okay. Again, on May 2nd, 2023, the director issued a scheduling order, directing that discovery be

> completed by May 31st, 2023. Then on May 5th, 2023, the director issued an order limiting discovery to preclude questions regarding the director's deliberative process on legal and policy considerations. Okay. So in evaluating the process in this case against the director's duty to timely administer water rights in priority, the Court finds it provides due process consistent with the exigencies of the circumstances and the need to administer water in priority to avoid injury to senior rights.
>
> In making this finding, the Court is influenced by the fact that administration in this case arises in the larger context of an ongoing delivery call that has existed since 2005. The director issued its first methodology order in 2010. Since then, the methodology order has been modified and amended three times to account for new data, modeling revisions, and climate trends. So this is not a new issue. And the director gave heads-up that amendments may be required again in 2023, starting in September of 2022, when he notified individuals that the Department was investigating integrating new data techniques into the methodology order. Again, he then conducted a series of meetings, presenting new data and techniques, and issued a preliminary recommendation setting forth proposed amendments and inviting comment from outside experts. In effect, the parties were put on notice starting in September of 2022 that amendments to the methodology order were being considered. Based on prior actions within the context of this ongoing delivery call, parties were also well-aware of the exigent time constraints following demand shortfall predictions. In particular, in its memorandum decision issued on April 11, 2011, in Gooding County Case CV-2010-382, the Court addressed similar due process arguments concerning short timeframes for notice and discovery in the context of this very call. The process provided then was found to provide due process. In this instance the parties are being provided with a hearing on the 2023 orders to commence on June 6th. They were provided approximately six weeks actual notice for the hearing.
>
> In addition, the director began making parties aware that amendments to the methodology order were being considered back in September of 2022. At the hearing on June 6th the parties will be given the opportunity to present evidence and arguments pertaining to the 2023 orders. The Court finds this process provides due process consistent with the exigencies of the circumstances and the director's duty to timely administer water rights in priority. And frankly, setting a hearing after the irrigation season as requested is not a tangible alternative, given the director's duty and the demand shortfall prediction for the 2023 irrigation season.

Transcript, June 1st Hearing, *IGWA et al. v. IDWR*, Ada County Dist. Ct., Fourth Jud. Dist., Case No. CV01-23-8187.

Based upon the above, the parties were provided the necessary due process in this proceeding, and any allegations of the Director violating constitutional rights are unfounded given the unique circumstances regarding conjunctive administration.

CONCLUSION

The Coalition submits the above post-hearing brief on the issues identified.

DATED this 16th day of June, 2023.

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CERTIFICATE OF SERVICE

I hereby certify that on this 16th day of June, 2023, I served a true and correct copy of the foregoing on the following by the method indicated:

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/s/ Jessica Nielsen
Jessica Nielsen
Assistant for Travis L. Thompson

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY OR FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY	Docket No. CM-DC-2010-001 **POST-HEARING ORDER REGARDING FIFTH AMENDED METHODOLOGY ORDER**

On April 21, 2023, the Director of the Idaho Department of Water Resources ("Department") issued the *Fifth Amended Final Order Regarding Methodology for Determining Material Injury to Reasonable In-Season Demand and Reasonable Carryover* ("Fifth Methodology Order") as well as the *Final Order Regarding April 2023 Forecast Supply* ("2023 As-Applied Order"). A hearing on these orders was held June 6–9, 2023. In this *Post-Hearing Order Regarding Fifth Amended Methodology Order*, the Director affirms the Fifth Methodology Order with a few modifications. Because there are some modifications, the Director simultaneously issues with this order a *Sixth Final Order Regarding Methodology for Determining Material Injury to Reasonable In-Season Demand and Reasonable Carryover*.

BACKGROUND

A. General History of the Surface Water Coalition Delivery Call

In January of 2005, various holders of senior priority surface water rights authorizing diversion of water from the Snake River and tributary springs filed or joined in a delivery call against holders of junior priority ground water rights pursuant to the Department's Rules for Conjunctive Management of Surface and Ground Water Resources ("CM Rules"). In response to the delivery call, on May 2, 2005, then-Director Karl Dreher issued an order, which determined that water shortages were reasonably likely in 2005 and would materially injure the holders of senior priority surface water rights. Am. Order at 44, *In re Distribution of Water to Various Water Rights Held By or For the Benefit of A&B Irr. Dist., Am. Falls Reservoir Dist. No. 2, Burley Irr. Dist., Milner Irr. Dist., Minidoka Irr. Dist., North Side Canal Co., & Twin Falls Canal Co.* (Idaho Dep't of Water Res. May 2, 2005).

In response to Director Dreher's order, on August 15, 2005, the holders of senior surface water rights filed a declaratory judgment action in district court, challenging, among other subjects, the constitutionality of the CM Rules. The holders of senior surface water rights requested stays and continuances in a scheduled administrative hearing, and the action for declaratory judgment was heard by the district court. The district court issued its decision on summary judgment on June 2, 2006, finding that the CM Rules were facially unconstitutional.

Order on Pls.' Mot. for Summ. J., at 105, *Am. Falls Reservoir Dist. No. 2 v. Idaho Dep't of Water Res.*, No. CV-2005-600 (Gooding Cnty. Dist. Ct. Idaho June 2, 2006).

The decision by the district court was appealed to the Idaho Supreme Court. On appeal, the Idaho Supreme Court issued an opinion determining that the CM Rules were facially constitutional. *Am. Falls Reservoir Dist. No. 2 v. Idaho Dept. of Water Res.*, 143 Idaho 862, 882–83, 154 P.3d 433, 453–54 (2007).

The Idaho Supreme Court outlined processes for the Director to constitutionally apply the CM Rules and also assigned the burdens borne by the holders of senior surface water rights, junior ground water rights, and the Department. In outlining the acceptable "as-applied" processes, the Idaho Supreme Court stated:

> The [CM] Rules should not be read as containing a burden-shifting provision to make the petitioner re-prove or re-adjudicate the right which he already has . . . . [T]he burden is not on the senior water rights holder to re-prove an adjudicated right. The presumption under Idaho law is that the senior is entitled to his decreed water right . . . .

Am. Falls Reservoir Dist. No. 2, 143 Idaho at 877–78, 154 P.3d at 448–49.

Despite the presumption, the Court stated:

> [T]here certainly may be some post-adjudication factors which are relevant to the determination of how much water is actually needed. The [CM] Rules may not be applied in such a way as to force the senior to demonstrate an entitlement to the water in the first place; that is presumed by the filing of a petition containing information about the decreed right. The [CM] Rules do give the Director the tools by which to determine "how the various ground and surface water sources are interconnected, and how, when, where and to what extent the diversion and use of water from one source impacts [others]." *A & B Irrigation Dist.,* 131 Idaho at 422, 958 P.2d at 579. Once the initial determination is made that material injury is occurring or will occur, the junior then bears the burden of proving that the call would be futile or to challenge, in some other constitutionally permissible way, the senior's call.

Id. at 878, 154 P.3d at 449.

After the Idaho Supreme Court's decision in *American Falls Reservoir District No. 2*, then-Director David Tuthill issued an Order appointing retired Idaho Supreme Court Chief Justice Gerald Schroeder to serve as a hearing officer for the administrative hearing. The hearing began on January 18, 2008, and ended February 5, 2008.

On April 29, 2008, Hearing Officer Schroeder issued his decision which recommended among other things that the Director establish a baseline for predicting the water needs of senior surface water users, which was necessary for projecting material injury. *Opinion Constituting*

Findings of Fact, Conclusions of Law and Recommendations at 51. On September 5, 2008, the Director issued his *Final Order Regarding the Surface Water Coalition Delivery Call,* adopting most of the hearing officer's findings and recommendations.

The order was appealed to district court and eventually appealed to the Idaho Supreme Court, which determined the Director had constitutionally "applied" the CM Rules. *In Matter of Distribution of Water to Various Water Rts. Held By or For Ben. of A & B Irr. Dist.,* 155 Idaho 640, 647, 315 P.3d 828, 835 (2013). The Court also held it was proper for the Director to use a baseline year to predict and quantify material injury, and that the initial determination of material injury must depend on "how the various ground and surface water sources are interconnected, and how, when, where and to what extent the diversion and use of water from one source impacts others." *Id.* at 652–53, 315 P.3d at 840 (internal citations and quotations omitted). Finally, the Court affirmed the district court's determination that the clear and convincing evidence standard is to be applied in determining material injury when a decreed senior priority water right is being evaluated for reduction. *Id*.

The Idaho Supreme was clear, however, that because the district court had not reviewed the findings of fact that shaped the methodology nor any modifications to the methodology order, those issues were not properly before the Court. *Id.* at 649, 315 P.3d at 837.

On September 26, 2014, the district court issued its *Memorandum Decision and Order on Petitions for Judicial Review*, wherein Judge Wildman squarely addressed the findings of fact shaping the methodology as well as the modifications to the methodology order. Mem. Decision & Order on Pets. for Judicial Review, *Idaho Ground Water Appropriators, Inc. v. Spackman*, No. CV-2010-382 (Gooding Cnty. Dist. Ct. Idaho Sep. 26, 2014) [hereinafter 2014 District Court Order]. Judge Wildman largely upheld the factual basis underlying the Department's methodology and as-applied orders, but remanded certain portions for further consideration. The groundwater users initially noticed their intent to appeal the 2014 District Court Order, but later filed a motion to withdraw, which the Idaho Supreme Court granted on January 23, 2015. Judge Wildman's 2014 District Court Order will be addressed in detail throughout this order.

B. History of the Fifth Methodology Order

The Director issued the Fifth Methodology Order as well as the 2023 As-Applied Order on April 21, 2023. The Fifth Methodology Order revised the nine steps used to determine material injury to members of the SWC. The 2023 As-Applied Order predicted a shortfall for the 2023 irrigation season, which required appropriators with water rights junior to December 30, 1953, to mitigate or curtail.

Anticipating that one or more parties would request a hearing pursuant to Idaho Code § 42-1701A(3) in response to one or both orders, the Director issued a *Notice of Hearing, Notice of Prehearing Conference, and Order Authorizing Discovery* ("Notice of Hearing") on April 21, 2023. The Notice of Hearing scheduled a prehearing conference for April 28, 2023, and an in-person evidentiary hearing on the Fifth Methodology Order and 2023 As-Applied Order for June 6–10, 2023.

Immediately before the April 28, 2023 prehearing conference, the Cities of Bliss, Burley, Carey, Declo, Dietrich, Gooding, Hazelton, Heyburn, Idaho Falls, Jerome, Paul, Pocatello, Richfield, Rupert, Shoshone, and Wendell (collectively the "Cities") filed a *Motion for Continuance* ("Motion to Continue") requesting that the Director continue the June 6–10 evidentiary hearing "until a date in December or January 2024 . . . ." *Motion to Continue* at 8.

During the April 28, 2023 prehearing conference, the Cities presented argument in support of their Motion to Continue. The Idaho Ground Water Appropriators, Inc. ("IGWA"), Bonneville-Jefferson Groundwater District ("BJGWD"), and McCain Foods orally moved to join the Cities' Motion to Continue. The Cities requested that the hearing, currently scheduled for June 6–10, 2023, be delayed approximately six months. *Motion to Continue* at 8. The Cities asserted additional time was needed to conduct discovery, prepare witnesses, properly evaluate the updated Fifth Methodology Order and 2023 As-Applied Order, and because one of its attorneys (Ms. Candice McHugh) would be unable to appear in person June 6–10. *Id*. at 4–6. The Cities further asserted the Director should grant its request because no exigency exists given the above-average snowfall this year. *Id*. at 6–8. The SWC opposed the Cities' motion, arguing the hearing should remain as scheduled on June 6–10, 2023.

The Director orally denied the Cities' request to continue the hearing until December or January 2024. The Director stated he was, however, willing to hold the hearing anytime within the first three weeks of June 2023 so long as all parties agreed to the modified dates. In denying the Cities' requested continuance, the Director emphasized his court-ordered obligation to timely predict water supplies and issue orders to ensure senior water right holders are protected.

On May 5, 2023, the Director issued an *Order Denying the Cities' Motion for Appointment of Independent Hearing Officer and Motion for Continuance and Limiting Scope of Depositions* ("Order Denying Motion to Continue & Limiting Scope of Depositions"). In the order, the Director memorialized his oral denial of the Motion to Continue, but reiterated he was willing to move the hearing within the first three weeks of June 2023, so long as the parties filed a stipulated motion requesting the change. *Order Denying Motion to Continue & Limiting Scope of Depositions* at 2. The Director also ordered that the depositions of Department staff be limited "to preclude questions regarding the Director's deliberative process on legal and policy considerations" pursuant to IDAPA 37.01.01.521. *Id*. at 3. By separate order, the Director authorized Ms. McHugh to appear at the hearing remotely. Scheduling Order & Order Authorizing Remote Appearance at Hr'g at 3.

On May 5, 2023, the Cities, along with IGWA, BJGD, and Bingham Groundwater District (collectively the "Groundwater Users") filed a *Motion for Reconsideration of Denial of Continuance* ("Motion to Reconsider") requesting that the Director reconsider his order denying the Groundwater Users' request to continue the hearing. The Groundwater Users further argued that the June 6–10 hearing should be continued due to the unavailability of numerous witnesses and an attorney. *Motion to Reconsider* at 3–5. The Groundwater Users also claimed that a failure to continue the hearing would result in prejudice to the Groundwater Users. *Id.* at 5.

On May 8, 2023, the SWC filed *Surface Water Coalition's Opposition to Groundwater Users' Motion for Reconsideration of Order Denying Motion for Continuance* ("Objection to

Motion to Reconsider"). The SWC pointed out that the Department has already authorized Ms. McHugh to appear remotely to accommodate her travel, and that the SWC would stipulate to IGWA's expert witnesses, Sophia Sigstedt's, appearing remotely to accommodate her medical condition. *Objection to Motion to Reconsider* at 8–9 n.8. The SWC further argued that 6 weeks was plenty of time to prepare for a hearing, as evidenced by the fact that the First Methodology Order in this exact case was issued on April 7, 2010, with an evidentiary hearing held approximately six weeks later on May 24, 2010. *Id.* at 7–8. The SWC further argued that this type of scheduling in a conjunctive management administration should surprise no one. *Id*. Most importantly, the SWC argued they would be prejudiced were the hearing to be continued. *Id.* at 10.

On May 19, 2023, the Director issued his *Order Denying Motion for Reconsideration of Denial of Continuance* ("Order Denying Motion to Reconsider"). In denying the Groundwater Users motion, the Director expressed that, like the SWC, he was skeptical of the Groundwater Users contention that they had secured sufficient mitigation to ensure seniors would not be injured. *Order Denying Motion to Reconsider* at 5–6. The Director further emphasized his legal responsibility to timely respond to injury incurred by senior water users. *Id.* at 6 (citing *Am. Falls Reservoir Dist. No. 2,* 143 Idaho at 874, 154 P.3d at 445).

Also on May 19, 2023, the Cities, BJGWD, Bingham Groundwater District ("BGWD"), and McCain Foods filed in district court a *Complaint for Declaratory Relief, Petition for Writ of Prohibition, and Petition for Writ of Mandamus* ("Complaint & Petition") as well as a motion for order to show cause. On the same day, IGWA filed in district court a petition for judicial review along with a variety of motions including a motion to stay, a motion for injunctive relief, motion to compel, motion for order to show cause, and a motion for expedited decision. The purpose of the Groundwater Users' various petitions and motions was the same; they were an attempt to persuade the district court to step in and stop the administrative hearing set for June 6–10, 2023.

On June 1, 2023, the district court held a 3.5-hour hearing on the Ground Water Users' various petitions and motions. At the conclusion of the hearing the court ruled from the bench and orally dismissed the Cities writ applications and IGWA's petition for judicial review, and also denied the various other motions filed by the Groundwater Users.[1] The court reiterated that the Groundwater Users grievances have already been addressed in numerous previous cases:

> And I'm going to add one final conclusion here. You know, after reviewing the issues raised in these cases and preparing for these hearings, as I had mentioned earlier, I went back and reviewed the numerous opinions that have been addressed by this Court where substantially the same if not the same issues were raised in the context of conjunctive management delivery calls, including this same delivery call brought by the Surface Water Coalition. The issues are not new, and my reading of the prior decisions explicitly sets forth and reiterates the overriding principles that govern these types of matters. And I'm aware in every single one of those, parties attempt to distinguish that particular set of circumstances to justify the requirement

[1] On June 7, 2023, the Cities filed a motion to voluntarily dismiss their remaining complaint for declaratory relief, which the district court granted on June 14, 2023.

> of exhausting administrative remedies. But the issues raised -- and based on my review, the issues raised today in these cases are no different. And these include that the director's statutorily charged with administering water in priority; time is of the essence in responding to delivery calls; the director must act quickly to avoid injury to senior rights; due process is required but must account for the exigencies of the circumstances; the director has discretion in limiting the scope and timing of the hearings; and unless a statute or rule otherwise provides for a hearing, the director may issue an order and conduct a hearing after issuance of the order.

Excerpt from Hr'g on Admin. Appeals (Court's Ruling) Tr., at 11–12, *City of Pocatello v. Idaho Dep't of Water Res.*, No. CV01-23-08258 (Ada Cnty. Dist. Ct. Idaho June 1, 2023).

The previously scheduled administrative hearing began on June 6, 2023. The hearing was scheduled for five days but was completed in four. Prior to the hearing, the Department posted to its publicly available website the materials Department staff might rely upon at the hearing. The Director took official notice of the documents as authorized under the Department's Procedural Rule 602 (IDAPA 37.01.01.602). At the conclusion of the hearing, the Director requested that the parties submit post-hearing briefing by June 16, 2023. The parties submitted post-hearing briefs.

APPLICABLE LAW

1. "The agency's experience, technical competence, and specialized knowledge may be utilized in the evaluation of the evidence." Idaho Code § 67-5251(5); IDAPA 37.01.01.600.

2. The conjunctive management rules "give the Director the tools by which to determine 'how the various ground and surface water sources are interconnected, and how, when, where and to what extent the diversion and use of water from one source impacts . . . other sources.'" *A & B Irr. Dist. v. Idaho Conservation League*, 131 Idaho 411, 422, 958 P.2d 568, 579 (1997).

3. CM Rule 42.01 lists factors the Director may consider when determining whether senior irrigation water right holders are suffering material injury and using water efficiently and without waste:

> a. The amount of water available in the source from which the water right is diverted.
>
> b. The effort or expense of the holder of the water right to divert water from the source.
>
> c. Whether the exercise of junior-priority ground water rights individually or collectively affects the quantity and timing of when water is available to . . . a senior-priority surface . . . water right. This may include the seasonal as well as the multi-year and cumulative impacts of all ground water withdrawals from the area having a common ground water supply.

d. If for irrigation, the rate of diversion compared to the acreage of land served, the annual volume of water diverted, the system diversion and conveyance efficiency, and the method of irrigation water application.

e. The amount of water being diverted and used compared to the water rights.

f. The existence of water measuring and recording devices.

g. The extent to which the requirements of the holder of a senior-priority water right could be met with the user's existing facilities and water supplies by employing reasonable diversion and conveyance efficiency and conservation practices; provided, however, the holder of a surface water storage right shall be entitled to maintain a reasonable amount of carry-over storage to assure water supplies for future dry years. In determining a reasonable amount of carry-over storage water, the Director shall consider the average annual rate of fill of storage reservoirs and the average annual carry-over for prior comparable water conditions and the projected water supply for the system.

h. The extent to which the requirements of the senior-priority surface water right could be met using alternate reasonable means of diversion or alternate points of diversion, including the construction of wells or the use of existing wells to divert and use water from the area having a common ground water supply under the petitioner's surface water right priority.

IDAPA 37.03.11.042.01

4. The Rule 42.01 factors are not comprehensive. The following are additional factors the Director has considered:

- Statistical Certainty for Predicting Water Supply (Regression r^2 values)
- Field Headgate Deliveries (3/4 inch/acre vs. 5/8 inch/acre)
- Model Uncertainty
- Futile Call
- Trim Line

5. CM Rule 43.03.c outlines a variety of factors the Director may consider in determining whether a proposed mitigation plan will prevent injury to senior rights:

Whether the mitigation plan provides replacement water supplies or other appropriate compensation to the senior-priority water right when needed during a time of shortage even if the effect of pumping is spread over many years and will continue for years after pumping is curtailed. A mitigation plan may allow for multi season accounting of ground water withdrawals and provide for replacement water

> to take advantage of variability in seasonal water supply. The mitigation plan must include contingency provisions to assure protection of the senior priority right in the event the mitigation water source becomes unavailable.

IDAPA 37.03.11.043.03.c.

6. "Once a decree is presented to an administrating agency or court, all changes to that decree, permanent or temporary, must be supported by clear and convincing evidence." *A & B Irr. Dist. v. Idaho Dep't of Water Res*., 153 Idaho 500, 524, 284 P.3d 225, 249 (2012).

7. "If the Director is going to administer to less than the full amount of acres set forth on the face of the [SWC's] Partial Decrees, such a determination must be supported by clear and convincing evidence." *2014 District Court Order* at 19.

8. Clear and convincing evidence is evidence indicating that the thing to be proved is "highly probable or reasonably certain*." In re Doe*, 157 Idaho 694, 699, 339 P.3d 755, 760 (2014).

9. "It seems self–evident that to divert water from a stream or its supplies or tributaries must in a large measure diminish the volume of water in the main stream, and, where an appropriator seeks to divert water on the grounds that it does not diminish the volume in the main stream or prejudice a prior appropriator, he should . . . produce clear and convincing evidence showing that the prior appropriator would not be injured or affected by the diversion. The burden is on him to show such facts." *Josslyn v. Daly*, 15 Idaho 137, 149, 96 P. 568, 571–72 (1908) (internal citations and quotations omitted).

10. The Idaho Supreme Court has expressly admonished that, if the Director is going to administer to less than the full amount of the decree, the burden of any uncertainty must be borne by junior water users:

> In making a determination of whether or not to regulate juniors, the Director is required to evaluate whether the quantity available meets or exceeds the quantity the senior can put to beneficial use. If the Director regulates juniors to satisfy the senior's decreed quantity, there is no risk of injury to the senior. However, if the Director regulates juniors to satisfy a quantity less than decreed, there is risk to the senior that the Director's determination is incorrect. There is no remedy for the senior if the Director's determination turns out to be in error and the senior comes up short of water during the irrigation season. Any burden of this uncertainty should be borne by the junior. . . . [I]f the Director's determination is only based on a finding "more probable than not." The senior's right is put at risk and the junior is essentially accorded the benefit of uncertainty. The requisite high standard accords appropriate presumptive weight to the decree.
> . . . .
>
> It is Idaho's longstanding rule that proof of "no injury" by a junior appropriator in a water delivery call must be by clear and convincing evidence. Once a decree is

> presented to an administrating agency or court, all changes to that decree, permanent or temporary, must be supported by clear and convincing evidence.

A & B Irr. Dist., 153 Idaho at 524, 284 P.3d at 249 (internal citations and quotations omitted).

11. In responding to a delivery call under the CM Rules, the Director "may employ a baseline methodology as a starting point for considering material injury," provided the baseline methodology otherwise comports with the prior appropriation doctrine as established by Idaho law. *In re Distribution of Water to Various Water Rights Held by or for the Ben. of A&B Irr. Dist.*, 155 Idaho at 653, 315 P.3d at 841; *see also 2014 District Court Order* at 17.

12. In his 2014 District Court Order, Judge Wildman stated:

> The Director did not err in his intentional adoption of a baseline year based on above average temperatures and evapotranspiration and below average precipitation. The Court agrees that use of such data is necessary to protect senior rights if the Director is going to administer to an amount less than the full decreed quantity of the [SWC's] rights. The arguments set forth by the City of Pocatello and IGWA that the Director must use data associated with an average year fail to take into account the legal limitations placed on the Director in responding to a delivery call . . . .
> . . . .
>
> If the Director determined the needs of the [SWC] based on historic use data associated with an average year, any decision to administer to less than the full quantity of the [SWC's] decreed rights based on that data would not adequately protect its senior rights. Using data associated with an average year by its very definition would result in an under-determination of the needs of the [SWC] half of the time. The Director simply cannot rely upon such data if he is going to administer to less than the decreed quantity of the [SWC's] water rights as his analysis would not be supported by clear and convincing evidence.
> . . . .
>
> As set forth above, using data associated with an average year in order to administer to less than the full decreed quantity of the [SWC's] water rights would not meet a clear and convincing evidenced standard. Therefore, the arguments set forth by IGWA and the City of Pocatello are unavailing.

2014 District Court Order at 34.

13. Throughout the 2014 District Court Order, Judge Wildman analyzed and applied the Rule 42.01 factors referenced above and reiterated that the proper evidentiary standard is clear and convincing evidence and that the junior ground water users bear the burden of proof.

a. Reduction of Decreed Place of Use: (See Rule 42.01.d.)

Regarding a reduction of the decreed place of use (Rule 42.01.d), Judge Wildman stated:

> If the Director is going to administer to less than the full amount of acres set forth on the face of the [SWC's] *Partial Decrees,* such a determination must be supported by clear and convincing evidence. *See. e.g., A&B Irr. Dist., v. Idaho Dept. of Water Res.,* l53 Idaho 500, 524,284 P.3d 225, 249 (holding, "Once a decree is presented to an administrating agency or court, all changes to that decree, permanent or temporary, must be supported by clear and convincing evidence").

2014 District Court Order at 19.

b. Efficiency and Waste of Water (see Rule 42.01 preface and Rule 42.01.f–g):

Regarding efficiency and the waste of water (Rule 42.01 preface and Rule 42.01.f–g), Judge Wildman stated:

> [I]f the junior users believe for some reasons that the seniors will receive water they cannot beneficially use, it is their burden under the established evidentiary standards and burdens of proof to prove that fact by clear and convincing evidence. For example, the juniors may assert that the Director in their opinion is considering some, but not *all* acres that are no longer irrigated by the seniors. Or it may be their opinion that the Director is considering some, but not *the full extent* of water diverted by the seniors for use by others. In that scenario, it is then their burden under the established evidentiary standards and burdens of proof [to] get evidence supporting their position before the Director in an appropriate fashion.
> . . . .
>
> If junior users believe that administering to the full decreed amount of the [SWC's] water rights will result in waste, they must come forth with clear and convincing evidence establishing that fact. *A&B lrr. Dist.,* 153 Idaho at 524, 284 P.3d at 249.

2014 District Court Order at 31, 45 (emphasis in original).

c. Transactions of Surface Water that Could Diminish Senior Water Right Entitlement (see Rule 42.01.e):

Regarding transactions of surface water that could diminish senior water right entitlements (Rule 42.01.e), Judge Wildman stated:

> The fact that such transaction may have occurred is not . . . sufficient if the Director is going to use that data to administer to less than the full amount of the Coalition's decreed rights. *A&B Irr. Dist.,* 153 Idaho at 524, 284 P.3d at 249 (holding, "Once a decree is presented to an administrating agency or court, all changes to that decree, permanent or temporary, must be supported by clear and convincing evidence").

2014 District Court Order at 46–47.

d. Acres irrigated with supplemental ground water rights:

When determining total irrigated acreage, the Department may consider supplemental groundwater use. *Fifth Methodology Order* ¶ 23, at 10, ¶ 1, at 40.

Regarding supplemental acres, Judge Wildman stated:

> If it is established that acreage accounted for under the Coalition's senior surface water rights is being irrigated from a supplemental ground water source, that is a factor the Director has the authority to consider in the context of a delivery call. If the supplemental ground water rights being used are themselves subject to curtailment under the senior call, (as suggested may be the case here by the Hearing Officer), that factor should also be accounted for by the Director.

2014 District Court Order at 18 (internal citations and quotations omitted).

ANALYSIS

A. Hydrologic connectivity.

1. Groundwater in the ESPA is hydrologically connected to the Snake River

Rule 42.01.c authorizes the Director to determine whether pumping by junior ground water appropriators is affecting downstream senior surface water users. IDAPA 37.03.11.042.01.c; *see also Am. Falls Reservoir Dist. No. 2*, 143 Idaho at 878, 154 P.3d at 449. The conjunctive management rules "give the Director the tools by which to determine 'how the various ground and surface water sources are interconnected, and how, when, where and to what extent the diversion and use of water from one source impacts others.'" *Am. Falls Reservoir Dist. No. 2*, 143 Idaho at 878, 154 P.3d at 449 (quoting *A & B Irrigation Dist*., 131 Idaho at 422, 958 P.2d at 579).

The evaluation of the hydraulic relationship between ground water and surface water, and whether, because of an established relationship, pumping from ground water will deplete the source of water upon which the holders of senior priority surface water rights depend is not a proposed change to the decree. *Am. Falls Reservoir Dist. No. 2*, 143 Idaho at 877, 154 P.3d at 448.

The hydraulic relationship between ground water and surface water has been established in previous proceedings in this matter by expert testimony. "The surface and ground waters in the Snake River Basin are hydraulically connected, such that ground water pumping can decrease the natural flows in the Snake River and its tributaries." *In re Distribution of Water to Various Water Rights Held by or for the Ben. of A&B Irr. Dist*., 155 Idaho at 643, 315 P.3d at 831. "[G]eneral interconnection of all water in the Snake River system is well settled . . . unless the

party claiming otherwise proves by a preponderance of the evidence that the water is from a separate source." *A & B Irr. Dist.*, 131 Idaho at 421–22, 958 P.2d at 578–79. A general provision was added to each water basin in the ESPA, advising that all water rights in the Snake River Basin are connected sources to the Snake River and shall be administered conjunctively unless otherwise specifically provided.[2]

2. Quantifying Depletion

Quantifying the magnitude of the depletion caused by ground water pumping is not a change to the decree. *A & B Irr. Dist. v. Idaho Dep't of Water Res.*, 153 Idaho 500, 523, 284 P.3d 225, 248 (2012). These hydraulic relationships must be established by the preponderance of evidence, as a prerequisite, if possible, to any attempt to adjust the elements of a decreed water right.

The magnitude of the depletion on the Near Blackfoot to Minidoka Reach has previously been quantified by various ground water models for the Eastern Snake Plain Aquifer, although the magnitude of depletion on the reach has fluctuated for each new version of the ground water model. Differences in the predictions result from differences in the methods and time periods used to quantify irrigated acres, evapotranspiration, and consumptive use of ground water, along with improvements in the model representation of the near Blackfoot to Minidoka reach and changes in calibrated model parameters. Off. Noticed Doc. CurtScen22_FinalwApp, at 8, 17.[3] In ESPAM versions 1.1, 2.1, and 2.2, predictions of the depletion to the near Blackfoot to Minidoka reach caused by ground water pumping within the model boundary have ranged from approximately 860,000 to 1.2 million acre-feet per year. The predicted depletions to the near Blackfoot to Minidoka reach ranged from 42% to 46% of the modeled volume of ground water use. All three versions of the model have quantified a significant depletion to the near Blackfoot to Minidoka reach resulting from ground water pumping. Off. Noticed Doc. CurtScen22_FinalwApp, at B-2; Off. Noticed Doc. iwdl-200601, at 22.[4]

In 2022, ESPAM 2.2 predicted that the long-term junior ground water pumping within the ESPA area of common ground water supply depletes reach gains in the near Blackfoot to Minidoka reach by approximately 1.1 million acre-feet per year. Ex. 318, at 13, 21.

3. Quantifying Material Injury

Predicting and documenting whether the depletion caused by groundwater pumping is reducing the delivery of senior surface water rights is difficult because the seniors' Snake River

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[2] *See* SRBA General Provisions for Basins 01, 21, 22, 23, 24, 25, 27, 29, 31, 35, 36, 41, 43, 45, and 47, access at: https://idwr.idaho.gov/water-rights/adjudication/srba/documents/ (last visited June 29, 2023).

[3] Available for download at https://idwr.idaho.gov/legal-actions/delivery-call-actions/SWC/, "Materials Department Witnesses May Rely Upon at Hearing—May 5, 2023". Downloaded folder pathway: ESPAM Report\ESPAM22_Reports\Scenarios\ CurtScen22_FinalwApp.

[4] Available for download at https://idwr.idaho.gov/legal-actions/delivery-call-actions/SWC/, "Materials Department Witnesses May Rely Upon at Hearing—May 5, 2023". Downloaded folder pathways: ESPAM Report\ESPAM22_Reports\Scenarios\ CurtScen22_FinalwApp; ESPAM Report\ESPAM_Legacy_Reports\ iwdl-200601.

water supply relies on both ground water inflow (aquifer discharge entering the Snake River), as well as surface water inflow (snowpack runoff into the Snake River). Predictions of material injury must therefore include a combination of surface water runoff forecasts and surrogate ground water data for estimating ground water inflow to the Snake River.

Because of the variability in Snake River runoff and aquifer levels, the evaluation of whether ground water pumping depletions reduce the delivery and beneficial use of senior water right entitlements must be completed annually. As a result, the methodology order must simultaneously analyze the annual hydrologic data to: (1) determine whether reduced aquifer discharge to the Snake River caused by ground water pumping will result in a demand shortfall for senior water rights given the forecasted snowmelt runoff; and (2) evaluate possible reductions of senior water right elements under the clear and convincing evidence standard. Because these evaluations are concurrent in the methodology order, the Director employs safety factors when considering data that might adjust elements of the decreed senior water rights. As addressed in more detail below, these safety factors are necessary to ensure any adjustment to senior decreed water rights satisfy the requirement for clear and convincing evidence.

B. Challenges to the Fifth Methodology's Order's Method for Calculating Shortfall

Once the prerequisite hydrologic relationships have been established, the presumption is that the holder of the senior priority water right is entitled to delivery and beneficial use of the decreed water right elements, and any diminishment of the decreed elements must be proven by clear and convincing evidence. *A & B Irr. Dist*., 153 Idaho at 524, 284 P.3d at 249 (Holding that "[o]nce a decree is presented to an administrating agency or court, all changes to that decree, permanent or temporary, must be supported by clear and convincing evidence."). "If the Director is going to administer to less than the full amount of acres set forth on the face of the Coalition's Partial Decrees, such a determination must be supported by clear and convincing evidence . . . ." *2014 District Court Order*, at 19. "It is Idaho's longstanding rule that proof of 'no injury' by a junior appropriator in a water delivery call must be by clear and convincing evidence." *A & B Irr. Dist.*, 153 Idaho at 524, 284 P.3d at 249.

1. Baseline Year

A baseline year is a year or average of years when irrigation demand represents conditions that can predict need in the current year. The predicted irrigation demands of the current irrigation season are derived from the baseline year and are compared to estimated water supplies to predict material injury to senior appropriators. *Fifth Methodology Order* ¶ 7, at 3. The Idaho Supreme Court has affirmed that data from a baseline year can be used to determine reasonable in-season demand and predict material injury. *In re Distribution of Water to Various Water Rights Held by or for the Ben. of A&B Irr. Dist*., 155 Idaho at 653, 315 P.3d at 841.

The baseline year is selected by analyzing three factors: (1) climate; (2) available water supply; and (3) current irrigation practices. *Fifth Methodology Order* ¶ 8, at 3. A baseline year is selected from recent year(s) to ensure the baseline year accurately represents current irrigation practices, recent climate conditions, and a year when the senior water rights received a full supply of waters. *Fifth Methodology Order* ¶ 19, at 9, ¶ 24,

at 11. Because the baseline year data is used to *predict* reasonable in-season demand for senior appropriators, safety factors must be employed to ensure the senior water rights will be satisfied. *See 2014 District Court Order*, at 34. Safety factors include selecting a baseline year(s) with above average diversions, above average temperatures, and below average precipitation. *Fifth Methodology Order* ¶ 9, at 3. These safety factors protect the senior water rights from an underprediction of water need because, under Idaho law, a senior appropriator is presumed entitled to his or her fully decreed water right. *Am. Falls Reservoir Dist. No. 2*, 143 Idaho at 877–78, 154 P.3d at 448–49.

In previous methodology orders, no single year during the period from 2000–2014 satisfied all necessary criteria for selecting a baseline year. Off. Noticed Doc.BLYReview_2022_used for TWG_used for order, "Summary" tab.[5] For instance, one year might have been hotter than normal, resulting in greater than average evapotranspiration, but the rainfall might have been higher than normal too, disqualifying the single year. To ensure that all factors were satisfied, the Director combined several years to create an adequate safety factor to ensure senior priority surface water rights were protected.

For example, in the Fourth Methodology Order, the Department's baseline year averaged the SWC diversion volumes for 2006, 2008, and 2012 ("BLY 6/08/12"). *Fifth Methodology Order* ¶ 26, at 11. When averaged, 2006, 2008, and 2012 resulted in a baseline year diversion volume slightly above average (101%). *Fourth Methodology Order* ¶ 27, at 12. The Fourth Methodology Order averaged SWC diversion volumes for three years because no single year met all necessary criteria. *Fourth Methodology Order* ¶ 27, at 12.

For the Fifth Amended Methodology Order, the Director reviewed data from the recent years of 2014–2021. *Fifth Methodology Order* ¶ 26, at 11. Unlike in the Fourth Methodology Order, there were two years, 2018 and 2020, that satisfied all necessary criteria for a baseline year. *Compare Fourth Methodology Order* ¶ 27, at 12 *with Fifth Methodology Order* ¶ 27, at 12; *see also* Off. Noticed Doc. BLY_SWC_TWG_11-16-22, at 12.[6]

After thoroughly reviewing the data, the Director concludes that 2018 best satisfies the criteria for a baseline year. In 2018 the SWC's diversion volume was above average at 104%, ranking fourth in total diversions (from 2000–2021). *Fifth Methodology Order* ¶ 27, at 12; *see also* Off. Noticed Doc. BLYReview_2022_used for TWG_used for order, "Summary" tab.[7] A safety factor of 4% is reasonable. Additionally, 2018 had below average precipitation with above average temperatures and associated growing degree days. Year 2018 therefore satisfies all

[5] Available for download at https://idwr.idaho.gov/legal-actions/delivery-call-actions/SWC/, "Materials Department Witnesses May Rely Upon at Hearing—May 5, 2023". Downloaded folder pathway: 2023 5th Amended Methodology Order\BLY\BLYReview_2022_used for TWG_used for order.

[6] Available for download at https://idwr.idaho.gov/legal-actions/delivery-call-actions/SWC/, "Materials Department Witnesses May Rely Upon at Hearing—May 5, 2023". Downloaded folder pathway: 2022 Technical Working Group (TWG)\Meeting 11-16-22 Methodology Overview & BLY\BYL_SWC_TWG_11-16-22.

[7] Available for download at https://idwr.idaho.gov/legal-actions/delivery-call-actions/SWC/, "Materials Department Witnesses May Rely Upon at Hearing—May 5, 2023". Downloaded folder pathway: 2023 5th Amended Methodology Order\BLY\BLYReview_2022_used for TWG_used for order.

criteria for a baseline year and sufficiently protects senior appropriators. *Fifth Methodology Order* ¶ 27, at 12.

The Ground Water Users propose averaging 2006 and 2018, which produces a diversion volume that is 101%, or just 1% above average, a percentage closer to that used in previous methodology orders. Ex. 837A, at 18; *see also Fourth Methodology Order* ¶ 27, at 12. The purpose of selecting a baseline year with diversions above average is to protect the senior surface water rights, not to select a number closest to the average diversion volume. Historical data illustrates the risk to senior appropriators when the Department selects a BLY with diversion volumes only slightly above average. The data shows that averaging SWC diversion volumes from 2006/2008/2012 for the baseline year resulted in shortfalls in four out of eight years from 2015 to 2022. Ex. 837A, at 82; see also *Fourth Methodology Order* ¶ 27, at 12.

As Judge Wildman previously advised:

> The Director did not err in his intentional adoption of a baseline year based on above average temperatures and evapotranspiration and below average precipitation. The Court agrees that use of such data is necessary to protect senior rights if the Director is going to administer to an amount less than the full decreed quantity of the Coalition's rights. The arguments set forth by the City of Pocatello and IGWA that the Director must use data associated with an average year fail to take into account the legal limitations placed on the Director in responding to a delivery call. . . .
>
> If the Director determined the needs of the Coalition based on historic use data associated with an average year, any decision to administer to less than the full quantity of the Coalition's decreed rights based on that data would not adequately protect its senior rights. Using data associated with an average year by its very definition would result in an under-determination of the needs of the Coalition half of the time. The Director simply cannot rely upon such data if he is going to administer to less than the decreed quantity of the Coalitions' water rights as his analysis would not be supported by clear and convincing evidence.

2014 District Court Order, at 33–34.

The Ground Water Users further contend selecting 2018 as the baseline year was improper "because it falls on the extreme end of the spectrum for precipitation" given that, "from 1992-2021, 2018 was the only irrigation season where there was zero precipitation from July to September." IGWA's Post-Hr'g Br., at 12.

It is true that 2018 was an outlier for lack of precipitation from July–September, and in this regard 2020 would have been a better choice. Off. Noticed Doc. BLY_SWC_TWG_11-16-

22, at 8.[8] The Director did not select 2020 as the baseline year, given the SWC's abnormally high diversion volumes of 110.5% of average. *Id*. at 17.

In sum, after thoroughly reviewing the data, the Director concludes that a safety factor of 4% is reasonable. Year 2018 best satisfies the criteria for a baseline year and sufficiently protects senior appropriators.

2. The R-Squared Value for TFCC's Natural Flow Forecast

The predictive power for accuracy of the TFCC's natural flow multi-linear model can be evaluated by the "R-squared" value on a regression line. Hr'g Tr. vol. III, at 49; Hr'g Tr. vol. I, at 186–87. The R-squared value is a statistical measurement of how closely data points fit on a regression line. Hr'g Tr. vol. I, at 186–87. R-squared values are decimal numbers that range from zero to one. The higher the decimal value, the closer the data are to the regression line, and the greater the percent of variability in the data is explained by the model. Hr'g Tr. vol. I, at 187.

The R-squared value for the TFCC's April predicted natural flow model is 0.72. Ex. 901, at 9. Department employee Matt Anders testified that this R-squared value has declined in recent years, but that the Department is still confident the regression equation is accurately predicting TFCC's natural flow. Hr'g Tr. vol. I, at 224–25.

The ground water users challenge the accuracy of TFCC's natural flow prediction and imply that TFCC's 0.72 R-squared is evidence that the Department's TFCC natural flow forecast is unreliable. Hr'g Tr. vol. I, at 162-65; Hr'g Tr. vol. III, at 49–51, 187–89, 230–33; *see also* Ex. 837A at 23. While not entirely clear, the ground water users appear to believe that the Heise Gage is a poor predictor of TFCC's surface water supply given the number of tributaries that enter the Snake downstream from the Heise Gage. Hr'g Tr. vol. I, at 162-65; Hr'g Tr. vol. III, at 49–51, 187–89, 230–33.

The ground water users also appear to challenge the Department's use of ground-water-derived spring flow from Box Canyon Springs, which the ground water users appear to believe has no correlation with reach gains from the near Blackfoot to Minidoka stretch. Hr'g Tr. vol. I, at 162-65; Hr'g Tr. vol. III, at 49–51, 187–89, 230–33; *see also* Ex. 837A at 23.

The ground water users failed to offer sufficient evidence that TFCC's natural flow forecast is flawed or that TFFC's 0.72 R-squared value is unreasonable. Accordingly, the Director concludes TFFC's 0.72 R-squared value is reasonable and the TFCC's natural flow forecast is sufficiently accurate.

[8] Available for download at https://idwr.idaho.gov/legal-actions/delivery-call-actions/SWC/, "Materials Department Witnesses May Rely Upon at Hearing—May 5, 2023". Downloaded folder pathway: 2022 Technical Working Group (TWG)\Meeting 11-16-22 Methodology Overview & BLY\BYL_SWC_TWG_11-16-22.

3. Cumulative Bias

In its April shortfall calculation, the Department employs two bias or safety factors to protect senior water right holders. First, the 2018 BLY diversion volumes must be above average; and second, the forecasted natural flow supply is reduced by one standard deviation. In its July shortfall calculation, the Department employs one bias factor; the diversion volumes for July–October are above average.

The ground water users contend "[t]hese biases compound to aggressively over-predict DS. The *Fifth Methodology Order* takes the overprediction to new heights by adopting a new BLY that is much more aggressive than the BLY used in prior iterations of the Methodology Order." IGWA's Post-Hr'g Br. at 11.

The Director disagrees that the new BLY "aggressively" over-predicts demand shortfall and is "much more aggressive than the BLY used in prior iterations . . . ." As discussed in the baseline year section above, historical data indicates that the Fourth Methodology Order, which averaged diversions for 2006/2008/2012, was not biased enough to protect senior water right holders. In four out of eight years from 2015 to 2022, the April demand shortfall was *less* than the actual demand shortfall in November. Ex. 837A, at 82; see also *Fourth Methodology Order* ¶ 27, at 12. In other words, under the Fourth Methodology Order the safety factors failed to protect seniors 50% of the time.

The 2018 BLY is not anticipated to result in extreme over predictions of the SWC's demand shortfall as alleged by the ground water users. Historical data indicates that if the 2018 BLY had been used from 2015–2022, in one of eight years the April demand shortfall would have been less than the actual demand shortfall in November and in two of eight years, the July demand shortfall would have been less than the actual demand shortfall in November. *Id.*

The Director concludes that the Department's safety factors do not aggressively overpredict demand shortfall.

4. Reduction of TFCC's Decreed Place of Use

CM Rules 42.01.d–e state that, in determining whether a senior irrigator is using water efficiently yet still suffering injury, the Director may consider:

d. [T]he rate of diversion compared to the acreage of land served . . . .

e. The amount of water being diverted and used compared to the water rights.

Collectively, TFCC's natural flow Snake River water rights authorize their shareholders to irrigate 196,162 acres. Ex. 184, at 9, 13, 18; *see also* Hr'g Tr. vol. II, at 81. This 196,162-acre figure represents the number of acres TFCC irrigated in 1987 when the Snake River Basin Adjudication was commenced. Ex. 184, at 2; *see also* Hr'g Tr. vol. II, at 82. It is undisputed TFCC no longer irrigates 196,162 acres, as acreage has been removed from irrigation for various reasons. Hr'g Tr. vol. II, at 82.

TFCC concedes its members are currently irrigating no more than 194,732 acres. Ex. 4, at 1. The 194,732 irrigated acre figure is derived from a 2013 shapefile created by TFCC. *Id*. The Department used the 2013 shapefile to predict TFCC's irrigated acres for 2023. *Fifth Methodology Order* ¶ 22, at 10; *see also 2023 As-Applied Order* ¶ 3, at 1, ¶ 6, at 2; Ex. 337.

Using aerial imagery and Landsat photography from 2017, the Department's GIS staff created what has been commonly referred to as the "2017 irrigated lands dataset" (hereinafter "2017 shapefile"). Hr'g Tr. vol. II, at 68. The 2017 shapefile classified irrigated fields into three categories, irrigated, semi-irrigated, and non-irrigated. *Id.* at 68–69. The shapefile indicated that, in 2017, TFCC members irrigated 180,956 acres. Ex. 4, at 3. The purpose of the 2017 shapefile was to assist Department staff in determining TFCC's irrigation demand in 2017 for use in model calibration. Hr'g Tr. vol. II, at 68, 140–41.

The ground water users argue that, in predicting TFCC's 2023 irrigated acreage, the Director should rely on the Department's 2017 shapefile—not the 2013 shapefile created by TFCC. IGWA's Post-Hr'g Br., at 13–14. The Director disagrees.

The 2017 shapefile is more recent than the 2013 shapefile, but it does not necessarily represent the number of acres TFCC may irrigate in 2023. The 2017 shapefile was a snapshot in time. It does not necessarily predict *future* irrigated acres. In compiling the 2017 shapefile, Department staff did not distinguish "hardened acres" —i.e., fields that have been permanently removed from irrigation—from fields that were not irrigated in 2017 but could be in future years. Hr'g Tr. vol. II, at 194–95.

The same is not true for the 2013 shapefile as explained by its author, a TFCC consultant named David Shaw. Mr. Shaw testified that when he compiled the 2013 shapefile, he specifically excluded hardened acres and included acres that could have been irrigated in 2013 but were not. Hr'g Tr. vol. IV, at 152–53. Unlike the 2013 shapefile, the 2017 shapefile includes only acres that *were irrigated* in 2017 and excludes the acres that *were not irrigated* in 2017 but *could be* irrigated in future years, e.g., 2023. This is a critical distinction because, as Mr. Shaw explains in the SWC's expert report, TFCC "has no way of knowing whether land covered by shares will or will not be irrigated and must prepare to meet the share delivery obligation." Ex. 4 ¶ 7, at 2.

Mr. Shaw also testified that in his opinion the 2013 shapefile currently represents the best available information for determining TFCC's actual irrigated acreage. Hr'g Tr. vol. IV, at 164–65. Finally, the Director has letters from TFCC's counsel stating that from 2014–2022 the number of acres TFCC irrigated has not varied by more than 5% from the previous (2013) shapefile numbers. Ex. 337.

The Ground Water Users also contend that "Jennifer Sukow testified that [the 2017 lands] data set[] represent[s] the best science available to determine actual irrigated acreage . . . ." IGWA's Post-Hr'g Br. at 14. The ground water users are mistaken. During the hearing, Ms. Sukow testified that the 2017 irrigated lands data set was the best data for *model calibration*. Hr'g Tr. vol. I, at 69. Model calibration employs hindcasts, not forecasts. As noted above, the

2017 shapefile was created to assist Department staff in determining historic irrigation demand within the ESPAM boundary during 2017 for use in model calibration. *Id.* at 68, 140–41.

At the hearing and in their post-hearing briefing, the ground water users state that the burden is on TFCC or the Department to create a new shapefile that identifies the number of acres TFCC can irrigate in 2023. The ground water users are mistaken. To reduce TFCC's predicted irrigated acreage below 194,732 acres, the burden is on the junior ground water users to establish the accuracy of a lesser number (e.g., 180,956) by clear and convincing evidence. "Once a decree is presented to an administrating agency or court, all changes to that decree, permanent or temporary, must be supported by clear and convincing evidence." *A & B Irr. Dist.*, 153 Idaho at 524, 284 P.3d at 249. The ground water users did not establish an alternative number of acres irrigated by clear and convincing evidence. In short, the ground water users failed to satisfy their burden of proof.

5. Supplemental acres

When determining the total acreage irrigated with surface water by SWC entities, the Department may consider supplemental ground water use. *Fifth Methodology Order* ¶ 23, at 10, ¶ 1, at 40. If acreage is irrigated with ground water instead of surface water, less surface water is needed for irrigation, and any surface water demand shortfall should decrease. In the Fifth Methodology Order, the Department determined that it was without sufficient information to determine the extent of supplemental irrigation on lands within the service areas of the SWC entities. *See Id.* Without sufficient information on supplemental ground water use, the Director is prohibited from reducing a water user's full decreed entitlement. *2014 District Court Order*, at 19 (Holding that the Director was prohibited from administering less than the seniors full decree given that "the record d[id] not contain evidence that acres accounted for . . . [we]re being irrigated from a supplemental ground water source . . . ."). The record in this matter equally lacks sufficient evidence to justify a reduction of the total number of acres irrigated with surface water by SWC members.

IGWA argues that at least some TFCC members have supplemental rights. IGWA's Post-Hr'g Br., at 15. The Department agrees that TFCC's manager and expert Chuck Brockway testified that some TFCC members have supplemental water rights, but he also opined the number is very low. Hr'g Tr. vol. IV, at 52–53.

In his 2014 District Court Order, Judge Wildman noted that:

> [T]he parties fail to cite the Court anything submitted before the Department in either written form or via oral testimony establishing the use of supplemental ground water by individual irrigators within the Coalition.

2014 District Court Order at 19.

The Ground Water Users bear the burden of proving by clear and convincing evidence that SWC acreage was irrigated with supplemental ground water. The Ground Water Users failed to proffer sufficient evidence concerning the quantity of acres TFCC members could

irrigate with supplemental ground water rights. Assertions that IDWR records should identify overlapping ground water rights or that ground water pumping information is best known by the SWC does not change the standard of proof and does not shift the burden of proof borne by the ground water users.

6. The Department's adjustments for "wheeled water"

At times canal companies transport water for third parties through their respective water delivery systems. This transported water, which does not go to meet the canal company member's water supply, is often called "wheeled water." When calculating reasonable in-season demand, it is important to remove wheeled water from SWC diversions. For example, suppose the SWC diverted 3,500,000 acre-feet on a particular year, but 200,000 of those acre-feet was wheeled water. It is necessary to remove the 200,000 acre-feet of wheeled water when calculating SWC's demand, lest it appear SWC members were diverting and using 3,500,000 acre-feet, rather than 3,300,000.

IGWA's expert Sophia Sigstedt advised that her calculations revealed, in determining SWC's 2018 diversion, that IDWR failed to account for approximately 5,000 acre-feet of water wheeled by AFRD2. Ex. 837A, at 20. According to Ms. Sigstedt, IDWR failed to properly subtract all AFRD2's wheeled water in 2018, resulting in a diversion that was 5,000 ac. ft. too high. *Id.* at 16.

On rebuttal, Matt Anders testified that AFRD2's diversion was inaccurately calculated, and the inaccuracy resulted in AFRD2's diversion being 5,000 ac. ft. *too low*. Hr'g Tr. vol. IV, at 173–74. In other words, the miscalculation benefited the Groundwater Users and harmed the SWC, not the other way around.

In sum, there is no evidence that storage water wheeled by the SWC was incorrectly added to the SWC's 2018 surface water demand.

7. 5/8 inch per acre vs. 3/4 inch per acre

At hearing and in its summary brief, IGWA argues that "TFCC shareholders can raise crops on 5/8 inch per acre [headgate delivery] without suffering material injury." IGWA Post Hearing Brief, at 7, 9, 10. However, TFCC's seasonal headgate delivery rate is not the basis for evaluating injury in the current methodology. As IGWA acknowledges, "the Methodology Order does not actually utilize a 3/4-inch headgate delivery, 5/8-inch headgate delivery, or any other headgate delivery as part of its material injury determination for TFCC." *Id.* at 8.

Rather, as IGWA correctly states, the Methodology predicts injury using a baseline year. The baseline year is selected by analyzing climate, available water supply, and current irrigation practices from a single year or average of years. *Fifth Methodology Order* ¶ 8, at 3. The Idaho Supreme Court has affirmed that data from a baseline year can be used to determine reasonable in-season demand and predict material injury. *In re Distribution of Water to Various Water Rights Held by or for the Ben. of A&B Irr. Dist*., 155 Idaho at 653, 315 P.3d at 841.

Undaunted, IGWA compares baseline year injury determinations to historical TFCC seasonal headgate delivery rates and concludes, "a hindcast of the Fifth Methodology Order applying it to the time period 2000-2022 shows it generating DS predictions . . ., even though TFCC rarely suffers injury in reality." IGWA's Post-Hr'g Br. at 11–12. IGWA presumably determined there was no "injury in reality" because the Methodology predicted a demand shortfall in years when TFCC received a seasonal or partial season 3/4-inch headgate delivery. IGWA's argument is unpersuasive because, by its own admission, it is relying on a determination of injury that is not a component of this or past methodologies.

C. Efficiency & Waste

CM Rule 42.01.d and g advise that two of the factors the Director may consider in determining whether senior irrigation water right holders are using water efficiently and without waste, while still suffering material injury, are:

> d. [T]he rate of diversion compared to the acreage of land served, the annual volume of water diverted, the system diversion and conveyance efficiency, and the method of irrigation water application[;] [and]
>
> . . . .
>
> g. The extent to which the requirements of the holder of a senior-priority water right could be met with the user's existing facilities and water supplies by employing reasonable diversion and conveyance efficiency and conservation practice . . . .

In substance, 42.01.d and g authorize the Director to consider whether senior appropriators are wasting water via various unreasonable or inefficient practices.

Project efficiency for each surface water delivery system is unique, depending on numerous factors, including but not limited to: (1) length of delivery system; (2) geological materials through which the system delivers water; (3) nature of structures that deliver water; and (4) method of application of irrigation water. *Fifth Methodology Order* ¶¶ 29–30, at 12–13. In the *Fifth Methodology Order*, the Director calculated recent historical project efficiency (as compared to general "project efficiency") for each SWC member for the 15-year period from 2008 through 2022. *Fifth Methodology Order* ¶ 32, at 14.

The crop water need ("CWN") for each SWC entity for the upcoming season is calculated by averaging each entity's crop mix for the previous three previous years. Off. Noticed Doc. NRT METRIC_SWC_TWG_11-17-22, at 6.[9] Averaging crop mix for the preceding three years is necessary to reflect possible changes in irrigation demands caused by variability in annual crop mix. The SWC's projected reasonable in-season demand ("RISD") for the upcoming season is calculated by dividing each entity's CWN by its recent historical project efficiency.

[9] Available for download at https://idwr.idaho.gov/legal-actions/delivery-call-actions/SWC/, "Materials Department Witnesses May Rely Upon at Hearing—May 5, 2023". Downloaded folder pathway: 2022 Technical Working Group (TWG)\Meeting 11-17-22 Forecast Supply & NRT METRIC\NRT METRIC_SWC_TWG_11-17-22.

The Ground Water Users contend the Director's efficiency analysis is inadequate because it fails to adjust for on-the-ground efficiency projects, e.g., canal lining. IGWA's Post-Hr'g Br., at 15. The Ground Water Users argue the Director should require the SWC to satisfy a higher efficiency standard than the recent historical project efficiencies.

The Ground Water Users also criticize the calculation of recent project efficiencies as being circular. Cities' Closing Br., at 7; *see also* IGWA's Post-Hr'g Br., at 15. In effect, the ground water users argue that if the SWC's irrigated acreage number is reduced, but the amount of water delivered doesn't change, the only result will be a reduced efficiency value. IGWA's Post-Hr'g Br., at 15. While the mathematical argument is correct, the purpose of the argument is unclear. It appears the purpose may be to establish that the calculated efficiency numbers are valueless.

To remedy the perceived efficiency calculation errors, the Ground Water Users contend the Department should jettison its historical efficiency analysis and instead judge SWC members efficiencies by comparing them to industry standards. Cities' Closing Br., at 7. The Director disagrees.

The Cities' expert, Greg Sullivan, conceded that the Court has previously rejected the industry standard approach for which the ground water users currently advocate. Hr'g Tr. vol. II, at 201. The Court has already determined that the methodology order's approach to calculating the efficiencies of SWC members is acceptable. *2014 District Court Order*, at 30–31. Mr. Sullivan further admitted that there were no per acre industry standard diversion rates for large open canal systems—as each entity would be different—and that he used the term "industry standard" to mean reasonableness of TFCC's operation compared to its irrigation efficiencies. Hr'g Tr., vol. II, at 225, 237.

Calculating efficiency for large open canal systems is extremely difficult. Hr'g Tr. vol. IV, at 146. TFCC's operation is enormous, with over 1,000 miles of canal, over 4,000 headgates, and over 10,000 concrete structures. Hr'g Tr. vol. II, at 16–18. Evaluating the efficiency of each mile of canal or headgate is a large undertaking. The Ground Water Users, the parties that bear the burden of proof, have not evaluated the SWC's canal and lateral efficiencies.

The Ground Water Users also contend the Director should instruct the Technical Working Group to "develop a mechanism to track real canal efficiency based on real efficiency factors." IGWA's Post-Hr'g Br., at 16. The Ground Water users' proposal attempts to misdirect the burden of proof. "[I]f the junior users believe for some reasons that the seniors will receive water they cannot beneficially use, it is their burden under the established evidentiary standards and burdens of proof to prove that fact by clear and convincing evidence." *2014 District Court Order*, at 31.

TFCC's general manager Jay Barlogi testified that his organization's diversions were reasonable and that TFCC worked hard to improve its efficiency, for example by annually cleaning its canals, lining canals, and replacing over 100 concrete structures per year. Hr'g Tr. vol. II, at 18–20. Mr. Shaw testified that TFCC does a good job maintaining its infrastructure compared to other water delivery organizations, and that TFCC's delivery system is reasonable. Hr'g Tr. vol. IV, at 146.

Lastly, the Ground Water Users imply TFCC is wasting significant quantities of water as evidenced by TFCC's return flows. Hr'g Tr. vol. II, at 191–196. For example, the Cities offered into evidence a document that purports to show TFCC's return flows from 2009–2022. Ex. 365.

Exhibit 365 does not distinguish between natural flow in tributary creeks (e.g., Rock Creek) from water TFCC diverted from the Snake and later returned to the Snake. This matters because measured flows can include irrigation returns as well as water from tributaries. Hr'g Tr. vol. II, at 241. The Cities' exhibit does not prove how much water TFCC diverted from the Snake and later returned.

Return flow data are difficult to obtain. Mr. Anders testified that the Department monitors some of TFCC's return flow, but does not monitor some of the smaller return flows. Hr'g Tr. vol. I, at 128. TFCC's general manager Jay Barlogi testified that he did not believe TFCC was returning a significant amount of water. Hr'g Tr. vol. II, at 43.

The SWC's surface water delivery systems were designed to divert large flow rates delivered to many farmers through long and complex networks of canals and laterals. At the beginning of the irrigation season, these networks must fill over the course of several days. The time needed to fill the canals has a relationship to the time necessary to respond to changes in delivery or emergency. If a large rainstorm reduces the demand for delivery of irrigation water in the canals and laterals, and many users along the delivery system reduce deliveries, the canal company cannot immediately reduce the water being delivered in its system at the diversion from the Snake River. Furthermore, the SWC entity also cannot immediately refill the canals and laterals when the rain stops and the crops demand an immediate water supply. Finally, an emergency on a canal or lateral, like a bank failure, might require that water in the delivery system be discharged from the canals to relieve the system of excess water.

The SWC entities must be able to discharge some water out of its system to ensure delivery of water to its patrons and to operate efficiently within the limits of the delivery system. Testimony at the hearing established that the SWC entities operated efficiently within the limits of their delivery system. *See* Hr'g Tr. vol. II, at 75, 90–91, 94–96; Hr'g Tr. vol. IV, at 146.

The Director concludes TFCC's diversions and efficiency are reasonable.

D. Curtailment

1. Transient vs. Steady-State Modeling

In previous years, the Director used steady-state modeling when determining the curtailment priority date.

In surface water administration, uses by holders of junior priority surface water rights are curtailed until the senior surface water rights are fully satisfied, absent a futile call and if the senior surface water users need the water to accomplish a beneficial use. Under surface water administration, junior surface water rights are generally curtailed unless the senior receives water in the quantity and at the time and place required.

As previously stated in *Am. Falls Reservoir Dist. No. 2*, 143 Idaho at 878, 154 P.3d at 449, "[t]he presumption under Idaho law is that the senior is entitled to his decreed water right . . . ." Entitlement to the decreed water right includes receiving water in the quantity and at the time and place required. The Director has a responsibility to respond timely to injury incurred by senior water users; there should be no unnecessary delays in that process. *Id.* "Clearly, a timely response is required when a delivery call is made and water is necessary to respond to that call." *Id.* This is common sense because "[i]n practice, an untimely decision effectively becomes the decision; i.e. 'no decision is the decision.'" Order on Pls.' Mot. for Summ. J., at 97, *Am. Falls Reservoir Dist. No. 2 v. Idaho Dep't of Water Res.*, No. CV-2005-600 (Gooding Cnty. Dist. Ct. Idaho June 2, 2006)

Rule 43 of the CM Rules mandates that when the Director evaluates a mitigation plan, the mitigation plan must ensure that water is delivered to holders of senior priority surface water rights in both the quantity and at the time and place required by the senior. In considering a proposed mitigation plan pursuant to Rule 43.03, the Director must evaluate:

> b. Whether the mitigation plan will provide replacement water, *at the time and place required by the senior-priority water right*, sufficient to offset the depletive effect of ground water withdrawal on the water available in the surface or ground water source *at such time and place as necessary* to satisfy the rights of diversion from the surface or ground water source. Consideration will be given to the history and seasonal availability of water for diversion so as not to require replacement water at times when the surface right historically has not received a full supply, such as during annual low-flow periods and extended drought periods.
>
> c. Whether the mitigation plan provides replacement water supplies or other appropriate compensation to the senior-priority water right *when needed during a time of shortage* even if the effect of pumping is spread over many years and will continue for years after pumping is curtailed. A mitigation plan may allow for multi-season accounting of ground water withdrawals and provide for replacement water to take advantage of variability in seasonal water supply. The mitigation plan must include contingency provisions to assure protection of the senior-priority right in the event the mitigation water source becomes unavailable.

IDAPA 37.03.11.043.03.b–c (emphasis added). In other words, there is an assumption that senior water right holders calling for delivery of water under the CM Rules will receive, by curtailment or by mitigation, "replacement water, at the time and place required by the senior priority water right, sufficient to offset the depletive effect of ground water withdrawal . . . ." The plan must "assure protection of the senior-priority right in the event the mitigation water source becomes unavailable."

The Director has an obligation to address a mitigation deficiency in the year it occurs. Mem. Decision & Order on Pet. for Jud. Rev., at 10, *Rangen, Inc. v. Idaho Dep't of Water Res.*, No. CV-2014-2446 (Twin Falls Cnty. Dist. Ct. Idaho Dec. 3, 2014); Mem. Decision & Order, at 8–9, *Rangen, Inc. v. Idaho Dep't of Water Res.*, No. CV-2014-4970 (Twin Falls Cnty. Dist. Ct. Idaho June 1, 2015).

Curtailment to a priority date calculated by the steady state analysis method used in the Fourth Methodology Order will only offset 9% to 15% of the predicted IDS. In contrast, curtailment to a priority date calculated with a transient simulation of a single season curtailment will offset the *full* predicted IDS unless the shortfall exceeds the accruals to the near Blackfoot to Minidoka reach by the end of the irrigation season with curtailment of all junior ground water rights. This methodology order depends on an annual evaluation of material injury and should also employ curtailment and or mitigation that supplies replacement water at the time and place required by the senior-priority water right in a quantity sufficient to offset the shortfall resulting from ground water withdrawal and to assure protection of the senior-priority right. Curtailment dates, periodically determined at time of recalculating in season demand shortfall (IDS), should be calculated by a transient model simulation that will return the full quantity of water to the senior priority rights at the time and place required, or the maximum quantity that can be returned by curtailing all junior water rights.

The Ground Water Users argue the Director should have determined a priority date for curtailment by steady state modeling of a continuous curtailment that would eventually deliver a volume of water to satisfy the demand shortfall of SWC entities, and require continuous mitigation from holders of ground water rights junior to the calculated priority date. Curtailment would be the threat to ensure the holders of junior ground water rights comply with the mitigation plan. This proposal, while lofty in its equitable ambition, does not follow the legal progression of water administration. In a delivery call proceeding in Idaho, the Director does not impose mitigation plans upon the holders of junior priority water rights. Mitigation plans are proposed by holders of junior priority ground water rights and may be approved by the Director to allow for out-of-priority pumping. Curtailment, or the threat of curtailment, is the tool employed by the Director to force the development of a mitigation plan. Only a threat of continuous curtailment of ground water rights bearing priority dates junior to some unknown priority date would prevent shortfalls to calling parties.

This argument fails because of extreme fluctuations in the Snake River flows caused by fluctuating flows from snowmelt, there are years when there is plentiful surface water for beneficial use and there is no material injury to the calling parties. Water may be flowing past Milner Dam, down the Snake River, and out of the State of Idaho. If there were a curtailment, these facts could be viewed as a waste of water, the antithesis of optimizing the beneficial use of the water of the State of Idaho.

Furthermore, when there is a demand shortfall, the magnitude of the shortfall varies. Choosing a single priority date for continuous curtailment to match one year's shortfall would be inaccurate.

As stated by the CM Rules and by the Courts, out of priority diversion is only allowed by an approved mitigation plan. Junior water right holders can develop or adhere to an approved mitigation plan to avoid curtailment in years of demand shortfalls and allow for out of priority diversions.

2. Futile Call

CM Rule 42.01.c alludes to delayed depletions caused by ground water pumping that affect the "quantity and timing" of water availability to the senior surface water rights. The Director must consider whether "the holders of [senior priority] water rights are suffering material injury" even though the full depletion is not immediate and may be delayed for multiple years:

> Whether the exercise of junior-priority ground water rights individually or collectively affects the quantity and timing of when water is available to . . . a senior-priority surface . . . water right. This may include the seasonal as well as the multi-year and cumulative impacts of all ground water withdrawals from the area having a common ground water supply.

CM Rule 42.01.c.

Delay in the depletive effect of ground water pumping is not grounds for the Ground Water Users to be excused from water administration under the CM Rules. If there is a significant depletion to the senior water rights, even if the impact is spread over multiple years, junior Ground Water Users are subject to water administration.

In support of this conclusion, CM Rule 43.03.c outlines a variety of factors the Director may consider in determining whether a proposed mitigation plan will prevent injury to senior rights including:

> Whether the mitigation plan provides replacement water supplies or other appropriate compensation to the senior-priority water right when needed during a time of shortage even if the effect of pumping is spread over many years and will continue for years after pumping is curtailed. A mitigation plan may allow for multi season accounting of ground water withdrawals and provide for replacement water to take advantage of variability in seasonal water supply. The mitigation plan must include contingency provisions to assure protection of the senior priority right in the event the mitigation water source becomes unavailable.

If the Director were to determine that curtailment of some ground water rights would not immediately accrue water to the senior priority surface water rights, even though the cumulative impact is significant, and that the delivery call is futile because there is no immediate benefit for the surface water rights, the holders of junior priority ground water rights could recurringly avoid curtailment. Avoiding obligation because of delayed cumulative impact is contrary to the intent of the CM Rules. The Director concludes the delivery call is not futile.

3. Trim line

Establishing a trim line is a close relative to determining a futile call. In the Rangen delivery call, the Director previously established a trim line when the cumulative benefits

of curtailment to a remote spring tributary to the Snake River were de minimus. On appeal, the Idaho Supreme Court stated:

> In light of this challenging balancing requirement, it is necessary that the Director have some discretion to determine in a delivery call proceeding whether there is a point where curtailment is unjustified because vast amounts of land would be curtailed to produce a very small amount of water to the caller. As discussed, Idaho law contemplates a balance between the "bedrock principles" of priority of right and beneficial use. *In Matter of Distribution of Water to Various Water Rights Held By or For Benefit of A & B Irrigation Dist.*, 155 Idaho 640, 650, 315 P.3d 828, 838 (2013). The Director is authorized to undertake this balancing act, subject, as he acknowledged here, to the limitations of Idaho law.

Idaho Ground Water Assoc. v. Idaho Dep't of Water Res., 160 Idaho 119, 132, 369 P.3d 897, 910 (2016).

The spatial distribution of long-term impacts of Ground Water Users on aquifer discharge to the near Blackfoot to Minidoka reach is documented in the record. In Ms. Sigstedt's expert report, Figure 3-6 shows the steady state response function, which is the long-term impact of pumping on the near Blackfoot to Minidoka reach as a percentage of the volume of ground water used. Ex. 837 at 38. Figure 3-6 shows that Ground Water Users on both sides of the Great Rift (the boundary applied to the Rangen delivery call trim line) have significant long-term impacts on aquifer discharge to the nB-Min reach. As a result, the Director concludes that a trimline is not appropriate.

4. Model Uncertainty

Prior to the issuance of the Fifth Methodology Order and 2023 April As-Applied Order, three versions of ESPAM (1.1, 2.1, and 2.2) quantified depletions to surface water supply caused by junior ground water pumping or calculated priority dates for curtailment for this delivery call. These three model versions have also quantified depletions to surface water supply caused by ground water pumping in support of water right administration, including the approval or denial of water right transfer applications. In transfer evaluations, the current and previous versions of ESPAM have calculated the transient impacts of ground water pumping on Snake River reach gains, similar to the transient calculation of curtailment benefit implemented in the Fifth Methodology Order and 2023 April As-Applied Order. Ex. 3, at 7.

The current version, ESPAM version 2.2 was completed in May 2021 and superseded ESPAM version 2.1 as the best available scientific tool for these purposes. Improved representation of ground water and surface water interaction in the near Blackfoot to Neeley reach was identified as one of the priorities for development of ESPAM version 2.2 and significant improvements to the Department's monitoring network and the ESPAM model were implemented with the guidance of the Eastern Snake Hydrologic Modeling Committee to achieve this objective. Off. Noticed Doc. ModelCalibration22_Final, at 1, 3; Off. Noticed Doc.

CurtScen22_FinalwApp, at 10.[10] A predictive uncertainty analysis of ESPAM version 2.2 was performed and presented to the Eastern Snake Hydrologic Modeling Committee in conjunction with the release of the new version. Off. Noticed Doc. E22PredUnc_Final.[11]

While the predictive uncertainty analysis did not specifically quantify the uncertainty of the model predictions applied in the 2023 April As-Applied Order, it does provide a general understanding of the contribution of model calibration to predictive uncertainty for steady-state and transient model scenarios. *Id.* at 41. Model uncertainty is not so significant to suggest that a transient simulation of a single season curtailment will not provide a more accurate estimate of the increase in reach gains expected to occur during the current irrigation season than a steady-state simulation of a continuous curtailment. In other words, there is no evidence that model uncertainty is so significant that a curtailment date calculated using a steady-state simulation, which results in a predicted in-season accrual of approximately 10% of the IDS, could possibly result in an actual in-season accrual approaching 100% of the IDS.

Further, any administrative allowance for uncertainty in the prediction of the volume of water obtained by applying a given curtailment date would be applied to reduce the risk to the senior water user and would result in applying an earlier curtailment date. Because of the safety factor already applied in the calculation of the shortfall, the Director does not find that an additional safety factor needs to be applied to calculation of the priority date. Further, the senior water users did not request that the Director add an additional safety factor to account for ESPAM predictive uncertainty.

E. Due process

The Ground Water Users contend the Department violated their due process rights and the Idaho Administrative Procedures Act by issuing the methodology order before holding a hearing, and by failing to provide the Ground Water Users sufficient time to prepare for the hearing. IGWA's Post-Hr'g Br., at 18. The Ground Water Users are mistaken.

Idaho Code § 42-1701A governs hearings before the Director, and provides among other things that:

> Unless the right to a hearing before the director . . . is otherwise provided by statute, any person aggrieved by any action of the director, including any decision, determination, order or other action, including action upon any . . . approval . . . or similar form of permission required by law to be issued by the director, who is aggrieved by the action of the director, and who has not previously been afforded

[10] Available for download at https://idwr.idaho.gov/legal-actions/delivery-call-actions/SWC/, "Materials Department Witnesses May Rely Upon at Hearing—May 5, 2023". Downloaded folder pathways: ESPAM Report\ESPAM22_Reports\ ModelCalibrationRpt \ ModelCalibration22_Final; ESPAM Report\ESPAM22_Reports\Scenarios\ CurtScen22_FinalwApp.

[11] Available for download at https://idwr.idaho.gov/legal-actions/delivery-call-actions/SWC/, "Materials Department Witnesses May Rely Upon at Hearing—May 5, 2023". Downloaded folder pathway: ESPAM Report\ESPAM22_Reports\ESPAM22_Reports\UncertaintyRpt\ E22PredUnc_Final.

an opportunity for a hearing on the matter shall be entitled to a hearing before the director to contest the action.

The Methodology Order constitutes an "order" under § 42-1701A(3), meaning there is no statutory right to a pre-decision hearing concerning an amendment to the Methodology Order. The Idaho Supreme Court has already held that "[t]he Director may develop and implement a pre-season management plan for allocation of water resources that employs a baseline methodology . . . [and is] made available in advance of the applicable irrigation season . . . ." *In Matter of Distribution of Water to Various Water Rts. Held By or For Ben. of A & B Irrigation Dist*., 155 Idaho at 653, 315 P.3d at 841.

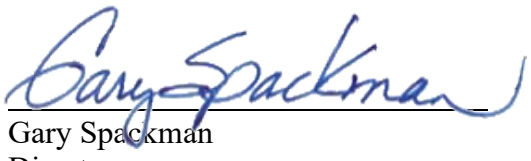
The Idaho Supreme Court has also clearly expressed that the Director has a legal responsibility to *timely* respond to injury incurred by senior water users. Am. Falls Reservoir Dist. No. 2, 143 Idaho at 874, 154 P.3d at 445. The District Court has already ruled in this matter that the process the Department afforded "provides due process consistent with the exigencies of the circumstances and the director's duty to timely administer water rights in priority. And frankly, setting a hearing after the irrigation season as requested is not a tangible alternative . . . ." Excerpt from Hr'g on Admin. Appeals (Court's Ruling) Tr., at 8–9, *City of Pocatello v. Idaho Dep't of Water Res.*, No. CV01-23-08258 (Ada Cnty. Dist. Ct. Idaho June 1, 2023).

In sum, the Ground Water Users' due process rights were not violated, which the District Court has already determined.

ORDER

IT IS HEREBY ORDERED that the Director affirms the Fifth Methodology Order with a few modifications. Because there are some modifications, the Director will simultaneously issue with this order a *Sixth Final Order Regarding Methodology for Determining Material Injury to Reasonable In-Season Demand and Reasonable Carryover*.

DATED this 19th day of July 2023.



Gary Spackman
Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 19th day of July 2023, the above and foregoing, was served by the method indicated below, and addressed to the following:

John K. Simpson MARTEN LAW LLP P.O. Box 2139 Boise, ID 83701-2139 jsimpson@martenlaw.com	☒ U.S. Mail, postage prepaid ☒ Email
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Sarah Tschohl
Paralegal

EXPLANATORY INFORMATION TO ACCOMPANY A FINAL ORDER

(Required by Rule of Procedure 740.02)

The accompanying order is a "**Final Order**" issued by the department pursuant to section 67-5246 or 67-5247, Idaho Code.

Section 67-5246 provides as follows:

(1) If the presiding officer is the agency head, the presiding officer shall issue a final order.

(2) If the presiding officer issued a recommended order, the agency head shall issue a final order following review of that recommended order.

(3) If the presiding officer issued a preliminary order, that order becomes a final order unless it is reviewed as required in section 67-5245, Idaho Code. If the preliminary order is reviewed, the agency head shall issue a final order.

(4) Unless otherwise provided by statute or rule, any party may file a petition for reconsideration of any order issued by the agency head within fourteen (14) days of the service date of that order. The agency head shall issue a written order disposing of the petition. The petition is deemed denied if the agency head does not dispose of it within twenty-one (21) days after the filing of the petition.

(5) Unless a different date is stated in a final order, the order is effective fourteen (14) days after its service date if a party has not filed a petition for reconsideration. If a party has filed a petition for reconsideration with the agency head, the final order becomes effective when:

(a) The petition for reconsideration is disposed of; or
(b) The petition is deemed denied because the agency head did not dispose of the petition within twenty-one (21) days.

(6) A party may not be required to comply with a final order unless the party has been served with or has actual knowledge of the order. If the order is mailed to the last known address of a party, the service is deemed to be sufficient.

(7) A non-party shall not be required to comply with a final order unless the agency has made the order available for public inspection or the nonparty has actual knowledge of the order.

(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 67-5246(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) the service date 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.

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF THE DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY AND FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY	Docket No. CM-DC-2010-001 **ORDER REVISING APRIL 2023 FORECAST SUPPLY AND AMENDING CURTAILMENT ORDER** **(*METHODOLOGY STEPS 5 & 6*)**

The Director of the Idaho Department of Water Resources ("Department") finds, concludes, and orders as follows:

FINDINGS OF FACT

A. Background

1. On July 19, 2023, the Director issued the *Sixth Final Order Regarding Methodology for Determining Material Injury to Reasonable In-Season Demand and Reasonable Carryover* ("Methodology Order"). The Methodology Order established nine steps for determining material injury to members of the Surface Water Coalition ("SWC"). This order applies Steps 5 and 6 to the 2023 irrigation season.

2. On November 30, 2022, the Director issued the *Final Order Establishing 2022 Reasonable Carryover – Methodology Step 9* ("November Carryover Order") establishing a reasonable carryover shortfall of 49,309 AF. The Director ordered junior ground water users holding consumptive ground water rights within the Eastern Snake Plain Aquifer ("ESPA") area of common ground water supply with priority dates junior to May 31, 1989, to mitigate for their proportionate share of the reasonable carryover shortfall or be curtailed. *November Carryover Order* at 6.

3. On April 21, 2023, the Director issued his *Final Order Regarding April 2023 Forecast Supply (Methodology Steps 1 – 3)* ("April Forecast Supply Order"). The April Forecast Supply Order predicted a demand shortfall to the SWC of 75,200 acre-feet for the 2023 irrigation season. *April Forecast Supply Order* at 3. At that time, the only member of the SWC predicted to experience material injury during the 2023 irrigation season was the Twin Falls Canal Company ("TFCC"). The Director ordered that, by May 5, 2023, ground water users with consumptive water rights "junior to December 30, 1953, within the Eastern Snake Plain Aquifer area of common ground water supply shall establish, to the satisfaction of the Director, that they can mitigate for their proportionate share of the predicted [demand shortfall] of 75,200 acre-feet in accordance with an approved mitigation plan . . . ." *Id.* at 5. The Director also ordered that, if

a junior ground water user cannot establish they can mitigate for their proportionate share of the predicted demand shortfall in accordance with an approved mitigation plan, "the Director will issue an order curtailing the junior-priority ground water user." *Id.* However, on May 1, 2023, the Director sent notice to affected water users that a hearing on the April Forecast Supply Order would be held June 6–10, 2023, and the Director would wait until after the hearing to decide whether to issue a curtailment order.

4. Step 5 of the Methodology Order addresses the final injury determination to reasonable carryover for members of the SWC. "If the storage allocations held by members of the SWC fill, there is no reasonable carryover shortfall." *Methodology Order* at 43. On July 13, 2023, the Water District 01 published its 2023 Preliminary Storage Report ("Storage Report").[1] The Storage Report stated that TFCC had 1,088 acre-feet of last to fill (i.e., LTF) that did not fill. TFCC has 1,088 acre-feet of LTF space due to its lease of 1,088 acre-feet to the Supplemental Pool in 2020. Because the LTF storage space did not fill due to a lease by TFCC, TFCC's unfilled LTF space is not considered a reasonable carryover shortfall.

5. Step 6 states:

> Approximately halfway through the irrigation season . . . the Director will, for each member of the SWC: (1) recalculate RISD [Reasonable In-Season Demand]; (2) issue a revised FS [Forecast Supply]; and (3) estimate the Time of Need date.

Id. (footnote omitted).

B. April–June Climate

6. The April 2023 Joint Forecast prepared by the United States Army Corps of Engineers and the United States Bureau of Reclamation ("BOR") predicted 3,700,000 acre-feet of natural flow at the Heise gage for the period of April through July 2023. *April Forecast Supply Order* at 2. The Joint Forecast "is generally as accurate a forecast as is possible using current data gathering and forecasting techniques." *Methodology Order* at 19 (citation omitted).

7. Spring precipitation (April–June) was variable. According to Natural Resource Conservation Service SNOTEL sites, the Upper Snake received 96%, 64%, and 179% of average precipitation in April, May, and June, respectively. The National Weather Service's Twin Falls weather station reported 20%, 132%, 79% of normal precipitation in April, May, and June, respectively. Temperatures reported by the Twin Falls weather station were -1.6 degrees below normal for April, 4.1 degrees above normal for May, and -0.6 degrees below normal for June.[2]

[1] The *2023 Preliminary Storage Report* can be viewed on-line at the following link: https://www.waterdistrict1.com/media/5piix3cc/2023-prelim-storage-report.pdf .

[2] Precipitation and temperature data obtained from the NOAA National Weather Service Preliminary Monthly Climate Data for the Twin Falls 3SE weather station (Twin Falls Airport).

C. Reasonable In-Season Demand

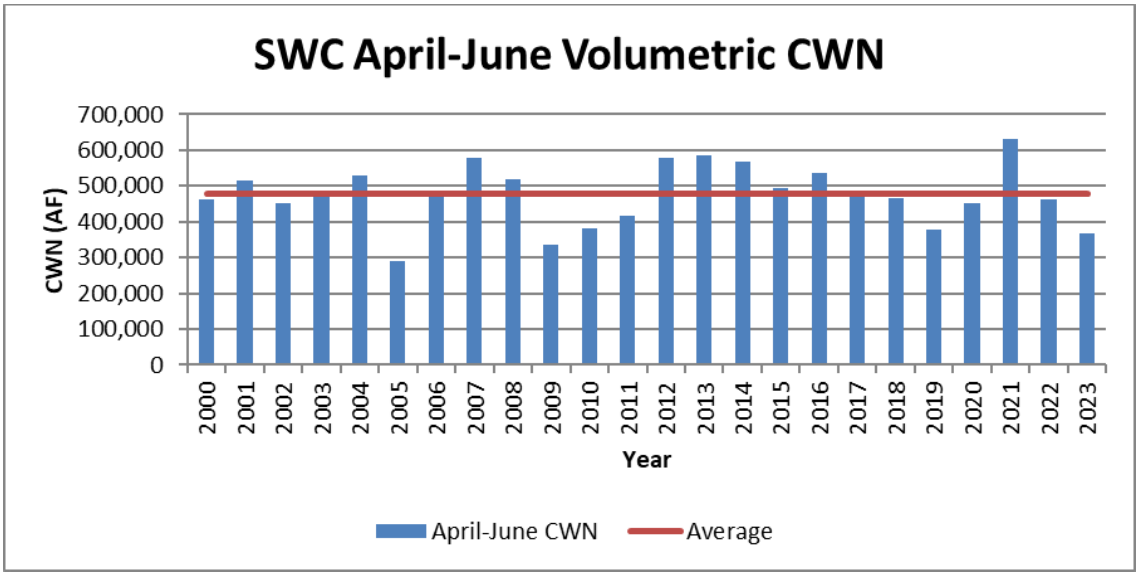
8. RISD "is the projected annual diversion volume for each SWC entity during the year of evaluation that is attributable to the projected beneficial use of growing crops within the service area of the entity." *Methodology Order* at 13. In April, the demand from the 2018 BLY defines the RISD. *Id.* at 17. During the irrigation season, the RISD for the completed portion of the irrigation season is recalculated by dividing the actual crop water need ("CWN") for each entity by the project efficiency for that entity. *Id.* at 17, 43. For the remainder of the irrigation season, the RISD is the demand defined by the July–October 2018 BLY. *Id.* RISD is calculated on a monthly time step.

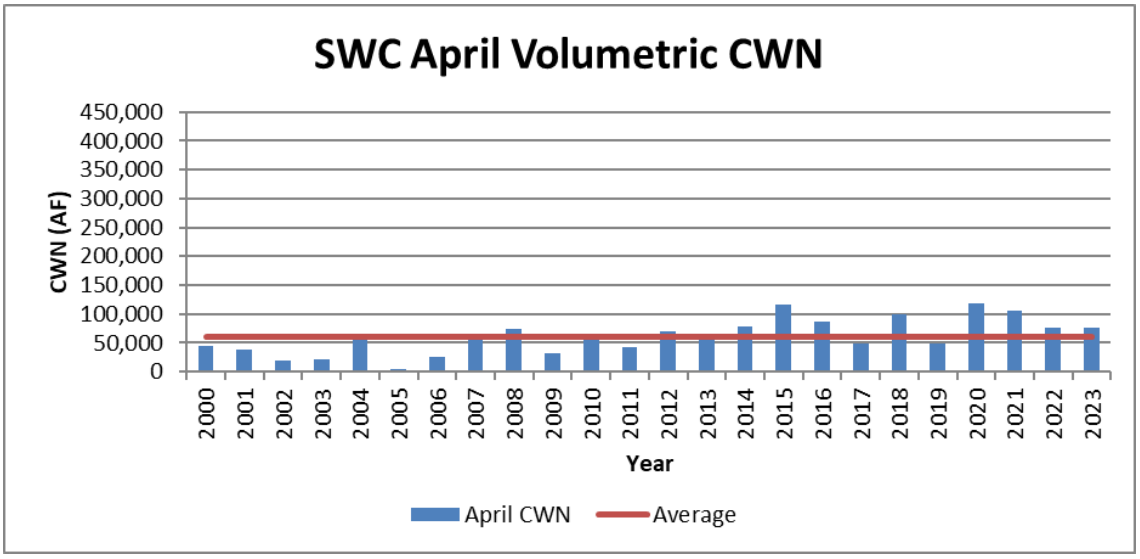
i. Crop Water Need

9. "CWN is the volume of irrigation water required for crop growth within a SWC entity boundary, such that crop growth is not limited by water availability." *Methodology Order* at 15. CWN is the difference between the fully realized consumptive use associated with crop growth, or [evapotranspiration], and effective precipitation . . . ." *Id.*

10. CWN is an input variable for calculating RISD for the completed portion of the irrigation season. *Id.* at 17. Actual RISD for the completed portion of the irrigation season is combined with monthly predicted baseline demands for the remaining months of the irrigation season to calculate a season-total RISD volume. *Id.* at 17-18. In-season demand shortfall is then calculated as the difference between the adjusted FS and the RISD. *Id.* at 23.

11. As calculated from the beginning of the irrigation season (April 1), the SWC's volumetric CWN for the current water year through the month of June is 367,222 acre-feet. This volume is 73% of the April 1–June 30 ten-year average CWN (2013–2022) and 79% of the April 1–June 30 CWN for the 2018 BLY. The following graphs summarize monthly volumetric CWN values:




SWC April Volumetric CWN
CWN (AF)
450,000
400,000
350,000
300,000
250,000
200,000
150,000
100,000
50,000
0
2000
2001
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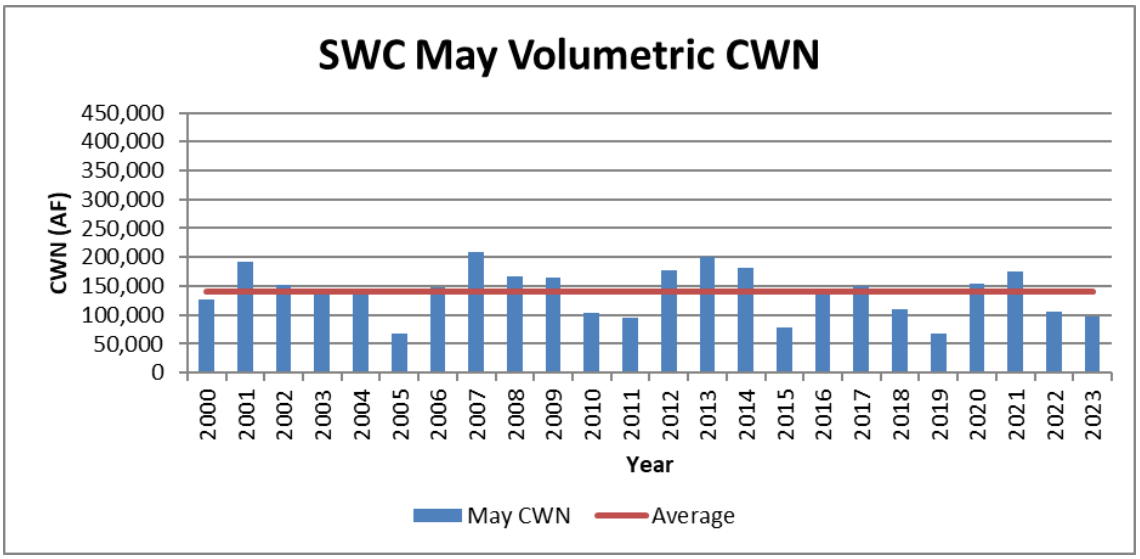
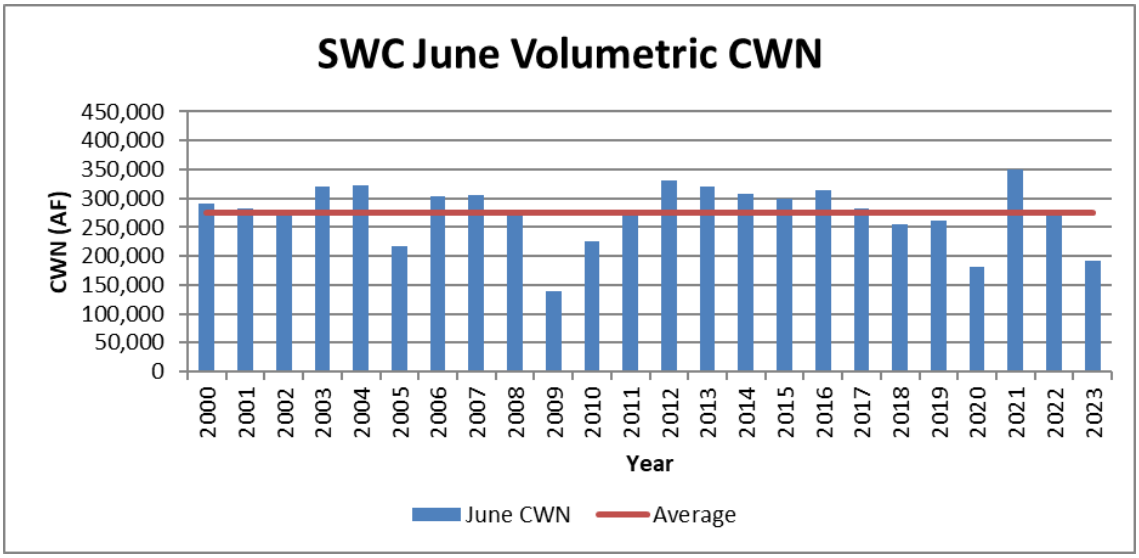
2018
2019
2020
2021
2022
2023
Year
April CWN
Average


SWC May Volumetric CWN
CWN (AF)
450,000
400,000
350,000
300,000
250,000
200,000
150,000
100,000
50,000
0
2000
2001
2002
2003
2004
2005
2006
2007
2008
2009
2010
2011
2012
2013
2014
2015
2016
2017
2018
2019
2020
2021
2022
2023
Year
May CWN
Average



ii. Extension of BLY

12. The RISD for the remaining portion of the irrigation season (July–October) is the July–October demand for 2018 BLY. The numeric values are shown in the table in Finding of Fact 13 below.

iii. Calculation of RISD

13. As calculated from the beginning of the irrigation season (April 1), the SWC's volumetric RISD for 2023 through the month of June is 991,737 acre-feet. This volume is 72% of the April 1–June 30 ten-year average RISD (2013–2022) and 70% of the April–June demand for the 2018 BLY. The recalculated RISD at this point of the 2023 irrigation season by entity is:

	April–June CWN (AF)	E_p (April - June)	April–June RISD (AF)	July–October Demand for 2018 BLY (AF)	Recalculated RISD (AF)
A&B	8,872	0.46-1.05	15,093	38,528	53,622
AFRD2	41,551	0.22-0.40	129,884	274,485	404,369
BID	31,241	0.31-0.49	78,538	145,546	224,085
Milner	8,578	0.38-0.87	15,353	36,432	51,786
Minidoka	58,753	0.35-0.55	131,152	196,968	328,121
NSCC	86,283	0.23-0.41	278,976	594,099	873,075
TFCC	131,944	0.29-0.51	342,740	653,473	996,214

D. Forecast Supply

14. When determined during the irrigation season, the FS is the sum of the actual natural flow supply from April through June, the predicted natural flow supply from July through

October, and the actual storage allocations. *Methodology Order* at 43. Actual natural flow diversions for the completed portion of the irrigation season are extracted from the Department's water rights accounting program. The natural flow diversions for the remainder of the irrigation season are estimated by regression analysis. *Id.* at 20–21, 43. Storage allocations are determined by Water District 01 after the Day of Allocation. *Id.* at 43.

i. Sum of Actual Natural Flow Diverted

15. Actual natural flow diverted in April through June for each SWC member is shown in the table contained in Finding of Fact 25 below, within the "Summary of Forecast Supply" section.

ii. Regression Models to Predict Natural Flow (July–October)

16. Natural flow diversions were predicted for the remainder of the irrigation season by regression analysis. The Methodology Order established the following variables as predictor variables in the regression models: natural flow in the Snake River near Heise as reported by the BOR, snow water equivalent ("SWE") data at Two Ocean Plateau SNOTEL site, Spring Creek discharge, and groundwater levels near American Falls Reservoir. *Methodology Order* at 20–21. Unique regression models with unique predictor variable groups are established in the Methodology Order for each SWC member.

17. Either June 15 or July 1 SWE values for the Two Ocean Plateau SNOTEL site are used as input variables in each of the regression models developed in the Methodology Order. Two Ocean Plateau SWE data was selected as a predictor variable in the Methodology Order based upon step-wise statistical analysis carried out in the development of each regression model. The Two Ocean Plateau SWE data is an optimum predictor variable for several reasons including: its elevation (the site is located above 9,000 ft and typically still has snow late in the runoff season (June 15 and July 1); its location (the site is in the headwaters of the Snake River above Jackson Reservoir); and its period of record, which is sufficiently long enough to support model development.

18. On July 1, 2023 the Two Ocean Plateau SNOTEL station reported 0.0 inches of SWE. When the snow water equivalent is zero on July 1, the predicted natural flow supplies for the period July 1–October 31 for A&B, AFRD2, and Milner are zero acre-feet. *Methodology Order* at 20.

19. The input variables used to predict the July–October natural flow volumes for BID, Minidoka, and NSCC in 2023 include: (1) 4.1 inches of the SWE reported by the Two Ocean Plateau SNOTEL site on June 15, 2023; (2) 2,935,356 acre-feet of natural flow runoff at the Snake River near Heise (April–June) as reported by the BOR; and (3) 27.61 feet depth to water at well 5S31E27ABA1 as measured by the Department on March 23,2023.

20. The input variables used to predict the July–October natural flow volumes for TFCC in 2023 include: (1) 4.1 inches of the SWE reported by the Two Ocean Plateau SNOTEL site on June 15, (2) 2,935,356 acre-feet of natural flow runoff at the Snake River near Heise

(April–June) as reported by the BOR, and (3) 76,428 acre-feet total discharge at Spring Creek (January–May) as measured and reported by the United States Geologic Survey for its *Spring Creek at Sheepskin Rd Nr Fort Hall ID* Gage (Gage No. 13075983).

iii. Storage Allocations

21. The preliminary storage allocations identified by Water District 01 in the Storage Report for each of the SWC members are reported in the table in Finding of Fact 23 below.

iv. Adjustments to Total Supply

22. The natural flow and storage water supplies were both adjusted as shown in the table in Finding of Fact 23 below. Adjustments to natural flow include wheeled water to Southwest Irrigation District through BID and Milner, 3,714 acre-feet and 3,011 acre-feet, respectively. The only adjustments to the stored water supply in the table below were for the Minidoka Credit. Water supplied to or from the rental pool was not included in the adjustments.

v. Summary of Forecast Supply

23. The following table contains the individual components of the FS for each of the SWC members:

	Natural Flow Diverted 4/1 to 6/30 (AF)	Predicted Natural Flow Diversions 7/1 to 10/31 (AF)	Natural Flow Adjustment (AF)	Preliminary Storage Allocation (AF)	Minidoka Credit Adjustment (AF)	FS (AF)
A&B	15,545	0	0	132,888	0	148,436
AFRD2	148,717	0	0	382,422	1,000	532,147
BID	105,323	10,972	(3,714)	220,083	5,130	337,799
Milner	19,449	0	(3,011)	86,922	0	103,362
Minidoka	137,692	15,529	0	336,711	8,370	498,310
NSCC	395,563	83,732	0	834,545	(7,750)	1,306,091
TFCC	426,135	418,779	0	237,918	(6,750)	1,076,089

E. Revised Shortfall Projection

24. In-season demand shortfall ("IDS") is calculated as the difference between RISD and the FS.

25. Based on the above, and as summarized in the table below, the Director predicts no mid-season IDS to the SWC.

	FS (AF)	RISD (AF)	Shortfall (AF)
A&B	148,436	53,622	0
AFRD2	532,147	404,369	0
BID	337,799	224,085	0
Milner	103,362	51,786	0
Minidoka	498,310	328,121	0
NSCC	1,306,091	873,075	0
TFCC	1,076,089	996,214	0
		Total	0

F. Time of Need

26. Step 5 of the Methodology Order requires that the Director estimate the Time of Need if there is water owed to SWC members that is in addition to the reasonable carryover shortfall volume. *Methodology Order* at 43. As stated in Finding of Fact 4, there is no reasonable carryover shortfall. Execution of Step 6 demonstrates there is no mid-season IDS to the SWC for 2023. With no additional water owed to SWC members, there is no need to establish a Time of Need as described in Step 6.

CONCLUSIONS OF LAW

1. Idaho Code § 42-602 authorizes the Director to supervise water distribution within water districts:

> The director of the department of water resources shall have direction and control of the distribution of water from all natural water sources within a water district to the canals, ditches, pumps and other facilities diverting therefrom. Distribution of water within water districts created pursuant to section 42-604, Idaho Code, shall be accomplished by watermasters as provided in this chapter and supervised by the director. The director of the department of water resources shall distribute water in water districts in accordance with the prior appropriation doctrine. The provisions of chapter 6, title 42, Idaho Code, shall apply only to distribution of water within a water district.

2. Idaho Code § 42-607 states that the watermaster, under the direction of the Director, shall regulate diversions "when in times of scarcity of water it is necessary so to do in order to supply the prior rights of others in such stream or water supply . . . ."

3. Step 5 of the Methodology Order requires that the Director estimate the Time of Need if there is water owed to the SWC members that is in addition to the reasonable carryover shortfall volume. *Methodology Order* at 43. No member of the SWC is owed reasonable

carryover in 2023 for a reasonable carryover shortfall determined in 2022. Execution of Step 6 of the Methodology Order demonstrates there is no mid-season IDS to the SWC for 2023. With no additional water owed to SWC members, there is no need to establish a Time of Need as described in Step 6.

ORDER

Based upon and consistent with the foregoing, IT IS HEREBY ORDERED that there is no mid-season in-season demand shortfall to the SWC members.

Dated this 19th day of July 2023.

GARY SPACKMAN
Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 19th day of July 2023, the above and foregoing, was served by the method indicated below, and addressed to the following:

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Sarah Tschohl
Paralegal

EXPLANATORY INFORMATION TO ACCOMPANY A FINAL ORDER

(To be used in connection with actions when a hearing was **not** held)

(Required by Rule of Procedure 740.02)

The accompanying order is a "**Final Order**" issued by the department pursuant to section 67-5246, 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 67-5246(4), Idaho Code.

REQUEST FOR HEARING

Unless the right to a hearing before the director or the water resource board is otherwise provided by statute, any person who is aggrieved by the action of the director, and who has not previously been afforded an opportunity for a hearing on the matter shall be entitled to a hearing before the director to contest the action. The person shall file with the director, within fifteen (15) days after receipt of written notice of the action issued by the director, or receipt of actual notice, a written petition stating the grounds for contesting the action by the director and requesting a hearing. See section 42-1701A(3), Idaho Code. **Note: The request must be received by the Department within this fifteen (15) day period.**

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 of: a) the service date of the final order, b) the service date 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.

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF THE DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY AND FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY	Docket No. CM-DC-2010-001 **SIXTH FINAL ORDER REGARDING METHODOLOGY FOR DETERMINING MATERIAL INJURY TO REASONABLE IN-SEASON DEMAND AND REASONABLE CARRYOVER**

BACKGROUND

On April 19, 2016, the Director ("Director") of the Idaho Department of Water Resources ("Department") issued his *Fourth Amended Final Order Regarding Methodology for Determining Material Injury to Reasonable In-Season Demand and Reasonable Carryover* ("Fourth Methodology Order"). The Fourth Methodology Order: (1) explained how the Director would determine material injury to storage and natural flow water rights of members of the Surface Water Coalition ("SWC")[1]; (2) established methods for quantifying material injury to SWC storage and natural flow water rights as predictive and actual demand shortfalls; (3) established methods for quantifying mitigation obligations by holders of junior priority ground water rights for shortfalls in predictive and actual SWC water demands; and (4) established a method for determining a priority date for curtailment if mitigation obligations are not satisfied.

The processes established in the Fourth Methodology Order for determining material injury are not immutable. Updates to the methodology order based on additional data and analyses were always anticipated:

> Recognizing his ongoing duty to administer the State's water resources, the Director should use available data, and consider new analytical methods or modeling concepts, to evaluate the methodology. As more data is gathered and analyzed, the Director will review and refine the process of predicting and evaluating material injury. The methodology will be adjusted if the data supports a change.

[1] The SWC is comprised of A&B District, American Falls Reservoir District #2, Burley Irrigation District, Milner Irrigation District, Minidoka Irrigation District, North Side Canal Company, and Twin Falls Canal Company. Each entity holds separate senior surface natural flow water rights and has separate storage contracts for storage water space in the reservoirs.

Fourth Methodology Order, Conclusion of Law 17; *see also In Matter of Distribution of Water to Various Water Rts. Held By or For Ben. of A & B Irrigation Dist.*, 155 Idaho 640, 645, 315 P.3d 828, 833 (2013) ("[t]he concept of a baseline is that it is adjustable . . . ."). The prediction and determination of rights and obligations of the holders of senior priority and junior priority water rights respectively must: (1) apply the best available science and underlying water data; (2) consider changing climatic and cropping patterns; and (3) adhere to the most recent decisions of the courts related to water administration.

Many of the data sets the Department relied upon in the Fourth Methodology Order have been expanded and now include additional years. Furthermore, the Director has had time to review and consider the implications of court decisions that require the Director to address a mitigation deficiency in the year it occurs. As a result, the director issued the *Fifth Amended Final Order Regarding Methodology for Determining Material Injury to Reasonable In-Season Demand and Reasonable Carryover* ("Fifth Methodology Order") on April 21, 2023. The purpose of the Fifth Methodology Order was to update the Director's methodology for determining material injury to storage and natural flow water rights either held by or committed to members of the SWC consistent with the Director's ongoing obligation to use the best available science and information.

On April 21, 2023, the Director also issued his (1) *Final Order Regarding April 2023 Forecast Supply* ("April 2023 As-Applied Order"), as well as a (2) *Notice of Hearing, Notice of Prehearing Conference, and Order Authorizing Discovery* ("Notice of Hearing"), which set a hearing on the Fifth Methodology and As-Applied Orders for June 6–10, 2023 ("June 6 Hearing"). During the June 6 Hearing, the parties proffered testimony and evidence regarding the Fifth Methodology Order and the April 2023 As-Applied order.

The purpose of issuing this *Sixth Final Order Regarding Methodology for Determining Material Injury to Reasonable In-Season Demand and Reasonable Carryover* ("Sixth Methodology Order") is to correct data in the Fifth Methodology Order found to be in error during the June 6 Hearing. This Sixth Methodology Order also edits a few other non-substantive matters in the Fifth Methodology Order.

FINDINGS OF FACT

I. Overview of the Methodology for Determining Material Injury to Water Rights by Determining Reasonable In-Season Demand and Reasonable Carryover

This methodology is based on the selection of a recent analogous, baseline year to predict reasonable in-season demand ("RISD") for the senior priority surface water rights during the upcoming irrigation season.

1. The method for determining material injury to water rights by determining RISD and reasonable carryover should be based on updated data, the best available science, analytical methods, and the Director's professional judgment as manager of the state's water resources. In the future, climate may vary and conditions may change; therefore, the methodology may need to

be adjusted to consider a different baseline year or years ("BLY") or changes to other components.

2. In-season demand shortfall ("IDS") will be computed by subtracting RISD from the forecast supply ("FS"). In-season demand shortfall is computed using the following equation:

$$IDS = FS - RISD$$

3. If the FS is greater than the RISD, there is no demand shortfall. If the FS is less that the RISD, the negative difference is the demand shortfall. Initially, RISD is equal to the historic demands associated with a BLY as selected by the Director, but will be corrected during the season to account for variations in climate and water supply between the BLY and actual conditions.

4. Reasonable carryover shortfall will be computed by subtracting reasonable carryover from actual carryover, where reasonable carryover is defined as the difference between a baseline year demand ("BD") and projected typical dry year supply. Reasonable carryover shortfall will be computed using the following equation:

$$\text{Reasonable Carryover Shortfall} = \text{Actual Carryover} - \text{Reasonable Carryover}$$

5. If actual carryover exceeds the reasonable carryover, there is no reasonable carryover shortfall. In contrast, if reasonable carryover exceeds the actual carryover, the negative difference is the reasonable carryover shortfall.

6. The concepts underlying the selection of the BLY, determination of in-season demand shortfall, and reasonable carryover shortfall will be discussed in detail below.

II. In-Season Demand Shortfall

A. Considerations for the Selection of a Baseline Year

7. A BLY is a year or average of years when irrigation demand represents conditions that can predict need in the current year of irrigation at the start of the irrigation season. The purpose of predicting need is to estimate material injury.

8. A BLY is selected by analyzing three factors: (1) climate; (2) available water supply; and (3) irrigation practices. R. vol. 37, at 7098.[2] To capture current irrigation practices, identification of a BLY is limited to years subsequent to 1999. *Id*. at 7096.

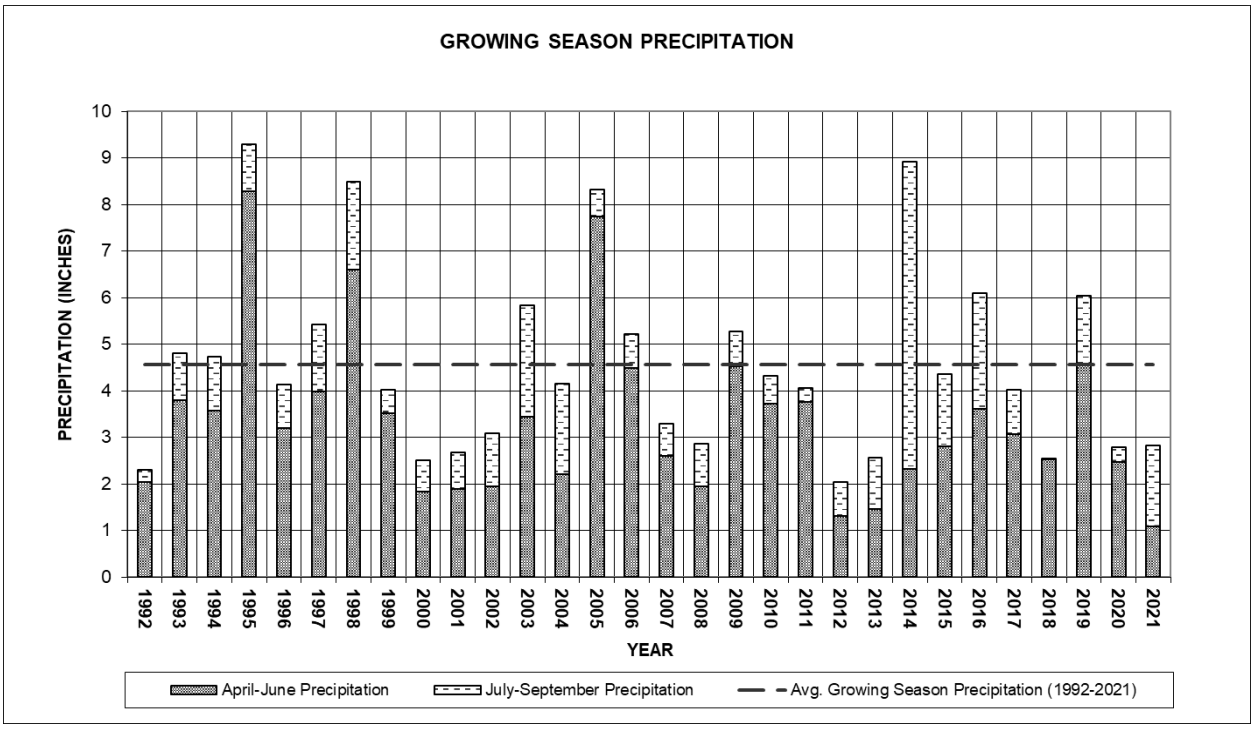
9. The historic diversion volumes from the BLY and the predicted supply forecast at the start of the irrigation season are inputs to predict the initial IDS, where a demand shortfall is the difference after subtracting BD from the FS. When the difference is a positive number, the IDS is zero. When the difference is negative, the negative value equals the in-season demand shortfall. IDS increases with increases in BD, decreases in FS, or both. Assuming constant irrigation practices, crop distributions, and total irrigated acres, demand for irrigation water typically increases in years of higher temperature, higher reference evapotranspiration ("ET"), and lower precipitation. If water demand data is averaged for several years and these averages are the basis to predict demand shortfall at the start of the season, in a high-water demand year, these averages may often under-predict the demand shortfall. In a high-water demand year, under-prediction of IDS might be acceptable if the junior priority ground water right holders and the senior priority surface water right holders shared equally in the risk of water shortages. Equality in sharing the risk will not adequately protect the senior priority surface water right holder from injury. Actual demand shortfalls to a senior surface water right holder resulting from predictions at the start of the irrigation season based on average data unreasonably shifts the risk of shortage to the senior surface water right holder. Therefore, a BLY should represent a year(s) of above average diversions and should not represent a year(s) of average or below average diversions. An above average diversion year(s) selected as the BLY should also represent a year(s) of above average temperatures and reference ET, and below average precipitation to ensure that increased diversions were a function of crop water need and not other factors. In addition, actual supply should be analyzed to assure that the BLY is not a year of limited supply.

i. Climate

10. For the methods outlined herein, climate is represented by precipitation, reference ET, and growing degree days.

[2] All citations to "Ex", "Tr.", or "R. vol." in this Order are to material that was admitted during the original January 18–February 5, 2008 Hearing in the Matter of Distribution of Water to Various Water Rights Held by or for the Benefit of [the SWC] ("2008 Hearing") and is part of the final agency record on appeal in Gooding County Case No. CV-2008-551, which was lodged with the Fifth Judicial District Court on February 6, 2009.

11. Precipitation. Water, in all phases, introduced to Idaho from the atmosphere is termed precipitation. During the growing season, precipitation reduces the irrigation water needed for growing crops. Ex. 3024, at 19. The figure below shows the precipitation recorded during the growing season at the National Weather Service's Twin Falls weather station.



Growing Season Precipitation at National Weather Service's Twin Falls Weather Station 1992–2021.[3]

[3] The Fourth Methodology Order included data for the period 1990 through 2014. This Fifth Methodology Order updated this chart with data for the period 1992 to 2021. This Sixth Methodology Order relies on the same data included in the Fifth Methodology Order. The chart is created from NOAA National Weather Service total precipitation data obtained from the NCDC's Climatological Data Annual Summary Idaho report series for the Twin Falls 6 E and Twin Falls Sun Valley Regional Airport weather stations.

12. Evapotranspiration. ET is a variable representing both the amount of water that transpires from vegetation and the amount of water that evaporates from the underlying soil. ET is an important factor for properly estimating RISD. In its water budget calculations, the SWC proposed the use of ET values from the USBR as part of their Pacific Northwest Cooperative Agricultural Network, i.e., AgriMet. Ex. 8000, vol. II, ch. 9; Ex. 8000, vol. IV, app. AU. The ground water users proposed the use of ET values from Richard G. Allen and Clarence W. Robison 2007, Evapotranspiration and Consumptive Irrigation Water Requirements for Idaho, i.e., ETIdaho. Ex. 3007A, at 21; Ex. 3024, at 1–58.

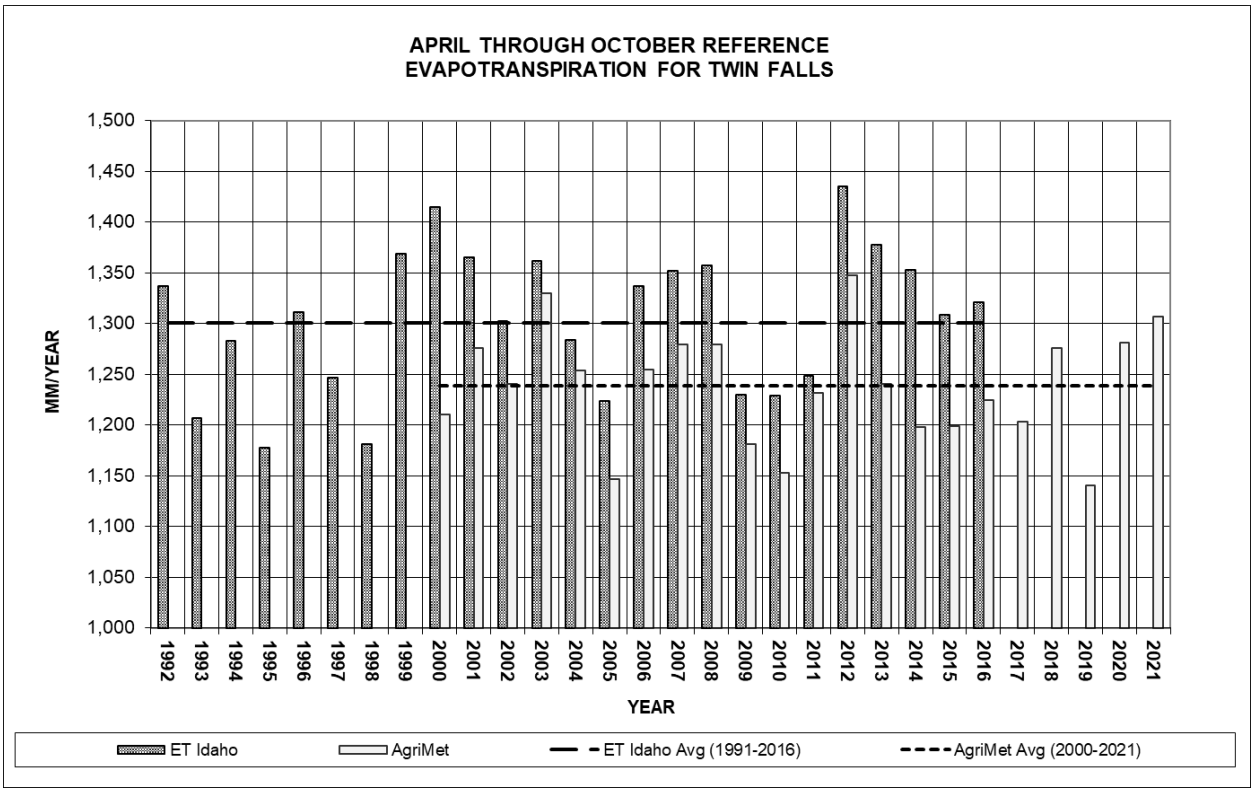
13. Reference ET is a standardized index that approximates the climatic demand for water vapor (i.e., ET). Both ETIdaho and AgriMet calculate and publish reference ET data. The Department will identify potential BLYs by consulting both ETIdaho reference ET and AgriMet reference ET.

14. Neither ETIdaho reference ET data nor AgriMet reference ET data span the entire period of analysis (1992–2021). ETIdaho reference ET data are currently available from 1990 through 2016.[4] AgriMet reference ET data are available from 2000 to 2021.[5] Ideal BLY candidates are years in which reference ET exceeds average reference ET values. Candidate baseline years are compared using both AgriMet and ETIdaho reference ET data for those years in which both data are available and only AgriMet data in those years where there is no ETIdaho data.

[4] The Fourth Methodology Order included ETIdaho reference ET data for the period 1991 to 2011. ETIdaho reference ET data is now available through 2016. The Fifth Methodology Order updated this chart with data for the period 1992 to 2016. This Sixth Methodology Order relies on the same data included in the Fifth Methodology Order.

[5] The Fourth Methodology Order included AgriMet reference ET data for the period 2000 to 2014. AgriMet reference ET data is now available through 2021. The Fifth Methodology Order updated this chart with data for the period 2000 to 2021. This Sixth Methodology Order relies on the same data included in the Fifth Methodology Order.

15. Years of above average values of reference ET are appropriate BLY candidates.[6] Total April through October reference ET for the period of record from the Twin Falls (Kimberly) AgriMet site is shown below.

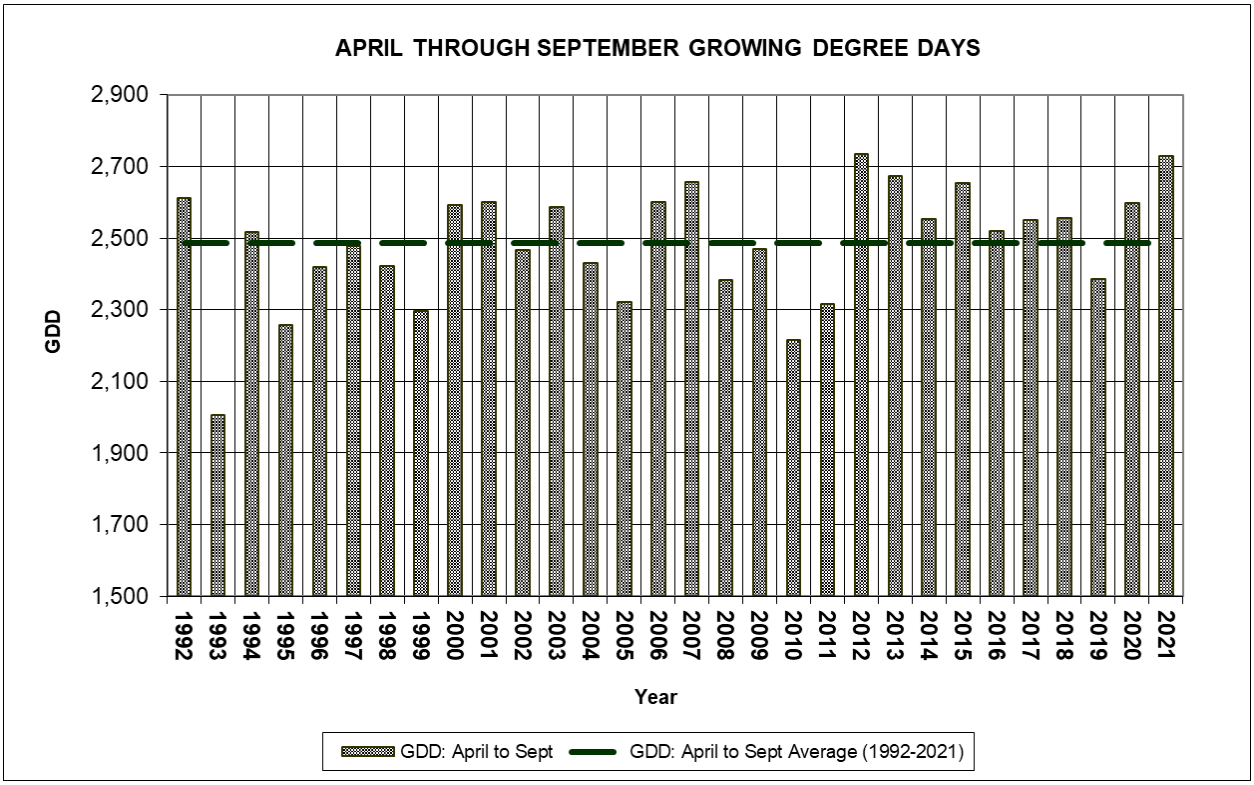


Reference ET for Twin Falls (Kimberly) with both AgriMet and ETIdaho data 1992–2021.[7]

[6] Values for reference ET between ETIdaho and AgriMet do not match because they are derived differently. The relevant information for identifying a potential BLY is the relationship between the year under consideration and the average for the data sets.

[7] The Fourth Methodology Order included data only through 2014. The Fifth Methodology Order updated this chart with combined data for the period 1992 to 2021, establishing a 30-year record which is the professional standard of practice for calculating climatic and hydrologic normals. This Sixth Methodology Order relies on the same data used in the Fifth Methodology Order.

16. Growing Degree Days. Growing degree days define the length and type of growing season. Growing degree days are an arithmetic accumulation of daily mean temperature above a certain base temperature. Ex. 3024, at 10, 117–21. These growth units are a simple method of relating plant growth and development to air temperatures. Different plant species have different base temperatures below which they do not grow. At temperatures above this base, the amount of plant growth is approximately proportional to the amount of heat or temperature accumulated. A higher annual growing degree day value correlates to a higher potential rate of plant growth. The table below shows growing degree days accumulated for April through September for the Twin Falls (Kimberly) AgriMet site.

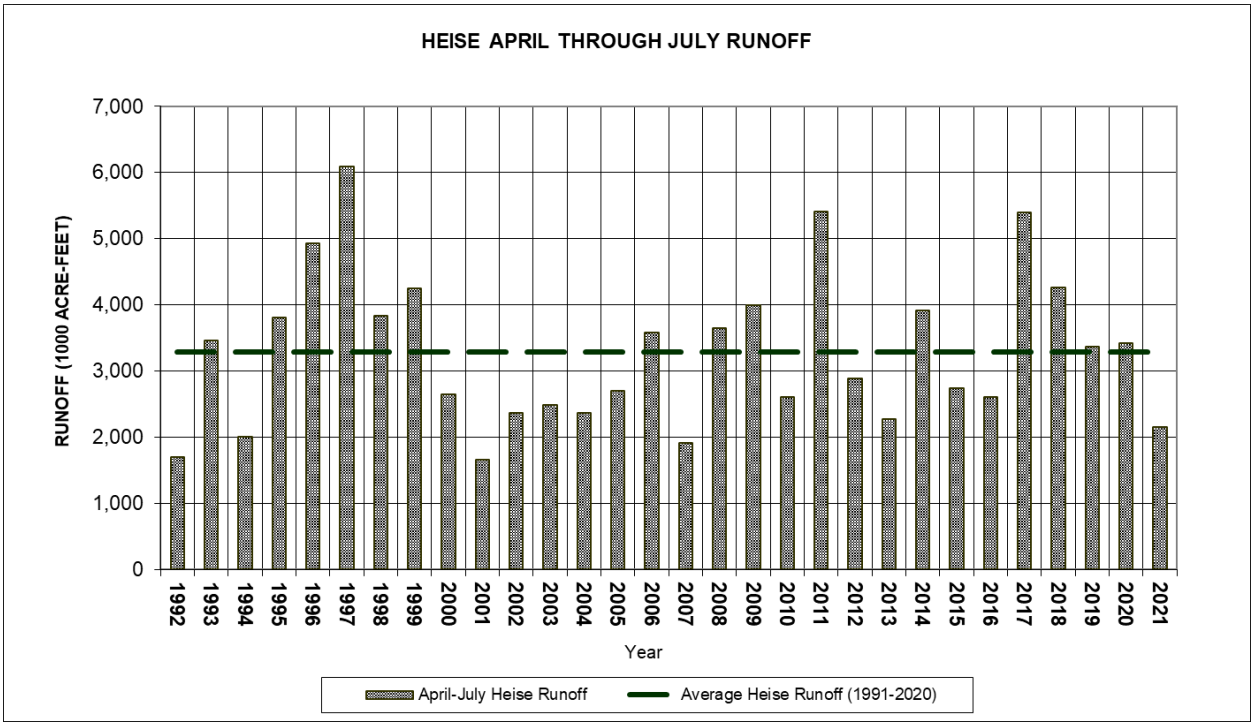


Growing Degree Days ("GDD") for Twin Falls (Kimberly) AgriMet Site 1992–2021.[8]

[8] The Fourth Methodology Order included data only through 2014. The Fifth Methodology Order updated this chart with data for the period 1992 to 2021. This Sixth Methodology Order relies on the same data included in the Fifth Methodology Order.

ii. Available Water Supply

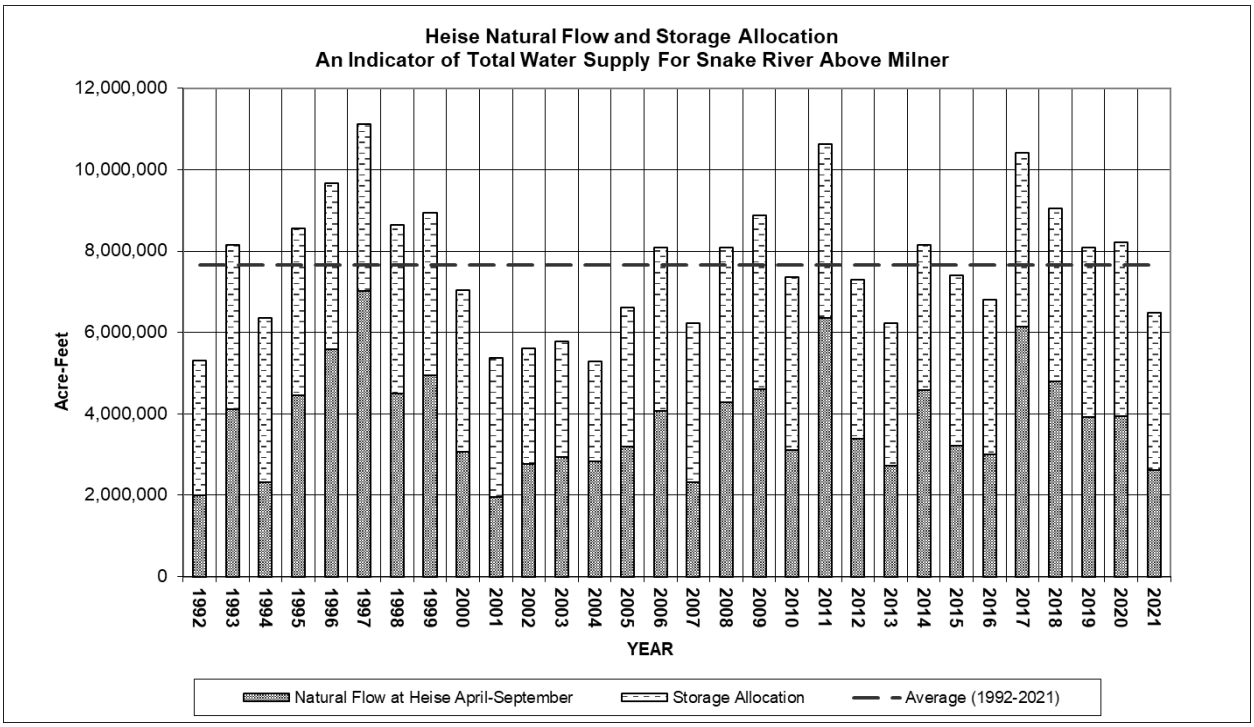
17. The April through July Heise runoff volume represents the volume of water available for diversion into storage reservoirs and is an indicator of natural flow supplies. The graph below shows actual unregulated flow volumes at Heise for 1992 through 2021. The 1992 to 2021 average (3,284,000 acre-feet) is displayed by the dashed line.



April through July Unregulated Flow Volume at Heise, 1992–2021.[9]

[9] The Fourth Methodology Order included data only through 2014. The Fifth Methodology Order updated this chart with data for the period 1992 to 2021. This Sixth Methodology Order relies on the same data included in the Fifth Methodology Order.

18. The sum of the Heise natural flow and the reservoir storage allocations is an indicator of the total supply of the Snake River. The sum of the Heise natural flow and reservoir storage allocations for each year from 1992–2021 is represented in the graph below.



The sum of the Heise natural flow and the storage allocation for the Snake River above Milner 1992–2021.[10]

iii. Irrigation Practices

19. A baseline year ("BLY") must be recent enough to represent current irrigation practices. R. vol. 37, at 7099–7100. Current conditions should be represented by: (a) the net area of the irrigated crops, (b) farm application methods (flood/furrow or sprinkler irrigation), and (c) the conveyance system from the river to the farm. The type of sprinkler systems should be similar between the BLY and the current year.

20. Sprinkler systems are currently the predominant application system. *Id*. at 7101–02. To ensure that current irrigation practices are captured, selection of a BLY for the SWC should be limited to years subsequent to 1999. *Id*. at 7096; 7099–7100.

[10] The Fourth Methodology Order included data for the period 1990 to 2014. The Fifth Methodology Order updated this chart with data for the period 1992 to 2021. This Sixth Methodology Order relies on the same data included in the Fifth Methodology Order.

21. According to the Hearing Officer at the 2008 Hearing, Gerald Schroeder ("Hearing Officer"), beneficial use cannot occur on acres that have been hardened or are otherwise not irrigated. R. vol. 37, at 7100.

22. The following table summarizes: a) SWC entities; b) shapefile source of reported irrigated acres; c) year shapefile created; d) decreed irrigated acres; (e) number of reported acres in shapefile; and f) irrigated acres used in this methodology order for the 2023 irrigation season. The number of irrigated acres used in this methodology order is the number of reported acres unless that number is larger than the decreed irrigated acres, and if so, then the decreed acres were used. This table will be updated annually based on the reported number of irrigated acres by each SWC entity in Step 1 of the Methodology Order.

Entity	Shapefile Source	Shapefile Year	Partial Decree Acres	Shapefile Acres	Acres Used in Methodology
A&B	PPU[1]	2010	15,924	21,972	15,924
AFRD2	PPU	2010	62,361	69,077	62,361
BID	SWC	2013	47,643	46,035	46,035
Milner	PPU	2010	13,335	13,264	13,264
Minidoka	SWC	2023	75,093	77,176	75,093
NSCC	PPU	2010	154,067	224,463	154,067
TFCC	SWC	2013	196,162	194,732	194,732

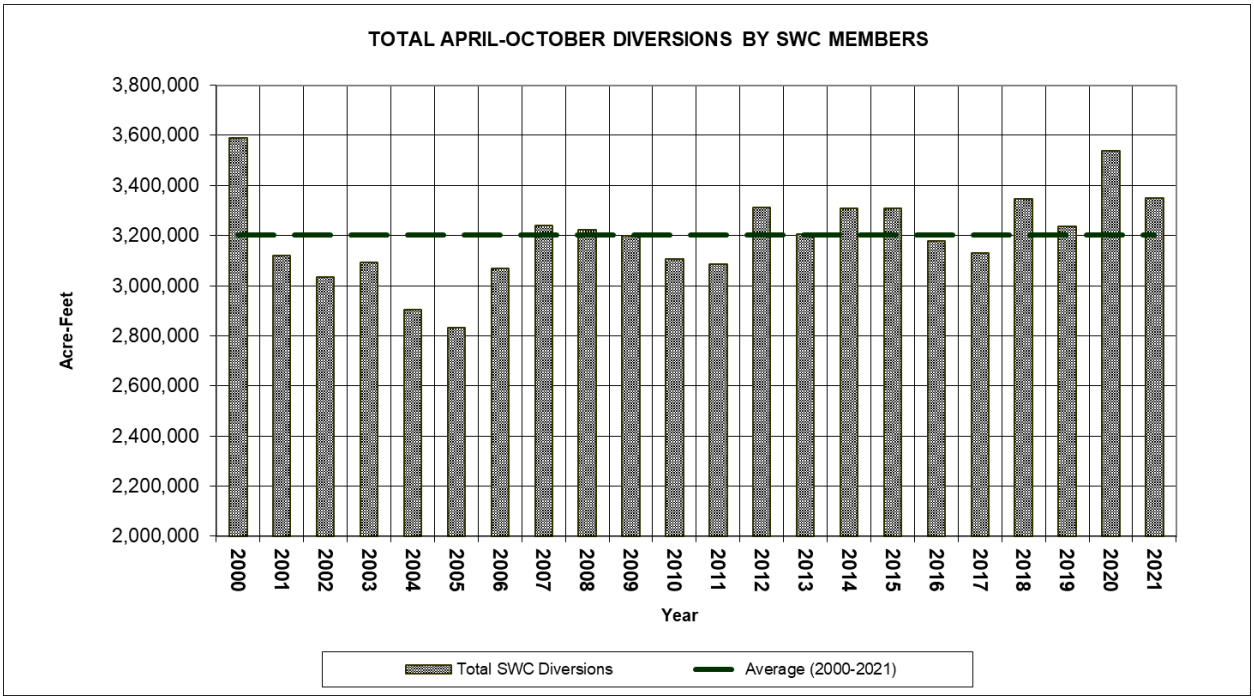
[1] IDWR permissible place of use.

Acres used in the methodology.

23. There are lands within the service areas of SWC entities that are irrigated with supplemental groundwater. Ex. 3007. Supplemental groundwater is a factor the Director can consider in the context of a delivery call. *Memorandum Decision and Order on Petitions for Judicial Review* ("Methodology Remand Order") in Gooding County Consolidated Case No. CV-2010-382, at 18–19. At this time, the information submitted or available to the Department is insufficient to determine the extent of supplemental irrigation on lands within the service areas of SWC entities.

iv. Diversions

24. The following figure summarizes the annual measured diversions by the combined SWC members from 2000–2021. Diversions for a baseline year should exceed the average diversions.



Total April–October Diversions by SWC Members.[11]

B. Selection of the Initial Baseline Year

25. When selecting the BLY, the Director must evaluate recent data to determine whether the BLY section criteria are satisfied.

26. In the Fourth Methodology Order, the Department considered the years 2000-2014 when deciding the BLY. Ultimately, the Department chose an average of the years 2006, 2008, and 2012 for the BLY ("BLY 06/08/12"). For this Sixth Methodology Order, the years 2000–2021 were considered for the BLY selection. With the addition of new data from 2014 to 2021, the total diversions by the SWC for the previous BLY 06/08/12 are 100% of the average SWC diversions for the years 2000–2021. As a result of adding the new data, BLY 06/08/12 no longer satisfies the presumption criteria that total diversions in the BLY should exceed the average annual diversions. Mem. Decision & Order on Pets. for Jud. Rev., at 34, *IGWA v. Idaho Dep't of Water Res.*, No. CV-2010-382 (Gooding Cnty. Dist. Ct. Idaho Sept. 26, 2014).

[11] The Fourth Methodology Order did not include this chart. It was added to the Fifth Methodology Order to demonstrate that the baseline year is a year of above average total diversions. As discussed in footnote 12, during the June 2023 Hearing the Department identified an error in AFRD#2's 2018 diversion data. Hr'g Tr. vol. IV, at 173–74. This correction was resolved in this Sixth Methodology Order, which relies on the updated data. The updated data did not result in an appreciable increase in 2018's diversion value.

27. Years 2018 and 2020 satisfy all the BLY selection criteria discussed above. Each of these years had (1) total diversions above the average diversions for the years 2000–2021, (2) total growing degree days above the average for the years 1992–2021, and (3) reference ET values above the average for the years 1992–2021. The years 2018 and 2020 also had total precipitation values below the average precipitation for the years 1992–2021 and were not water supply limited years. The Department has reviewed the SWC's diversion data for the 2020 irrigation season. The Department finds that 2020 ranks as the second-highest year of total diversions for the SWC and is more than one standard deviation above the average for the years 2000–2021. In comparison, 2018 ranks as the fourth-highest year of total diversions for the SWC and is less than one standard deviation above the average for the years 2000–2021. Choosing a BLY with above average diversions but within one standard deviation, ensures that a conservative year is selected that protects the senior while excluding extreme years from consideration. The Director concludes that total diversions for 2018 adequately protect senior water rights when predicting the demand shortfall at the start of the irrigation season and selects 2018 as the BLY.

Entity	2000–2021 Avg. Total Diversions (Acre-Feet)	06/08/12 Avg. Total Diversions (Acre-Feet)	06/08/12 % of Avg.	2018 Total Diversions (Acre-Feet)	2018 % of Avg.
A&B	59,474	59,993	101%	64,192	108%
AFRD2	427,978	427,672	100%	458,890	106%
BID	247,049	251,531	102%	262,211	106%
Milner	53,343	47,135	88%	58,417	110%
Minidoka	354,181	369,492	104%	354,851	100%
NSCC	996,267	978,888	98%	1,026,661	103%
TFCC	1,062,098	1,060,011	100%	1,121,717	106%
Total	3,200,617	3,194,722	100%	3,346,939	105%

Average SWC Diversions (acre-feet) for 2000–2021, 2006/2008/2012 BLY, and 2018 BLY.[12]

C. Calculation of Reasonable In-Season Demand

28. Prior to the irrigation season, reasonable in-season demand ("RISD") is the projected annual diversion volume for each SWC entity during the year of evaluation that is attributable to the projected beneficial use of growing crops within the service area of the entity. Given that climate and system operations for the year being evaluated will likely be different from the BLY, the RISD must be adjusted for those differences. As stated by the Hearing Officer, "The concept of a baseline is that it is adjustable as weather conditions or practices

[12] In this Sixth Methodology Order, AFRD2's 2018 diversion value has been increased by 5,000 acre-feet. This increase was necessary to remedy the error committed by Department staff in calculating AFRD2's 2018 adjusted diversion value for the Fifth Methodology Order, which was identified during the June 6 Hearing. Hr'g Tr. vol. IV, at 173–74. The error is minor, accounting for approximately 1% of AFRD2's 2018 diversions. The Director concludes that the error had no appreciable impact on any calculations in the Fifth Methodology Order that relied on AFRD2's 2018 diversion volume.

change, and that those adjustments will occur in an orderly, understood protocol." R. vol. 37, at 7098.

i. Project Efficiency

29. Project efficiency ("E_p") is the ratio of total volumetric crop water needs within a SWC entity's boundary and the total volume of water diverted by that entity to satisfy its crop needs. It is the same concept as system efficiency, which was presented at the 2008 Hearing. Ex. 3007, at 28–29. Implicit in this relationship are the components of seepage loss (conveyance loss), on-farm application losses (deep percolation, field runoff), and system operational losses (return flows) for which data is not obtainable by the Department. By utilizing project efficiency and its input parameters of crop water need and total diversions, the influence of the unknown components for which data is not obtainable can be captured and described without quantifying each of the components. Project efficiency is derived by dividing crop water need by total diversions as depicted in the algorithm below:

$$E_p = \frac{CWN}{Q_D}$$

Where:

E_p = project efficiency,
CWN = crop water need, and
Q_D = irrigation entity diversion of water specifically put to beneficial use for the growing of crops within the irrigation entity.

30. Monthly SWC entity diversions ("Q_D") will be obtained from Water District 01's diversion records. Ex. 8000, vol. II, at 8-4, 8-5. Raw monthly diversion values will then be adjusted to remove any water diversions that can be identified to not directly support the beneficial use of crop development within the irrigation entity. Examples of adjustments include the removal of diversions associated with in-season recharge and diversion of irrigation water on the behalf of another irrigation entity. Adjustments are unique to each SWC member and each irrigation season and will be evaluated each year. Any natural flow or storage water deliveries to entities other than the SWC for purposes unrelated to the original right will not be included as a part of the SWC water supply or carryover volume. Water that is purchased or leased by a SWC member may become part of the shortfall obligation to the extent that member has been found to have been materially injured. *See e.g.,* R. vol. 38, at 7201 n.11 (Eighth Supplemental Order). Conversely, water supplied to private leases or to the rental pool by a SWC member will be included as a part of the SWC supply for that member because non-inclusion would unjustifiably increase the shortfall obligation.

31. Monthly project efficiencies will be computed for the entire irrigation season. Project efficiency varies from month-to-month during the season and will typically be lower during the beginning and ending of the season. Monthly project efficiencies will be divided into actual monthly crop water need ("CWN") values to determine RISD during the year of evaluation.

32. In the Fourth Methodology Order, project efficiencies for each SWC member were initially averaged over an eight-year period (2007–2014) and project efficiency greater or less than two standard deviations were excluded from the calculation. By including only those values within two standard deviations, extreme values from the data set are removed. Under the Fourth Methodology Order, an updated 8-year rolling average of project efficiencies was calculated each year the methodology was implemented. The Director now finds that averaging over a rolling period of 15 years results in project efficiency values that are more consistent from year-to-year, reducing the impact of short-term trends. The Director finds that it is still appropriate to remove project efficiencies greater or less than two standard deviations from the average.

The following is a table of efficiency values averaged over the most recent fifteen-year period of record.

Month	A&B	AFRD2	BID	Milner	Minidoka	NSCC	TFCC	Monthly Avg.
4	0.98	0.33	0.45	0.87	0.43	0.24	0.31	0.51
5	0.47	0.22	0.32	0.39	0.35	0.24	0.30	0.33
6	0.66	0.40	0.49	0.60	0.56	0.41	0.51	0.52
7	0.74	0.44	0.52	0.67	0.63	0.48	0.58	0.58
8	0.58	0.41	0.42	0.55	0.52	0.43	0.46	0.48
9	0.45	0.27	0.32	0.45	0.38	0.32	0.27	0.35
10	0.18	0.16	0.09	0.14	0.11	0.06	0.04	0.11
Season Avg.	0.58	0.32	0.37	0.52	0.43	0.31	0.35	

SWC Member Average Monthly Project Efficiencies from 2007–2021.[13]

ii. Crop Water Need

33. CWN is the volume of irrigation water required for crop growth within a SWC entity boundary, such that crop growth is not limited by water availability. CWN only applies to crops irrigated with surface water. CWN is the difference between the fully realizable consumptive use associated with crop growth, or ET, and effective precipitation (W_e) and is synonymous with the terms irrigation water requirement and precipitation deficit. Ex. 3024. For the purposes of the methodology, CWN is calculated as set forth below:

$$CWN = \sum_{i=1}^{n} (ET_i - W_e) A_i$$

[13] In the Fourth Methodology Order, this table summarized average E_p data for the period 2007 to 2014. The Fifth Methodology Order updated this table with average E_p data for the period 2007 to 2021. This Sixth Methodology Order relies on the same data included in the Fifth Methodology Order.

Where:

CWN = crop water need
ET_i = consumptive use of specific crop type,
W_e = effective precipitation,
A_i = total irrigated area of specific crop type,
i = index variable representing the different specific crop types grown within the irrigation entity, and
n = upper bound of summation equal to the total number of different specific crop types grown within the irrigation entity.

iii. Evapotranspiration

34. ET can be estimated with theoretically based equations that calculate ET for an individual crop, necessitating crop distribution maps for each year. Ex. 3007A, at 21, fig. 3, tbls. 6–12; Ex. 3024, at 1–58; Ex. 8000, vol. II, ch. 9; Ex. 8000, vol. IV, app. AU.

35. At the 2008 Hearing, values of ET were estimated by the SWC from AgriMet, Ex. 8000, vol. IV, at AU-1, and by the ground water users from ETIdaho, Ex. 3007A, at 21; Ex. 3024, at 1–58. At this time, the Director finds that the use of AgriMet is more appropriate for determining ET than ETIdaho because AgriMet is available to all parties in real-time without the need for advanced programming. Accordingly, the methodology will rely on AgriMet derived ET values in the calculations of project efficiency, CWN, and RISD. In the future, with the development of additional enhancements, ETIdaho may become a more appropriate analytical tool for determining ET.[14]

36. CWN is derived by multiplying crop specific ET values, adjusted for estimated effective precipitation, by the total irrigated area of individual crop types, and summing the CWN for each crop type. The areas for individual crop types will be derived from published crop distributions from the United States Department of Agriculture's National Agricultural Statistics Service ("NASS"). Ex. 1005, at 1. NASS annually creates a crop-specific land cover digital dataset from satellite imagery and field checks. The dataset is called the Cropland Data Layer ("CDL"). Each year, the Department will calculate acreage by crop type for each SWC entity using NASS CDL data. In the future, the NASS data may not be the most accurate source of data. The Department prefers to rely on data from the current season if and when it becomes usable.

37. AgriMet ET and precipitation data are gathered at the Rupert and Twin Falls (Kimberly) stations. Both stations are in the vicinity of the SWC entities. A&B Irrigation District ("A&B"), Burley Irrigation District ("BID"), and Minidoka Irrigation District ("Minidoka") are nearest to the Rupert AgriMet station. ET data gathered at the Rupert station reasonably represents the climate conditions for A&B, BID, and Minidoka. American Falls Reservoir District No. 2 ("AFRD2"), Milner Irrigation District ("Milner"), North Side Canal

[14] IDWR held a series of meetings in the winter of 2022–23 with the parties' technical consultants to discuss potential updates to the methodology order. During the meetings, IDWR discussed alternative methods of determining ET values, such as METRIC. However, the Director finds that the methods considered are not yet ready for incorporation into the administration of the SWC Delivery Call and will continue to rely on AgriMet ET data.

Company ("NSCC"), and Twin Falls Canal Company ("TFCC") are nearest to the Twin Falls (Kimberly) AgriMet station. ET data gathered at the Twin Falls (Kimberly) station reasonably represents the climate conditions for AFRD2, Milner, NSCC, and TFCC. Ex. 8000, vol. IV, at AU-2, AU-8.

iv. Effective Precipitation

38. Effective precipitation ("W_e") is the amount of total precipitation held in the soil horizon available for crop root uptake. Effective precipitation will be estimated from total precipitation (W) employing the methodology presented in the USDA Technical Bulletin 1275. Ex. 8000, vol. IV, at AU-3, AU-8. Total precipitation (W) data is published by the USBR as part of its Pacific Northwest Cooperative Agricultural Network, i.e., AgriMet.[15] Ex. 8000, vol. IV, at AU-3. W_e values derived from AgriMet based precipitation values are independent of crop type.

39. AgriMet precipitation (W) values are easy to understand and regularly used by the farming, water supply, and water management communities. Accordingly, the methodology will rely on AgriMet derived W values in the calculations of CWN and RISD.

40. As with ET data, AgriMet precipitation data are available from the Rupert and Twin Falls (Kimberly) stations. AgriMet data from the Rupert station reasonably represents climate conditions for A&B, BID, and Minidoka. AgriMet data from Twin Falls (Kimberly) reasonably represents climate conditions for AFRD2, Milner, NSCC, and TFCC. Ex. 8000, vol. IV, at AU-2, AU-8.

v. Summary of Reasonable In-Season Demand Calculation

41. At the start of the irrigation season, RISD is equal to the BD, or total season adjusted diversions for the BLY. When calculated in-season, RISD is calculated below.

$$RISD_{milestonex_x} = \sum_{j=1}^{m}\left(\frac{CWN_j}{E_{p,j}}\right) + \sum_{j=m+1}^{7} BD_j$$

Where:

$RISD_{milestone_x}$ = reasonable in season demand at specified evaluation milestones during the irrigation season,
CWN = crop water need for month j,
E_p = baseline project efficiency for month j,
BD = baseline demand for month j,
j = index variable, and
m = upper bound of summation, equal to the month calculation occurs, where April = 1, May =2, … October = 7.

[15] IDWR held a series of meetings in the winter of 2022–23 with the parties' technical consultants to discuss potential updates to the methodology order. During the meeting, IDWR discussed alternative methods to determine W values, such as PRISM. However, the Director finds that the methods considered are not yet ready for incorporation into the administration of the SWC Delivery Call and will continue to rely on AgriMet precipitation data.

42. April RISD Adjustment: In April, the calculated RISD, which is the quotient of CWN and Ep, can underestimate actual canal operation diversions. Under-estimation occurs when the actual CWN value for April is much smaller than the diversion of water into the canal system necessary to effectively operate the irrigation delivery system. Often, CWN in April is small due to precipitation, cool temperatures, and/or the immaturity of the crop. The diversion rate at the head gate necessary to push water into all laterals and field head gates throughout the delivery system often dwarfs the water necessary to strictly satisfy CWN. In addition, it is difficult for canal systems to be dynamically operated to match the frequent precipitation events in April, which also contributes to a diversion of water at the canal head gate that exceeds the diversion of water necessary to strictly satisfy CWN. To account for the conditions affecting the usability of the calculated RISD value for April, the values may be adjusted for each individual irrigation delivery entity in the SWC as described below.

43. When the calculation of CWN/Ep results in a value for the month of April less than the average April diversion volume over a record of representative years in the recent past, the April RISD is set equal to the average April diversion volume. When the calculation of CWN/Ep results in a value greater than the average April diversion volume, the April RISD is equal to the calculated CWN/Ep volume.

44. October RISD Adjustment: In October, the calculated RISD, which is equal to the CWN divided by Ep, can both under-estimate and over-estimate actual canal operation diversions. The RISD may be underestimated when the actual CWN value for October is much smaller than the diversion of water into the canal system necessary to effectively operate the irrigation delivery system. The diversion rate at the head gate necessary to push water into all laterals and field head gates throughout the delivery system often dwarfs the water necessary to strictly satisfy CWN. In addition, it is difficult for canal systems to be dynamically operated to match the frequent precipitation events in October, which also contributes to a diversion of water at the canal head gate that exceeds the diversion of water necessary to strictly satisfy CWN. Furthermore, RISD may be underestimated in October when a farmer diverts water at the field head gate for farming practices other than strictly satisfying CWN. Examples of water diversion practices at the field head gate that sometimes occur in October include diverting water for soil salt leaching, diverting water to build up the soil moisture profile for the following irrigation season, and/or diverting water to wet-up bare soil to prevent wind-driven topsoil erosion.

45. Unlike the month of April, RISD can be over-estimated in October. RISD may be over-estimated in years when actual CWN in October is much greater than typical CWN over a record of representative years in the recent past due to low precipitation and/or warm temperatures. To account for the conditions affecting the usability of the RISD value calculated for October, the values may be adjusted for each individual irrigation delivery entity in the SWC as described below.

46. When the calculation of CWN/Ep results in a value for the month of October greater than the maximum October diversion volume from a record of recent representative years, or less than the minimum October diversion volume from the same record of recent representative years, the October RISD is set equal to the average October diversion volume over

the same period of recent representative years. When the calculation of CWN/Ep results in a value between the maximum and minimum October diversion volumes from a record of recent representative years, the October RISD is equal to the calculated CWN/Ep volume.

D. Adjustment of Forecast Supply

47. As stated by the Hearing Officer, "There must be adjustments as conditions develop if any baseline supply concept is to be used." R. vol. 37, at 7093. A prediction of the upcoming season's supply and demand is calculated at the beginning of the irrigation season and adjusted at specified milestones during the irrigation season to address changes in water supply and demand conditions in response to actual climatic and water supply conditions.

i. April Forecast Supply

48. The FS is comprised of natural flow and stored water.

49. Typically, within the first week of April, the USBR and the USACE issue their Joint Forecast that predicts an unregulated inflow volume at the Heise Gage from April 1 to July 31 for the forthcoming year. The joint forecast ("Joint Forecast") issued by the United States Bureau of Reclamation ("USBR") and the United States Army Corp of Engineers ("USACE") for the period April 1 through July 31 "is generally as accurate a forecast as is possible using current data gathering and forecasting techniques." R. vol. 8, ¶ 98, at 1379. Given current forecasting techniques, the earliest the Director can predict material injury "with reasonable certainty" is soon after the Joint Forecast is issued. R. vol. 2, at 226. With data from 1990 through the irrigation year previous to the current year, a regression equation will be developed for each SWC member.[16] The regression equations for A&B and Milner will be developed by comparing the actual Heise natural flow to the natural flow diverted. *See e.g.,* R. vol. 8, at 1416–22. For AFRD2, BID, Minidoka, NSCC, and TFCC, multi-linear regression equations will be developed by comparing the actual Snake River near Heise natural flow and the flows at Box Canyon to the natural flow diverted. The regression equations will be used to predict the natural flow diverted for the upcoming irrigation season. *Id*. at 1380. The actual natural flow volume predicted in the Director's April FS for each SWC entity will be one standard error below the regression line, which underestimates the available supply. *Id*.; Tr., at. 65:6–25, 66:1–2. The purpose of the shift to one standard error below the regression line is to ensure senior water right holders do not bear the risk of under-prediction of supply. The forecasting techniques will be revised based on updated data and the forecasting techniques may be revised when improvements to the forecasting tools occur.

50. The storage allocation for each member of the SWC will be estimated by the Department following issuance of the Joint Forecast. The Department will forecast reservoir fill and storage allocation consistent with the methods established in the *Fifth Supplemental Order Amending Replacement Water Requirements Final 2006 & Estimated 2007.* R. vol. 23, at 4294–

[16] IDWR held a series of meetings in the winter of 2022–23 with the parties' technical consultants to discuss potential updates to the methodology order. During the meetings, IDWR discussed updating the regression models used to forecast the SWC's water supplies in April. However, the Director finds that the current models still adequately forecast water supplies in April and will continue to rely on the existing regression models.

97 as explained below. The Department will evaluate the current reservoir conditions and the current water supply outlook to determine a historical analogous year or years to predict reservoir fill. The Department may identify and use a combination of different analogous years to predict individual reservoir fill. Input variables for determining the individual storage water allocation for each SWC member are: (a) the analogous year's or years' total reservoir fill volume; (b) an estimated evaporation volume; and (c) the previous year's carryover volume. The FS (the combination of the forecast of natural flow supply and the storage allocation) for each SWC member will be determined by the Director shortly after the date of the Joint Forecast.

51. Any time prior to the Director's final determination of the April FS, if the Director can determine with certainty that any member of the SWC has diverted more natural flow than predicted, or has accrued more storage than predicted, the Director will revise his initial, projected shortfall determination.

ii. July Forecast Supply

52. Approximately halfway through the irrigation season, the FS will be adjusted. When adjusting the natural flow component of the FS, the Department's water rights accounting program will compute the year-to-date natural flow diverted by each member of the SWC. The natural flow diversion for the remainder of the irrigation season will be estimated based on the regression analyses.

53. The natural flow supplies for each SWC member are comprised of natural flow in the Snake River passing the near Blackfoot gage and gains that occur in the Snake River between the Blackfoot to Milner reach. Many different predictor variables were considered when developing the models used to predict the natural flow supplies for the remainder of the season, including those variables used in the April FS.[17] A step-wise statistical analysis was employed to help select the variables for each model. The following variables were selected to forecast water supplies halfway through the irrigation season: natural flow in the Snake River near Heise as reported by the U.S. Bureau of Reclamation; snow water equivalent (SWE) data at the Two Ocean Plateau SNOTEL site; Spring Creek discharge; and groundwater levels near American Falls Reservoir. The model predictors were optimized for each SWC member and are summarized in the sections below.

54. Linear regression equations for AFRD2, A&B, and Milner, will be developed by comparing the July 1 snow water equivalent (inches) at the Two Ocean Plateau SNOTEL site to the natural flow diversions. The regression equations for AFRD2, A&B, and Milner will be applied only in those years when the snow water equivalent at the Two Ocean Plateau SNOTEL site is greater than zero (0). Years when the snow water equivalent equals zero, the total natural flow prediction for the period July 1 to October 31 will be zero (0) AF.

[17] IDWR held a series of meetings in the winter of 2022–23 with the parties' technical consultants to discuss potential updates to the methodology order. IDWR discussed updating the regression models used to forecast the SWC's water supplies in July. However, the Director finds that the current models still adequately forecast water supplies in July and will continue to rely on the existing regression models.

55. Multiple linear regression equations for BID, Minidoka, and NSCC will be developed to predict natural flow diversions employing the following predictor variables: (1) Snake River near Heise natural flow (April – June), (2) March depth to water at well 05S 31E 27ABA1 and (3) the snow water equivalent at the Two Ocean Plateau SNOTEL site on June 15.

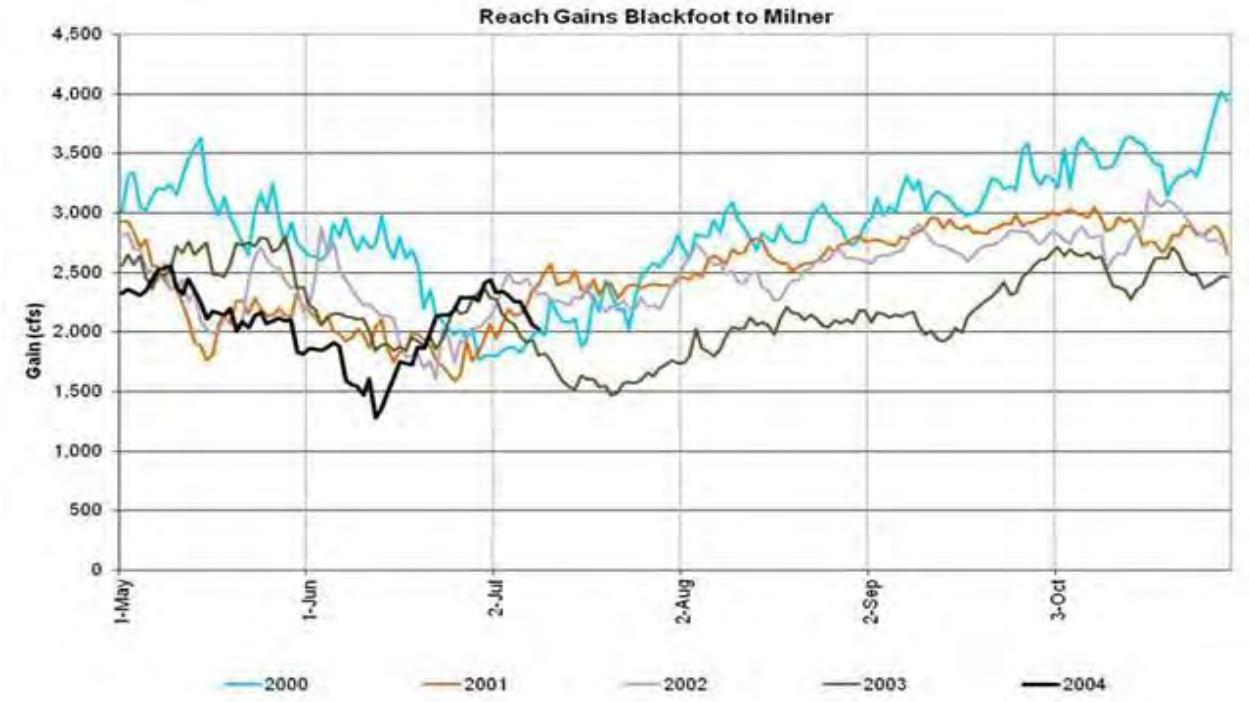
56. The multiple linear regression model for TFCC will be based on the following predictor variables: (1) Snake River near Heise natural flow (April – June), (2) Spring Creek total discharge (January – May) and (3) the snow water equivalent at the Two Ocean Plateau SNOTEL site on June 15.

57. When adjusting the storage component of the FS, the Department must consider whether stored water has been allocated. In normal to dry years, the reservoirs will typically have filled to their peak capacity for the season and the storage water will have been allocated. If the BOR and Water District 01 have allocated stored water to spaceholders, the Department will use the actual preliminary storage allocations to the SWC. If the BOR and Water District 01 have not yet allocated stored water to spaceholders, the Department will predict the storage allocations based on the storage allocations from an analogous year or years.

iii. Time of Need

58. The FS will again be adjusted shortly before the Time of Need. The Time of Need is established by predicting the day in which the remaining storage allocation will be equal to reasonable carryover. The Time of Need will not be earlier than the Day of Allocation.

59. When adjusting the natural flow component of the FS, the Department's water rights accounting program will compute the natural flow diverted by each member of the SWC as of the new forecast date. The natural flow diversion for the remainder of the irrigation season will be estimated based on a historical year with similar reach gains in the Blackfoot to Milner reach. The following is an example of estimating reach gains from an analysis of historical years. Reach gains for the years 2000 – 2003 and a portion of year 2004 are graphed below. Considering 2004 as an example of a current year and comparing 2004 to the hydrographs for 2000 – 2003, year 2003 has similar reach gains and is appropriately conservative. Therefore, the natural flow diverted in 2003 would be used to predict the natural flow diversions for the remainder of the 2004 season.



Example Reach Gain Analysis for 2004.

60. When adjusting the storage component of the FS, the Department will use the actual preliminary storage allocations to the SWC.

61. The adjusted FS is the sum of the year-to-date natural flow diversions, the predicted natural flow diversions for the remainder of the season, and the storage allocation.

E. Calculation of In-Season Demand Shortfall

62. The equation below determines the amount of predicted demand shortfall during the irrigation season.

$$IDS = FS - RISD$$

Where:

IDS = demand shortfall for specified evaluation points throughout the season,
FS = forecasted supply adjusted for specified evaluation point during the season, and
RISD = reasonable in-season demand from above.

63. The amount calculated represents the volume that junior ground water users with approved mitigation plans for delivery of water will be required to have available for delivery to members of the SWC found to be materially injured by the Director to avoid curtailment. The amounts will be calculated in April, at the middle of the season, and at the Time of Need.

III. Methodology for Determining Material Injury to Reasonable Carryover

64. Conjunctive Management ("CM") Rule 42.01.g states the following guidance for determining reasonable carryover: "In determining a reasonable amount of carry-over storage water, the Director shall consider average annual rate of fill of storage reservoirs and the average annual carry-over for prior comparable water conditions and the projected water supply for the system." Carryover shortfall will be determined following the completion of the irrigation season.

A. Projected Water Supply

65. CM Rule 42.01.g states that the Director "shall consider . . . the projected water supply for the system." Because it is not possible to adequately forecast the irrigation supply or demand for the following irrigation season at the end of the current irrigation season, the Director must estimate the carryover water needed in future dry years when demand exceeds supply, creating a need for carryover storage. The Director projected the water supply using typical dry years and subtracted it from a projected future demand to determine a projected carryover need.

66. The Heise natural flow is a predictive indicator of total water supply. For the years 2002 and 2004, the Heise natural flows were well below the long term average (1992–2021), but were not the lowest years on record.[18] The average of the 2002 and 2004 supply will be the projected supply, representing a typical dry year. The 2002 and 2004 supply is computed as follows:

- 2002 supply = natural flow diverted + new storage fill
- 2004 supply = natural flow diverted + new storage fill
- Projected supply = average of 2002 supply and 2004 supply

Carryover from previous years is not included in the 2002 and 2004 new storage fill because it was not new water supplied during the 2002 or 2004 irrigation year.

	2002 Natural Flow Diverted	2002 New Storage Fill	2002 Total Supply	2004 Natural Flow Diverted	2004 New Storage Fill	2004 Total Supply	Projected Supply (Average 02/04)
	----------Acre-Feet----------						
A&B	853	45,603	46,456	1	36,535	36,536	41,496
AFRD2	25,749	381,451	407,200	4,562	309,698	314,260	360,730
BID	89,886	174,454	264,340	102,706	152,387	255,093	259,716
Milner	5,058	43,430	48,488	1,027	35,175	36,202	42,345
Minidoka	143,937	256,602	400,539	141,460	229,574	371,034	385,787
NSCC	363,960	667,799	1,031,759	315,942	479,068	795,010	913,385
TFCC	851,970	186,233	1,038,203	881,345	150,218	1,031,563	1,034,883

SWC water supplies 2002, 2004, and 2002/2004 average (acre-feet).

67. Similar to projecting supply, the Director must also project demand. Because it is not possible to adequately forecast the irrigation demand for the following irrigation season at the end of the current irrigation season, the Director must project demand. R. vol. 37, at 7109. The 2018 BLY will be the projected demand.

[18] The Fourth Methodology Order included data for the period 1991 to 2014. The Fifth Methodology Order updated this chart with data for the period 1992 to 2021. This Sixth Methodology Order relies on the same data included in the Fifth Methodology Order.

68. The maximum projected carryover need is defined as the difference between a BLY demand and projected typical dry year supply. The following equation computes the maximum projected carryover need:

Maximum Projected Carryover Need = Projected Demand (2018 BLY) – Projected Supply (Average 02/04)

	Projected Demand (2018 BLY)	Projected Supply (average 02/04)	Maximum Projected Carryover Need
	----------Acre-Feet----------		
A&B	64,192	41,496	22,696
AFRD2	458,890	360,730	98,160
BID	262,211	259,716	2,495
Milner	58,417	42,345	16,072
Minidoka	354,851	385,787	0
NSCC	1,026,661	913,385	113,277
TFCC	1,121,717	1,034,883	86,834

SWC Projected Demand, Projected Supply and Maximum Projected Carryover Need (acre-feet).[19]

B. Average Annual Rate of Fill

69. CM Rule 42.01.g states that the Director "shall consider the average annual rate of fill of storage reservoirs . . . ." The average annual rate of fill of the storage reservoirs is the average of annual percentages of fill of each entity's reservoir space. The average annual reservoir storage fill is a benchmark that can be compared to projected carryover need. For purposes of the table below, any water contributed to the rental pool from the previous year was added to the next year's fill volume so that it does not artificially lower the percent fill. R. vol. 37, at 7108. Water that is supplied to the rental pool lowers carryover and could impact the following year's fill. The percent fill does not include water deducted for reservoir evaporation.

[19] The Fifth Methodology Order updated this chart with the new baseline year and calculated new maximum projected carryover need values. This Sixth Methodology Order relies on the same data included and calculated in the Fifth Methodology Order with one exception. As described in footnote 12, AFRD2's 2018 diversion value has been increased by 5,000 acre-feet to remedy an error committed by Department staff in calculating AFRD2's 2018 adjusted diversion value for the Fifth Methodology Order. Hr'g Tr. vol. IV, at 173–74.

The annual percent fill of storage volume by SWC entity is shown below:

Year	A&B	AFRD2	BID	Milner	Minidoka	NSCC	TFCC
1992	96%	100%	98%	93%	75%	76%	86%
1993	100%	100%	100%	100%	100%	93%	92%
1994	100%	100%	100%	100%	99%	99%	99%
1995	100%	100%	100%	100%	100%	100%	100%
1996	100%	100%	100%	100%	100%	100%	100%
1997	100%	100%	100%	100%	100%	100%	100%
1998	100%	100%	100%	100%	100%	100%	100%
1999	100%	100%	100%	96%	98%	98%	99%
2000	100%	99%	99%	98%	100%	97%	97%
2001	100%	100%	100%	100%	100%	91%	87%
2002	41%	100%	100%	79%	92%	84%	88%
2003	43%	100%	99%	66%	92%	94%	99%
2004	34%	82%	97%	48%	94%	78%	63%
2005	58%	100%	100%	76%	98%	100%	100%
2006	98%	100%	99%	98%	100%	99%	99%
2007	89%	100%	97%	92%	94%	95%	97%
2008	100%	100%	100%	100%	100%	99%	100%
2009	100%	100%	100%	100%	100%	100%	100%
2010	100%	100%	100%	100%	100%	100%	100%
2011	100%	100%	100%	100%	100%	100%	100%
2012	88%	100%	97%	91%	94%	94%	96%
2013	80%	100%	97%	90%	90%	97%	100%
2014	93%	100%	100%	100%	95%	100%	100%
2015	100%	100%	100%	100%	100%	100%	100%
2016	100%	100%	100%	100%	95%	100%	100%
2017	100%	100%	100%	100%	100%	100%	100%
2018	100%	100%	100%	100%	100%	100%	100%
2019	96%	100%	99%	97%	98%	98%	99%
2020	100%	100%	100%	100%	100%	100%	100%
2021	100%	100%	100%	100%	98%	100%	100%
Average	91%	99%	99%	94%	97%	96%	97%
Std Dev	19%	3%	1%	12%	5%	6%	8%

Annual Percent Fill of Storage Volume by Entity (1992–2021).[20]

[20] The Fourth Methodology Order included data from 1995 through 2014. The Fifth Methodology Order updated this chart with data from 1992 through 2021. The Sixth Methodology Order relies on the same data included in the Fifth Methodology Order.

C. Average Annual Carryover

70. CM Rule 42.01.g states that the Director "shall consider the . . . average annual carry-over for prior comparable water conditions . . . ." Actual carryover volumes are from annual storage reports published by Water District 1. Actual carryover from 1992 through 2021 are sorted into two categories – below average (dry) and above average (wet). The categories are based on Heise natural flow volumes from April through September.

The 1992 to 2021 average natural flow volume is 3,827 thousand acre-feet ("KAF").

Cat.	Year	Heise Apr–Sept (KAF)	A&B	AFRD2	BID	Milner	MID	NSCC	TFCC
			----------	----------	----------	Acre-Feet	----------	----------	----------
	2001	1,968	9,902	4,217	37,430	26,854	55,132	42,421	26,917
	1992	2,001	11,966	11,548	31,977	28,896	16,928	19,439	3,590
	1994	2,319	82,885	26,894	54,136	45,902	102,823	128,356	38,686
	2007	2,320	62,739	7,962	32,138	37,761	61,744	66,807	39,999
	2021	2,622	73,688	988	61,327	27,448	65,393	121,946	13,581
	2013	2,721	55,563	21,477	54,350	34,740	55,374	135,658	23,419
Below	2002	2,775	30,192	8,932	74,573	14,662	102,139	133,702	46,825
Avg	2004	2,833	0	18,617	48,809	8,735	99,199	54,141	58,813
(Dry)	2003	2,931	9,401	3,904	52,550	6,944	82,895	169,674	0
	2016	3,012	89,845	58,689	84,302	46,050	108,482	283,728	21,497
	2000	3,059	69,436	20,787	107,425	45,762	161,423	205,510	56,536
	2010	3,108	96,172	113,895	101,620	59,628	184,940	324,712	46,243
	2005	3,195	36,665	99,097	90,190	37,593	150,623	365,001	68,352
	2015	3,208	88,616	57,344	73,449	47,322	130,942	208,274	44,957
	2012	3,385	68,109	41,395	88,526	42,214	119,361	198,853	72,267
	Avg.	**2,764**	**52,345**	**33,050**	**66,187**	**34,034**	**99,827**	**163,881**	**37,446**
	2019	3,930	88,506	106,833	113,278	48,393	203,434	406,865	94,193
	2020	3,962	95,105	99,782	110,640	52,750	168,213	360,234	66,609
	2006	4,079	89,311	107,682	102,873	58,755	182,612	365,672	78,562
	1993	4,116	102,493	123,508	154,461	60,332	264,713	300,942	104,424
	2008	4,288	91,835	104,219	124,128	62,359	182,722	414,171	70,192
	1995	4,447	103,295	167,451	159,214	75,451	258,028	476,312	68,576
Above	1998	4,498	100,817	144,057	157,265	69,384	227,726	494,385	156,433
Avg	2014	4,594	78,917	96,756	154,382	57,305	207,834	448,682	130,086
(Wet)	2009	4,613	104,174	145,530	125,688	66,935	204,581	426,779	95,533
	2018	4,796	93,754	115,442	92,727	50,776	163,465	351,483	54,285
	1999	4,949	93,354	121,793	168,545	67,147	243,322	453,706	191,501
	1996	5,583	105,209	145,019	150,358	70,250	253,786	522,790	111,459
	2017	6,139	110,348	219,940	168,293	67,754	258,106	528,880	169,862
	2011	6,347	102,139	107,618	104,915	64,487	246,699	504,578	129,757
	1997	7,007	102,539	114,684	134,906	65,307	242,758	464,411	136,926
	Avg.	**4,890**	**97,453**	**128,021**	**134,778**	**62,492**	**220,533**	**434,659**	**110,560**

Actual Carryover Volumes by Entity, Sorted by Heise Natural Flow (1992–2021).[21]

[21] In the Fourth Methodology Order, this table summarized data for the period 1994 to 2014 and adjusted WD 01 carryover values to remove water received for mitigation or water rented by the SWC entity to augment their supplies. The Fifth Methodology Order updated this chart with data for the period 1992 to 2021 and used raw carryover values reported by WD 01. Raw numbers were used because adjusted numbers reduced the SWC's

71. In considering the principles articulated in CM Rule 42.01.g, the Director will project reasonable carryover shortfalls for members of the SWC. The following table represents the 2018 BLY diversion volumes and total reservoir storage space by entity. By dividing the total reservoir space by the 2018 diversion volume, a metric is established that describes the total number of seasons the entity's reservoir space can supply water.

	A&B	AFRD2	BID	Milner	Minidoka	NSCC	TFCC
	----------Acre-Feet----------						
Projected Demand (2018 BLY)	64,192	458,890	262,211	58,417	354,851	1,026,661	1,121,717
Total Reservoir Space	137,626	393,550	226,487	90,591	366,554	859,898	245,930
Number of Seasons of Reservoir Space	2.1	0.9	0.9	1.6	1.0	0.8	0.2

Total Reservoir Space[22] in Comparison to Demand.[23]

D. Reasonable Carryover

i. A&B

72. A&B's reservoir space has the lowest average annual rate of fill with the highest variability in fill. *See* Finding of Fact 69. In dry years, the potential exists that A&B's actual carryover will be less than the maximum projected carryover need. *See* Finding of Fact 68, 70. A&B has an approximate two-year water supply provided by its total available storage space. *See* Finding of Fact 71. Because of its lower rate of fill, it is likely A&B will experience carryover shortfalls in consecutive dry years. Based on the evaluation criteria in CM Rule 42.01.g, A&B's reasonable carryover should be the maximum projected carryover need of 22,700 AF. *See* Finding of Fact 78.

ii. AFRD2

73. AFRD2 has the highest and most consistent reservoir rate of fill of any member of the SWC. AFRD2's storage space fills 99% of the time and has a fill variability of 3%. As

potential entitlement to reasonable carryover. This Sixth Methodology Order relies on the same data included in the Fifth Methodology Order.

[22] *See* R. vol. 8, at 1373–74.

[23] This Fifth Methodology Order updated this chart with a new baseline year and calculated a new number of seasons of reservoir space values. This Sixth Methodology Order relies on the same data included and calculated in the Fifth Methodology Order with the single exception discussed in footnote 12.

shown in the Annual Percent Fill table in Finding of Fact 69 above, its space only failed to fill in 2004 (82%) and 2000 (99%). AFRD2 has a high likelihood of filling during multi-year droughts and after a dry year. *See* Finding of Fact 69. Therefore, any unfilled space in the fall will most likely fill. AFRD2 has an approximate one-year supply available in storage. *See* Finding of Fact 71. AFRD2's storage space only failed to fill in years when the natural flow volume at Heise was less than 3,100 KAF. In a dry year, AFRD2's historical carryover volume is often less than the maximum projected carryover need using the equation set forth in Finding of Fact 68 and 70. Based on the evaluation criteria for reasonable carryover in CM Rule 42.01.g, the reasonable carryover can be adjusted from the maximum projected carryover need without shifting the risk of shortage to the senior right holder. The historical average carryover of 16,700 AF in years when the natural flow volume at Heise was less than 3,100 KAF is the reasonable carryover for AFRD2. *See* Finding of Fact 78.

iii. BID & Minidoka

74. Historically, in dry years, BID's and Minidoka's carryover volumes have been well above the maximum projected carryover need and it is unlikely that they will have reasonable carryover shortfalls in the future. *See* Finding of Fact 68, 70; *see also* R. vol. 37, at 7105. Based on the evaluation criteria for reasonable carryover in CM Rule 42.01.g, the reasonable carryover can be adjusted downward from the maximum projected carryover need without shifting the risk of shortage to the senior right holder. The reasonable carryover for BID and Minidoka is 0 AF. *See* Finding of Fact 78; *see also* R. vol. 37, at 7105.

iv. Milner

75. Similar to A&B, Milner's reservoir space has the second lowest average annual rate of fill of all entities and has a high degree of variability in fill. *See* Finding of Fact 69. In dry years, the potential exists that Milner's actual carryover will be less than the maximum projected carryover need. *See* Finding of Fact 68, 70. Milner has an approximate one and one half water supply available in storage. *See* Finding of Fact 71. Because of its rate of fill, it is likely Milner will experience carryover shortfalls in consecutive dry years. Based on the evaluation criteria for reasonable carryover in CM Rule 42.01.g, the maximum projected carryover need of 16,100 AF is the reasonable carryover for Milner. *See* Finding of Fact 78.

v. NSCC

76. NSCC has a near-average annual rate of fill in comparison to all entities and an approximate one-year water supply available in storage. *See* Findings of Fact 69 & 71. In dry years, the potential exists that its maximum projected carryover need will be less than its actual carryover. *See* Finding of Fact 68, 70. Based on the evaluation criteria in CM Rule 42.01.g, the reasonable carryover for NSCC is 113,300 AF. *See* Finding of Fact 78.

vi. TFCC

77. TFCC has a near average annual rate of fill in comparison to all entities, but only 20% of a single year's water supply is available in storage. TFCC's storage space fills 97% of

the time and has a fill variability of 8%. *See* Findings of Fact 69 & 71. In dry years, the potential exists that its maximum projected carryover need will be less than its actual carryover. *See* Finding of Fact 68, 70. Based on the evaluation of the criteria in CM Rule 42.01.g, the reasonable carryover can be adjusted from the maximum projected carryover need without shifting the risk of shortage to the senior right holder. The historical average carryover in dry years of 37,400 AF is the reasonable carryover for TFCC. *See* Finding of Fact 78.

78. Reasonable carryover values for the SWC members are as follows:

	Reasonable Carryover (Acre-Feet)
A&B	22,700
AFRD2	16,700
BID	0
Milner	16,100
Minidoka	0
NSCC	113,300
TFCC	37,400

E. Reasonable Carryover Shortfall

79. Reasonable carryover shortfall is the numerical difference between reasonable carryover and actual carryover, calculated at the conclusion of the irrigation season. Actual carryover is defined as the storage allocation minus the total storage use plus or minus any adjustments. Examples of adjustments include SWC water placed in the rental pool and SWC private leases. Adjustments are unique to each irrigation season and will be evaluated each year. Any storage water deliveries to entities other than the SWC for purposes unrelated to the original right will be adjusted so that the water is not included as a part of the SWC carryover volume. Water that is purchased or leased by an SWC member may become part of the carryover shortfall obligation. *See e.g.,* R. vol. 38, at 7201 n.11 (Eighth Supplemental Order). Conversely, actual carryover must be adjusted to assure that water supplied by a SWC member to private leases or to the rental pool will not increase the reasonable carryover shortfall obligation to the same SWC member.

80. Reasonable carryover shortfall is calculated as follows:

Reasonable Carryover Shortfall = Actual Carryover – Reasonable Carryover

F. Determination of Curtailment Date

81. The Eastern Snake Plain Aquifer Model ("ESPAM") is the best scientific tool available to simulate aquifer and Snake River responses to stresses applied to the aquifer, such as ground water pumping from a well. Curtailment of junior ground water pumpers in response to the SWC Delivery Call would result in a reduction in the withdrawal of groundwater and a corresponding reduction in aquifer stress. ESPAM simulates the effects of the reduction in

aquifer stress and calculates predicted increases in aquifer discharge to the Snake River resulting from the curtailment of ground water pumping from the ESPA.

82. ESPAM simulations can be either steady-state or transient.

83. Merriam-Webster's Dictionary defines steady-state as "a state or condition of a system or process . . . that does not change in time." *Steady state*, Merriam-Webster.com, https://www.merriam-webster.com/dictionary/steady-state (April 19, 2023). A steady-state ESPAM simulation can only model increases in aquifer discharge to the Snake River resulting from continuous curtailments of an identical magnitude and location until the impacts of curtailment are fully realized. For example, a steady-state analysis of the curtailment of 1,000 acres, assumes that irrigation of the same 1,000 acres is curtailed every year at the same rate of consumptive use, until the impacts of that curtailment reach a steady state, or no longer change from year to year.

84. Steady-state analysis does not calculate the time to reach steady-state conditions nor describe the seasonal timing of the impacts. For the benefits of curtailment predicted by steady-state analysis to be realized by the river, the curtailment must occur continuously until steady-state is achieved. The assumption of continuous curtailment does not reflect reality in the SWC Delivery Call. Curtailments ordered as prescribed in the methodology are neither continuous nor long-term. Irrigation with ground water does not occur at a constant rate throughout the year nor from year to year. It is important to predict what benefits to the river are realized during the irrigation season in which injury has been determined. A steady-state ESPAM simulation cannot predict what benefits are realized during the irrigation season. In contrast, a transient ESPAM simulation will predict the timing of changes in river reach gains.

85. ESPAM was calibrated using one-month stress periods and can simulate a single (or partial) irrigation season of curtailment and predict the resulting increase in aquifer discharge to the Snake River during the same irrigation season using a transient simulation. In the context of this proceeding, the transient approach identifies the junior ground water rights that must be curtailed to produce increases in Snake River flows sufficient to offset material injury in the current irrigation season.

86. Only 9% to 15% of the steady state response is predicted to accrue to the near Blackfoot to Minidoka reach between May 1 and September 30 of the same year.[24] Fifty percent of the steady-state response is predicted to accrue at the near Blackfoot to Minidoka reach within approximately four years. Ninety percent of the steady-state response is predicted to accrue at the near Blackfoot to Minidoka reach within approximately 24 years.

87. A curtailment to a priority date calculated by the steady state analysis method used in the Fourth Methodology Order will only offset 9% to 15% of the predicted IDS. In contrast, curtailment to a priority date calculated with a transient simulation of a single season curtailment will offset the full predicted IDS unless the shortfall exceeds the accruals to the near

[24] The near Blackfoot to Minidoka reach is the reach of the Snake River from which the SWC diverts its water supplies.

Blackfoot to Minidoka reach by the end of the irrigation season with curtailment of all junior ground water rights.

88. Steady-state simulations are appropriate for evaluating the average annual impact of aquifer stresses that have been, or will be, applied for decades (i.e., ground water pumping year after year, or continuous curtailment to the same date every year). The steady-state simulation of continuous curtailment applied in the Fourth Amended Methodology Order does not simulate the short-term curtailments prescribed in the methodology. The methodology prescribes curtailment only in years with a predicted IDS or carryover shortfall and prescribes the determination of a curtailment priority date that varies with the magnitude of the predicted shortfall.

89. Transient simulations are necessary to evaluate the impacts of aquifer stresses applied for short periods of time (i.e., short-term curtailments with varying priority dates). Transient simulations are necessary to simulate the short-term curtailments prescribed in the methodology.

CONCLUSIONS OF LAW

1. This order contains the methodology by which the Director will determine material injury to RISD and reasonable carryover to members of the SWC.

2. "The agency's experience, technical competence, and specialized knowledge may be utilized in the evaluation of the evidence." Idaho Code § 67-5251(5); IDAPA 37.01.01.600.

3. Idaho Code § 42-602 states that, "The director of the department of water resources shall have discretion and control of the distribution of water from all natural sources . . . . The director of the department of water resources shall distribute water . . . in accordance with the prior appropriation doctrine." According to the Hearing Officer, "It is clear that the Legislature did not intend to grant the Director broad powers to do whatever the Director might think right. However, it is clear also that the Legislature [in Idaho Code § 42-602] did not intend to sum up water law in a single sentence of the Director's authority." R. vol. 37, at 7085. "Given the nature of the decisions which must be made in determining how to respond to a delivery call, there must be some exercise of discretion by the Director." *American Falls Res. Dist. No. 2 v. Idaho Dept. Water Resources*, 143 Idaho 862, 875, 154 P.3d 433, 446 (2007).

4. "The prior appropriation doctrine is comprised of two bedrock principles—that the first appropriator in time is the first in right and that water must be placed to a beneficial use." *In Matter of Distribution of Water to Various Water Rights Held by or for the Benefit of A & B Irrigation Dist.*, 155 Idaho 640, 650, 315 P.3d 828, 838 (2012). "The concept that beneficial use acts as a measure and limit upon the extent of a water right is a consistent theme in Idaho water law." *Id.*; *American Falls*, 143 Idaho at 879, 154 P.3d at 450 (stating that while an appropriation for a beneficial use is "a valuable right entitled to protection . . . . Nevertheless, that property right is still subject to other requirements of the prior appropriation doctrine."); *Idaho Ground Water Assoc. v. Idaho Dep't of Water Res.*, 160 Idaho 119, 131, 369 P.3d 897, 909

(2016) (explaining the "policy of beneficial use" serves as a "limit on the prior appropriation doctrine.").

5. "Concurrent with the right to use water in Idaho 'first in time,' is the obligation to put that water to beneficial use." *American Falls*, 143 Idaho at 880, 154 P.3d at 451; *see In re Distribution of Water to Various Water Rights Held by or for the Ben. of A&B Irr. Dist.*, 155 Idaho at 652, 315 P.3d at 840 (quoting *American Falls*, 143 Idaho at 876, 154 P.3d at 447) (referring to "'the constitutional requirement that priority over water be extended only to those using the water'"). "'It is the settled law of this state that no person can, by virtue of a prior appropriation, claim or hold more water than is necessary for the purpose of the appropriation, and the amount of water necessary for the purpose of irrigation of the lands in question and the condition of the land to be irrigated should be taken into account.'" *In re Distribution of Water to Various Water Rights Held by or for the Ben. of A&B Irr. Dist.*, 155 Idaho at 650, 315 P.3d at 838 (quoting *Washington State Sugar v. Goodrich*, 27 Idaho 26, 44, 147 P. 1073, 1079 (1915)).

6. "[T]he policy of securing the maximum use and benefit, and least wasteful use of Idaho's water resources, has long been the policy in Idaho." *Idaho Ground Water Assoc.*, 160 Idaho at 131, 369 P.3d at 909 (citing *Clear Springs Foods, Inc. v. Spackman*, 150 Idaho 790, 808, 252 P.3d 71, 89 (2011)). The Idaho Constitution enunciates a policy of promoting "optimum development of water resources in the public interest." Idaho Const. Art. XV, § 7; *Baker v. Ore-Ida Foods, Inc.,* 95 Idaho 575, 584, 513 P.2d 627, 636 (1973). "There is no difference between securing the maximum use and benefit and least wasteful use of this State's water resources and the optimum development of water resources in the public interest. Likewise, there is no material difference between 'full economic development' and the 'optimum development of water resources in the public interest.' They are two sides of the same coin. Full economic development is the result of the optimum development of water resources in the public interest." *Clear Springs*, 150 Idaho at 809, 252 P.3d at 90. "The policy of securing the maximum use and benefit, and least wasteful use, of the State's water resources applies to both surface and ground waters, and it requires that they be managed conjunctively." *Id.*

7. "Conjunctive administration 'requires knowledge by the [Department] of the relative priorities of the ground and surface water rights, how the various ground and surface water sources are interconnected, and how, when, where and to what extent the diversion and use of water from one source impacts the water flows in that source and other sources.' . . . . That is precisely the reason for the CM Rules and the need for analysis and administration by the Director." *American Falls,* 143 Idaho at 877, 154 P.3d at 448.

8. The CM Rules incorporate all principles of the prior appropriation doctrine as established by Idaho law. *American Falls*, 143 Idaho at 873, 154 P.3d at 444; CM Rule 20.02, 10.12.

9. While the presumption under Idaho law is that an appropriator is entitled to his decreed water right and the CM Rules may not be applied to require a senior appropriator to demonstrate an entitlement to the water in the first place, there may be post-adjudication factors relevant to the determination of how much water is actually needed in responding to a delivery call. *American Falls*, 143 Idaho at 877–78, 154 P.3d at 448–49. Under the CM Rules and Idaho law, the Director has the "authority and responsibility to investigate claims when delivery calls

are made," and the "authority to evaluate the issue of beneficial use in the administration context." *In re Distribution of Water to Various Water Rights Held by or for the Ben. of A&B Irr. Dist.*, 155 Idaho at 652, 315 P.3d at 840. As the Idaho Supreme Court stated, "'[w]hile the prior appropriation doctrine certainly gives pre-eminent rights to those who put water to beneficial use first in time, this is not an absolute rule without exception . . . the Idaho Constitution and statutes do not permit waste and require water to be put to beneficial use or be lost.'" *Idaho Ground Water Assoc.*, 160 Idaho at 131, 369 P.3d at 909 (quoting *American Falls*, 143 Idaho at 880, 154 P.3d at 433). "[T]he Director must have some discretion to balance these countervailing considerations in a delivery call." *Id*. "'If this Court were to rule the Director lacks the power in a delivery call to evaluate whether the senior is putting the water to beneficial use, we would be ignoring the constitutional requirement that priority over water be extended only to those using the water.'" *In re Distribution of Water to Various Water Rights Held by or for the Ben. of A&B Irr. Dist.*, 155 Idaho at 652, 315 P.3d at 840 (quoting *American Falls*, 143 Idaho at 876, 154 P.3d at 447).

10. In responding to a delivery call under the CM Rules, the Director "may employ a baseline methodology as a starting point for considering material injury," provided the baseline methodology otherwise comports with the prior appropriation doctrine as established by Idaho law. *In re Distribution of Water to Various Water Rights Held by or for the Ben. of A&B Irr. Dist.*, 155 Idaho at 653, 315 P.3d at 841; *see Methodology Remand Order* at 17.

11. Once the Director determines "that material injury is occurring or will occur," junior appropriators subject to the delivery call bear "the burden of proving that the call would be futile or to challenge, in some other constitutionally permissible way, the senior's call." *American Falls*, 143 Idaho at 878, 154 P.3d at 449; *Methodology Remand Order* at 31. Junior appropriators have the burden of proving by clear and convincing evidence that the delivery call is futile or otherwise unfounded. *In re Distribution of Water to Various Water Rights Held by or for the Ben. of A&B Irr. Dist.*, 155 Idaho at 653, 315 P.3d at 841.

12. "This case illustrates the tension between the first in time and beneficial use aspects of the prior appropriation doctrine." *In re Distribution of Water to Various Water Rights Held by or for the Ben. of A&B Irr. Dist.*, 155 Idaho at 650, 315 P.3d at 838. The Idaho Supreme Court has in this case "recognized the critical role of the Director in managing the water resources to accommodate both first in time and beneficial use aspects: 'Somewhere between the absolute right to use a decreed water right and an obligation not to waste it and to protect the public's interest in this valuable commodity, lies an area for the exercise of discretion by the Director.'" *Id.* at 651, 315 P.3d at 839 (quoting *American Falls*, 143 Idaho at 880, 154 P.3d at 451). Thus, in this case the Director may use "a baseline methodology, both as a starting point for consideration of the Coalition's call and in determining the issue of material injury." *Id.* at 650–51, 315 P.3d at 838–39. However, "[i]f changing conditions establish that material injury is greater than originally determined pursuant to the baseline analysis, then adjustments to the mitigation obligation of the juniors must be made when the Director undertakes his mid-season calculations." *Methodology Remand Order* at 18.

13. In the context of conjunctive administration, the Director's methodology for projecting material injury does not impose an obligation upon members of the SWC to reprove

their water rights. To the extent water is available, members of the SWC are authorized to divert and store water in accordance with the terms of their licenses or decrees. Nothing established herein reduces that authorization. The question that the CM Rules require the Director to answer in this proceeding is, when water is not available to fill the water rights of the SWC, how much water is reasonably necessary for the SWC to accomplish the beneficial purpose of raising crops; because what is needed to irrigate crops may be less than the decreed or licensed quantities. *American Falls*, 143 Idaho at 880, 154 P.3d at 451; *see In re Distribution of Water to Various Water Rights Held by or for the Ben. of A&B Irr. Dist.*, 155 Idaho at 650, 315 P.3d at 838 (quoting *Washington State Sugar*, 27 Idaho at 44, 147 P. at 1079) ("'[i]t is the settled law of this state that no person can, by virtue of a prior appropriation, claim or hold more water than is necessary for the purpose of the appropriation"). Again, "[t]he concept that beneficial use acts as a measure and limit upon the extent of a water right is a consistent theme in Idaho water law." *Id.*

14. Holders of senior-priority water rights may receive less than their licensed or decreed quantities and not suffer material injury within the meaning of the CM Rules. As a result, in-season demand should be viewed in light of reasonableness and optimum development of water resources in the public interest. CM Rules 20 and 42; *American Falls*, 143 Idaho at 876–80, 154 P.3d at 447–51; *In re Distribution of Water to Various Water Rights Held by or for the Ben. of A&B Irr. Dist.*, 155 Idaho at 650–52, 315 P.3d at 838–40.

15. Here, the Director has established a methodology for determining material injury to members of the SWC. The methodology predicts material injury to RISD by taking the difference between RISD and the FS. The years 2000 through 2021 were analyzed to select the BLY because the period of years captured current irrigation practices in a dry climate. Based upon evaluation of the record, members of the SWC were exercising more reasonable efficiencies during this time period than during the 1990s when supplies were more plentiful. During periods of drought when junior ground water users are subject to curtailment, members of the SWC should exercise reasonable efficiencies to promote the optimum utilization of the State's water resources. CM Rules 20 and 42; *American Falls,* 143 Idaho at 876–80, 154 P.3d at 447-51; *Clear Springs*, 150 Idaho at 807–10; 252 P.3d at 88–91; *In re Distribution of Water to Various Water Rights Held by or for the Ben. of A&B Irr. Dist.*, 155 Idaho at 650–52, 315 P.3d at 838–40.

16. At this time, with the recognition that the methodology is subject to adjustment and refinement, RISD will be equal to the historic demands associated with the BLY (2018) and will be corrected during the season to account for variations in climate and water supply between the BLY and actual conditions.

17. Recognizing that climate and surface water supplies (natural flow and storage) are inherently variable, the Director's predictions of material injury to RISD and reasonable carryover are based upon the best available information and the best available science, in conjunction with the Director's professional judgment as the manager of the State's water resources. Recognizing his ongoing duty to administer the State's water resources, the Director should use available data, and consider new analytical methods or modeling concepts, to evaluate the methodology. As more data is gathered and analyzed, the Director will continue to

review and refine the process of predicting and evaluating material injury. The methodology will continue to be adjusted if the data supports a change.

18. If the Director predicts that the SWC will be materially injured because of a demand shortfall prediction, either in the preseason or in the midseason, the demand shortfall represents a mitigation obligation that must be borne by junior ground water users. If mitigation water in the amount of the projected RISD shortfall cannot be secured or optioned by junior ground water users to the satisfaction of the Director, the Director will curtail junior ground water users to make up any deficit. *See* Order on Pet. for Jud. Rev., at 19, *A&B Irrigation District v. Idaho Dairymen's Association, Inc.*, No. 2008-0000551 (Gooding Cnty. Dist. Ct. Idaho July 24, 2009),

19. In previous years, the Director used steady-state modeling when determining the curtailment priority date. As part of the Director's ongoing obligation to evaluate the methodology, the Director must evaluate whether the use of steady-state continues to be supportable.

20. In surface water administration, uses by holders of junior priority surface water rights are curtailed until the senior surface water rights are fully satisfied, absent a futile call and if the senior surface water users need the water to accomplish a beneficial use. In other words, under surface water administration, junior surface water rights are generally curtailed unless the senior gets water in the quantity and at the time and place required.

21. Rule 43 of the CM Rules mandates that when the Director evaluates a mitigation plan, the mitigation plan must ensure that water is delivered to holders of senior priority surface water rights in both the quantity and at the time and place required by the senior. In considering a proposed mitigation plan pursuant to Rule 43, the Director must evaluate:

> **b.** Whether the mitigation plan will provide replacement water, *at the time and place required by the senior-priority water right*, sufficient to offset the depletive effect of ground water withdrawal on the water available in the surface or ground water source *at such time and place as necessary* to satisfy the rights of diversion from the surface or ground water source. Consideration will be given to the history and seasonal availability of water for diversion so as not to require replacement water at times when the surface right historically has not received a full supply, such as during annual low-flow periods and extended drought periods.
>
> **c.** Whether the mitigation plan provides replacement water supplies or other appropriate compensation to the senior-priority water right *when needed during a time of shortage* even if the effect of pumping is spread over many years and will continue for years after pumping is curtailed. A mitigation plan may allow for multi-season accounting of ground water withdrawals and provide for replacement water to take advantage of variability in seasonal water supply. The mitigation plan must include contingency provisions to assure protection of the senior-priority right in the event the mitigation water source becomes unavailable.

IDAPA 37.01.03.11.043.b–c (emphasis added). In other words, there is an assumption that senior water right holders calling for delivery of water under the CM Rules will receive, by curtailment or by mitigation, "replacement water at the time and place required by the senior-priority water right, sufficient to offset the depletive effect of ground water withdrawal . . . ." Only in a mitigation plan can "multi-season accounting of ground water withdrawals" be employed, and even then, the plan must "assure protection of the senior-priority right in the event the mitigation water source becomes unavailable."

22. The Director has an obligation to address a mitigation deficiency in the year it occurs. Mem. Decision & Order on Pet. for Jud. Rev., at 10, *Rangen, Inc. v. Idaho Dep't of Water Res.*, No. CV-2014-2446 (Twin Falls Cnty. Dist. Ct. Idaho Dec. 3, 2014); Mem. Decision & Order, at 8–9, *Rangen, Inc. v. Idaho Dep't of Water Res.*, No. CV-2014-4970 (Twin Falls Cnty. Dist. Ct. Idaho June 1, 2015).

23. The Director is also obligated to administer consistent with the guidance from the Courts. The Director concludes that any IDS determined by this methodology must be replaced by curtailment in time, place, and quantity unless mitigation allows for out-of-priority diversion of ground water.

24. As described in Finding of Fact 87, curtailment to a priority date calculated by the steady state analysis method used in the Fourth Methodology Order will only offset 9% to 15% of the predicted IDS. In contrast, curtailment to a priority date calculated with a transient simulation of a single season curtailment will offset the *full* predicted IDS unless the shortfall exceeds the accruals to the near Blackfoot to Minidoka reach by the end of the irrigation season with curtailment of all junior ground water rights. This methodology order depends on an annual evaluation of material injury and should also employ curtailment and or mitigation that supplies replacement water at the time and place required by the senior-priority water right in a quantity sufficient to offset the depletive effect of ground water withdrawal and to assure protection of the senior-priority right. Curtailment dates, periodically determined at time of recalculating in-season demand shortfall (IDS), should be calculated by a transient model simulation that will return the full quantity of water to the senior priority rights at the time and place required.

25. As described in Conclusion of Law 18, junior ground water users with approved mitigation plans to deliver storage water as mitigation must, to the satisfaction of the Director, secure or option mitigation water to avoid curtailment. By requiring that junior ground water users secure mitigation water or have options to acquire water in place during the season of need, the Director ensures that the SWC does not carry the risk of shortage to their supply. By not requiring junior ground water users to deliver or assign mitigation water until the Time of Need, the Director ensures that junior ground water users supply only the amount of mitigation water necessary to satisfy the RISD. All approved methods of mitigation shall be considered in the Director's review of projected RISD shortfall.

26. Unless there is reasonable certainty that junior ground water users can secure the predicted volume of water and provide that water at the Time of Need, the protection afforded to the senior water right holders is compromised. The risk of shortage is then impermissibly shouldered by the SWC. Members of the SWC should have certainty entering the irrigation

season and at midseason that mitigation water will be delivered or assigned at the Time of Need, or curtailment of junior ground water rights will be ordered.

27. Because climate and the supply that the SWC appropriated (natural flow and storage) are inherently variable, the Director cannot and should not insulate the SWC against all shortages. The Director can, however, protect the SWC against reasonably predicted shortages to RISD.

28. Currently, the USBR and USACE's Joint Forecast is an indispensable predictive tool at the Director's disposal for predicting material injury to RISD. Given current forecasting techniques, the earliest the Director can predict material injury to RISD with reasonable certainty is soon after the Joint Forecast is issued in early April. The pre-irrigation season supply forecast for A&B and Milner can be predicted solely from the Joint Forecast. To improve the accuracy of prediction, the pre-irrigation season supply forecast for AFRD2, BID, Minidoka, NSCC, and TFCC will currently be predicted from both the Joint Forecast and from flow data at Box Canyon.[25]

29. By shifting the April Forecast Supply prediction curve down one standard error of estimate, the Director purposely underestimates the water supply that is predicted. The Director further guards against RISD shortage by using the 2018 BLY, which has above average diversions, above average ET, below average in-season precipitation, and above average growing degree days. The 2018 BLY represents a year in which water supply did not limit diversions. The Director's prediction of material injury to RISD is purposely conservative. While it may ultimately be determined after final accounting that less mitigation water was owed than was provided, this is an appropriate burden for junior appropriators to carry. Idaho Cost. Art. XV, § 3; Idaho Code § 42-106. Shifting the prediction curve down one standard error of estimate and adoption of a BLY that uses above average diversions, above average temperatures and ET and below average precipitation is necessary to protect senior rights if the Director administers to an amount less than the full decreed quantity of the SWC's rights. *Methodology Remand Order* at 33, 35.

30. The Director will review, at the end of the season, the volume and efficiencies of application of surface water, the amount of mitigation water provided by junior ground water users, and may, in the exercise of his professional judgment, readjust the reasonable carryover shortfalls to reflect these considerations.

31. "Storage water is water held in a reservoir and is intended to assist the holder of the water right in meeting their decreed needs." *American Falls*, 143 Idaho at 878, 154 P.3d at 449. "Carryover is the unused water in a reservoir at the end of the irrigation year which is retained or stored for future use in years of drought or low-water." *Id.* Under Idaho Code, "[o]ne may acquire storage water rights and receive a vested priority date and quantity, just as with any other water right," but "[t]here is no statutory provision for obtaining a decreed right to 'carryover' water." *Id.* Rather, carryover is a "component of the storage right." Order on Pet. for Jud. Rev., at 20, *A&B Irrigation District v. Idaho Dairymen's Association, Inc.*, No. 2008-

[25] The method for predicting the natural flow supply may be subject change based upon improved predictive models.

0000551 (Gooding Cnty. Dist. Ct. Idaho July 24, 2009). Storage carryover is "permissible . . . absent abuse." *American Falls*, 143 Idaho at 880, 154 P.3d at 451.

32. The storage reservoirs implicated in this proceeding were intended to provide supplemental supplies of water "to create a buffer against the uncertainty of the weather." *Opinion Constituting Findings of Fact, Conclusions of Law and Recommendation* (April 29, 2008) at 6. "The history of the development of the reservoir system, most recently Palisades, makes it clear that storage of water was a primary purpose to prevent disaster during periods of shortage as have been experienced in the recent past." *Id*. at 60. The purpose of carryover also is "insurance against the risk of future shortage." Order on Pet. for Jud. Rev., at 20, *A&B Irrigation District v. Idaho Dairymen's Association, Inc.*, No. 2008-0000551 (Gooding Cnty. Dist. Ct. Idaho July 24, 2009).

33. CM Rule 42.01 sets forth factors the Director "may consider in determining whether the holders of water rights are suffering material injury and using water efficiently and without waste." CM Rule 42.01 does not limit the Director's determination of reasonable carryover to consideration of the factors enumerated in CM Rule 42.01g, but only requires that the Director consider those enumerated factors. One such factor is "[t]he extent to which the requirements of the holder of a senior priority water right could be met with the user's existing facilities and water supplies." CM Rule 42.01g. This factor is qualified, however, by the provision that "the holder of a surface water storage right shall be entitled to maintain a reasonable amount of carry-over storage to assure water supplies for future dry years." CM Rule 42.01g. Thus, CM Rule 42.01g does not require water right holders to exhaust their storage water supplies prior to making a delivery call under the CM Rules. This is consistent with the purposes of the storage reservoirs and the carryover components of the storage water rights.

34. In considering CM Rule 42.01g in *American Falls*, the Idaho Supreme Court framed the SWC's challenge to the "reasonable carryover" provision as presenting the question of whether the holders of storage water rights are "entitled to insist on all available water to carryover for future years in order to assure that their full storage water is met (regardless of need)," *American Falls,* 143 Idaho at 879, 154 P.3d at 450, and answered this question in the negative:

> At oral argument, one of the irrigation district attorneys candidly admitted that their position was that they should be permitted to fill their entire storage water right, regardless of whether there was any indication that it was necessary to fulfill current or future needs and even though the irrigation districts routinely sell or lease the water for uses unrelated to the original rights. This is simply not the law of Idaho. While the prior appropriation doctrine certainly gives pre-eminent rights to those who put water to beneficial use first in time, this is not an absolute rule without exception. As previously discussed, the Idaho Constitution and statutes do not permit waste and require water to be put to beneficial use or be lost. Supra, paragraph 11.

Id. at 880, 154 P.3d at 451.

35. As discussed in the Findings of Fact, reasonable carryover is determined by projecting the water supply for the system. This is accomplished by projecting the 2002/2004 natural flow and average annual storage fill and the 2018 demand. Next, the Director examines the average annual rate of fill of each SWC entity's reservoir space to determine each entity's relative probability of fill. Finally, the Director examines the average annual carryover for prior comparable water conditions by reviewing Heise natural flow.

36. On or before November 30, the Department will issue estimates of actual carryover and reasonable carryover shortfall volumes for all members of the SWC. These estimates will establish the obligation of junior ground water users in providing water to the SWC for reasonable carryover shortfall. Fourteen (14) days following the issuance by the Department of reasonable carryover short fall obligations, junior ground water users will be required to establish, to the satisfaction of the Director, their ability to supply a volume of storage water or to conduct other approved mitigation activities that will provide water to the injured members of the SWC equal to the reasonable carryover shortfall for all injured members of the SWC. If junior ground water users cannot provide this information, the Director will issue an order curtailing junior ground water rights.

37. Recognizing that reservoir space held by members of the SWC may fill, and to prevent the waste of water, junior ground water users are not required to deliver or assign the volume of reasonable carryover until after the Day of Allocation (defined in footnote 11, *infra*). Junior ground water users are obligated to hold the secured or optioned mitigation water until reservoir space held by the SWC fills. If the reservoir space does not fill, junior ground water right holders must deliver or assign the secured or optioned mitigation water to the senior water right holders up to the amount of storage space that did not fill.

ORDER

Consistent with the forgoing, the Director HEREBY ORDERS that, for purposes of determining material injury to RISD and reasonable carryover, the following steps will be taken:

1. Step 1: By April 1, members of the SWC will submit electronic shape files to the Department delineating the total anticipated irrigated acres for the upcoming year within their water delivery boundary or confirm in writing that the existing electronic shape file submitted by SWC has not varied by more than five percent. Department staff will review submitted shapefiles and modify them as necessary to ensure that: (1) the total acreage count does not exceed the decreed number of acres; (2) all of the irrigated land is located within the decreed place of use; and (3) acres are not counted more than once due to overlapping polygons within a shape file or between shape files submitted by different SWC members. Because the SWC members can best determine the irrigated acres within their service area, the SWC should be responsible for submitting the information to the Department. If this information is not timely submitted, the Department will determine the total irrigated acres based upon past cropping patterns and current satellite and/or aerial imagery. If a SWC member fails or refuses to identify the number of irrigated acres within its service area by April 1, the Department will be cautious about recognizing acres as being irrigated if there is uncertainty about whether the acres are or will be irrigated during the upcoming irrigation season. The Department will electronically post

electronic shape files for each member of the SWC for the current water year for review by the parties. In determining the total irrigated acreage, the Department may account for supplemental ground water use. The Department currently does not have sufficient information to accurately determine the contribution of supplemental ground water to lands irrigated with surface water by the SWC. If and when reliable data is available to the Department, the methodology will be amended to account for the supplemental ground water use.

2. If the acreage count is under reported by more than five percent of the irrigated acreage limit of the water right, then the Department will assess the impact of this reduction in use of the water right on any mitigation requirement.

3. Step 2: Typically within the first two weeks of April, the USBR and USACE issue their Joint Forecast that predicts an unregulated inflow volume at the Heise Gage for the period April 1 through July 31. Within fourteen (14) days after issuance of the Joint Forecast, the Director will issue a final order predicting the April FS for the water year for each SWC entity. The Director will compare the April FS for each SWC entity to the BD for each SWC entity to determine if an in-season demand shortfall ("IDS") is anticipated for the upcoming irrigation season. The April FS for each SWC entity is the sum of the forecasted natural flow supply and the forecasted storage allocation for each SWC entity. The forecasted natural flow supply will be computed with regression algorithms. The forecasted storage allocation will be determined by comparing storage accruals in an analogous year(s). A transient ESPAM simulation will be run to calculate the curtailment priority date predicted to produce a volume of water equal to the IDS in the near Blackfoot to Minidoka reach between May 1 and September 30 of the current year. Curtailment will be simulated within the area of common ground water supply as described by CM Rule 50.01.

4. Step 3: By May 1, or within fourteen (14) days from issuance of the final order predicting the April FS, whichever is later in time, junior ground water users with approved mitigation plans for delivery of water must secure, to the satisfaction of the Director, a volume of water equal to their proportionate share of the April IDS unless the April IDS is revised as explained below in paragraph 6. If junior ground water users secured water for a reasonable carryover shortfall to an individual SWC member in the previous year, the current-year mitigation obligation to the individual SWC member will be reduced by the quantity of water secured for the reasonable carryover shortfall. The secured water will not be required to be delivered to the injured members of the SWC until the Time of Need.

5. Step 4: As soon as practical after the deadline for junior ground water users with approved mitigation plans to provide notice of secured water, the Director will issue an order curtailing junior ground water users who: (1) do not have approved mitigation plans; (2) fail to secure the required water consistent with their approved mitigation plans; or (3) otherwise fail to comply with their approved mitigation plans.[26]

[26] This presumes that any reasonable carryover obligation has been met, and that junior ground water users are not already under prior curtailment from deficiencies in meeting the previous year's obligation.

6. If, at any time prior to the Director's final determination of the April FS, the Director can determine with certainty that any member of the SWC has diverted more natural flow than predicted, or has accrued more storage than predicted, the Director will revise his initial, projected demand shortfall determination.

7. Step 5: If the storage allocations held by members of the SWC fill, there is no reasonable carryover shortfall. If the storage allocations held by members of the SWC do not fill, within fourteen (14) days following the publication of Water District 01's initial storage report, which typically occurs soon after the Day of Allocation,[27] the volume of water secured by junior ground water users to fulfill the reasonable carryover shortfall shall be made available to injured members of the SWC. The amount of reasonable carryover to be provided shall not exceed the empty storage space on the Day of Allocation for that entity. If water is owed in addition to the reasonable carryover shortfall volume, this water shall be delivered or assigned to members of the SWC at the Time of Need, described below. The Time of Need will be no earlier than the Day of Allocation.

8. Step 6: Approximately halfway through the irrigation season, but following the events described in Step 5, the Director will, for each member of the SWC: (1) recalculate RISD; (2) issue a revised FS; and (3) estimate the Time of Need date.[28]

9. RISD will be calculated utilizing the project efficiency, BD, and the cumulative actual CWN determined up to that point in the irrigation season. The cumulative CWN volume will be calculated for all land irrigated with surface water within the boundaries of each member of the SWC. Volumetric values of CWN will be calculated using ET and precipitation values from the USBR's AgriMet program, irrigated areas provided by each entity, and crop distributions based on NASS data.

10. The FS for each SWC is the sum of the year-to-date actual natural flow diversions, the forecasted natural flow supply for the remainder of the season, and the storage allocation for each member of the SWC. The forecasted natural flow supply for the remainder of the season will be based on regression analysis. The storage allocation will be based on the actual preliminary storage allocations issued by the BOR and Water District 01. If the BOR and Water District 01 have not yet allocated stored water to spaceholders, the Department will predict the storage allocations based on an analogous year(s).

11. The calendar day determined to be the Time of Need is established by predicting the day in which the remaining storage allocation will be equal to reasonable carryover. The Time of Need will not be earlier than the Day of Allocation.

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[27] The Day of Allocation is the time in the irrigation season when the Water District 01 watermaster can issue allocations to storage space holders after the reservoir system has achieved its maximum physical fill, maximum water right accrual, and any excess spill past Milner Dam has ceased. Tr., at 902:7–25, 903:1–10.

[28] At the earliest established Time of Need for any member of the SWC, junior ground water users are required to provide remaining mitigation to all materially injured members of the SWC.

12. This information will be used to recalculate RISD and adjust the projected IDS for each member of the SWC. The Director will then issue revised RISD and DS values. Any increase to the projected IDS for each SWC entity is an additional mitigation obligation of the junior ground water users.

13. Upon a determination of an additional mitigation obligation, junior ground water users will be required to establish, to the satisfaction of the Director, their ability to secure a volume of storage water or to conduct other approved activities pursuant to an approved mitigation plan that will deliver the additional mitigation obligation water to the injured members of the SWC at the Time of Need. If junior ground water users fail or refuse to submit this information within fourteen (14) days from issuance of a Step 6 order, the Director will issue an order curtailing junior ground water users.[29] A transient ESPAM simulation will be run to determine the priority date to produce the necessary additional mitigation obligation volume by September 30 of the same year. Curtailment will be simulated within the area of common ground water supply, as described by CM Rule 50.01.

14. Step 7: Shortly before the estimated Time of Need, but following the events described in Steps 5 and 6, the Director will, for each member of the SWC: (1) recalculate RISD; (2) issue a revised FS; and (3) establish the Time of Need. The revised FS for each SWC entity is the sum of the year-to-date actual natural flow diversions, the forecasted natural flow supply for the remainder of the season, and the storage allocation for each member of the SWC. The forecasted natural flow supply for the remainder of the season will be based on analogous year(s) with similar Blackfoot to Milner reach gains. The storage allocation will be based on the actual preliminary storage allocations issued by the BOR and Water District 01.

15. This information will be used to recalculate RISD and adjust the projected IDS for each member of the SWC. RISD will be calculated utilizing the project efficiency, BD, and the cumulative actual CWN determined up to that point in the irrigation season. The Director will then issue revised RISD and IDS values.

16. A transient ESPAM simulation will be run to determine the priority date of water rights that must be curtailed to produce the demand shortfall volume by September 30 of the same year. Curtailment will be simulated within the area of common ground water supply, as described by CM Rule 50.01.

17. Step 8: At the Time of Need, junior ground water users are required to deliver to each injured member of the SWC the Step 7 revised IDS calculated at the Time of Need. Alternatively, any additional mitigation obligation calculated in Step 6 and Step 7 can be satisfied from each SWC member's reasonable carryover if (a) the reasonable carryover exceeds the additional mitigation obligation, and (b) the junior ground water users secure sufficient water to replace the reasonable carryover pursuant to an approved mitigation plan.

[29] This presumes that any reasonable carryover obligation has been met, and that junior ground water users are not already under prior curtailment from deficiencies in meeting the previous year's obligation.

18. The Director will review, at the end of the season, the volume and efficiencies of application of surface water, the amount of mitigation water delivered by junior ground water users, and may, in the exercise of his professional judgment, readjust the reasonable carryover shortfalls to reflect these considerations.

19. Step 9: Following the end of the irrigation season (on or before November 30), the Department will determine the total actual volumetric demand and total actual CWN for the entire irrigation season. This information will be used for the analysis of reasonable carryover shortfall, selection of future BLY, and for the refinement and continuing improvement of the method for future use.

20. On or before November 30, the Department will issue estimates of actual carryover and reasonable carryover shortfall volumes for all members of SWC. These estimates will be based on, but not limited to, the consideration of the best available water diversion and storage data from Water District 01, return flow monitoring, comparative years, and RISD. These estimates will establish the obligation of junior ground water users in providing water to the SWC for reasonable carryover shortfall. Fourteen (14) days following the issuance by the Department of reasonable carryover short fall obligations, junior ground water users will be required to establish, to the satisfaction of the Director, their ability to supply a volume of storage water or to conduct other approved mitigation activities that will provide water to the injured members of the SWC equal to the reasonable carryover shortfall for all injured members of the SWC. If junior ground water users cannot provide this information, the Director will issue an order curtailing junior ground water rights. A transient ESPAM simulation will be run to determine the priority date of water rights that must be curtailed to produce the reasonable carryover shortfall volume by September 30 of the following year. Curtailment will be simulated within the area of common ground water supply, as described by CM Rule 50.01.

IT IS FURTHER ORDERED that this Sixth Methodology Order supersedes all previously issued methodology orders in this matter.

Dated this 19th day of July 2023.

GARY SPACKMAN
Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 19th day of July 2023, the above and foregoing, was served by the method indicated below, and addressed to the following:

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Sarah Tschohl
Paralegal

EXPLANATORY INFORMATION TO ACCOMPANY A FINAL ORDER

(Required by Rule of Procedure 740.02)

The accompanying order is a "**Final Order**" issued by the department pursuant to section 67-5246 or 67-5247, Idaho Code.

Section 67-5246 provides as follows:

(1) If the presiding officer is the agency head, the presiding officer shall issue a final order.

(2) If the presiding officer issued a recommended order, the agency head shall issue a final order following review of that recommended order.

(3) If the presiding officer issued a preliminary order, that order becomes a final order unless it is reviewed as required in section 67-5245, Idaho Code. If the preliminary order is reviewed, the agency head shall issue a final order.

(4) Unless otherwise provided by statute or rule, any party may file a petition for reconsideration of any order issued by the agency head within fourteen (14) days of the service date of that order. The agency head shall issue a written order disposing of the petition. The petition is deemed denied if the agency head does not dispose of it within twenty-one (21) days after the filing of the petition.

(5) Unless a different date is stated in a final order, the order is effective fourteen (14) days after its service date if a party has not filed a petition for reconsideration. If a party has filed a petition for reconsideration with the agency head, the final order becomes effective when:

(a) The petition for reconsideration is disposed of; or
(b) The petition is deemed denied because the agency head did not dispose of the petition within twenty-one (21) days.

(6) A party may not be required to comply with a final order unless the party has been served with or has actual knowledge of the order. If the order is mailed to the last known address of a party, the service is deemed to be sufficient.

(7) A non-party shall not be required to comply with a final order unless the agency has made the order available for public inspection or the nonparty has actual knowledge of the order.

(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 67-5246(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) the service date 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.

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY OR FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY	Docket No. CM-DC-2010-001 **NOTICE THAT QUESTIONS CONCERNING THE SUFFICIENCY OF IGWA'S MITIGATION NOTICES ARE MOOT**

BACKGROUND

On April 21, 2023, the Director of the Idaho Department of Water Resources ("Department") issued his *Fifth Amended Final Order Regarding Methodology for Determining Material Injury to Reasonable In-Season Demand and Reasonable Carryover* ("Methodology Order"). Step 3 of the Methodology Order states that by May 1, or within fourteen days from issuance of a final order predicting a shortfall, "junior ground water users with approved mitigation plans for delivery of water must secure, to the satisfaction of the Director, a volume of water equal to their proportionate share" of any predicted shortfall. *Methodology Order* at 40.

On April 21, 2023, the Director also issued his *Final Order Regarding April 2023 Forecast Supply* ("April 2023 As-Applied Order"), wherein the Director predicted the Twin Falls Canal Company ("TFCC") would suffer a 75,200 acre-feet shortfall. *April 2023 As-Applied Order* at 3. To ensure TFCC was protected, the Director ordered that on or before May 5, 2023:

> [G]round water users holding consumptive water rights bearing priority dates junior to December 30, 1953, within the Eastern Snake Plain Aquifer area of common ground water supply shall establish, to the satisfaction of the Director, that they can mitigate for their proportionate share of the predicted [demand shortfall] of 75,200 acre-feet in accordance with an approved mitigation plan. If a junior ground water user cannot establish, to the satisfaction of the Director, that they can mitigate for their proportionate share of the predicted [demand shortfall] of 75,200 acre-feet in accordance with an approved mitigation plan, the Director will issue an order curtailing the junior-priority ground water user.

April 2023 As-Applied Order at 6.

On May 5, 2023, the Idaho Ground Water Appropriators, Inc. ("IGWA"), acting on behalf of certain water districts[1] (collectively the "Districts"), filed a *Notice of Ground Water District Mitigation* ("Mitigation Notice").

IGWA's *Mitigation Notice* explained that "IGWA has three approved mitigation plans." *Mitigation Notice* at 2. IGWA asserted its first plan (the "2009 Storage Water Mitigation Plan") authorized the Districts to mitigate by delivering storage water to the Surface Water Coalition ("SWC"). *Id*. IGWA contends its second plan (the "Aquifer Enhancement Plan") authorized the Districts to "obtain mitigation credit" for various activities, e.g., fallowing acres irrigated by groundwater. *Id*. IGWA asserted its third plan (known as the "2015 Settlement Agreement Mitigation Plan") authorized the Districts to "obtain mitigation protection by complying with a 2015 settlement agreement between the Districts and the SWC. *Id*.

IGWA then advised that certain districts intended to mitigate under the 2009 Storage Water Mitigation Plan, while other districts intended to mitigate under the 2015 Settlement Agreement Mitigation Plan. *Id*. at 2–3.

On May 23, 2023, the Director issued an *Order Determining Deficiency in IGWA's Notice of Secure Water* ("Deficiency Order"). Of import here, the Director concluded IGWA's *Mitigation Notice* was deficient as it was improper for some Districts to mitigate under the 2009 Storage Water Mitigation Plan while others mitigated under the 2015 Settlement Agreement Mitigation Plan. *Deficiency Order* ¶¶ 2, 7, 9, 20, 21. The Director also determined IGWA's *Mitigation Notice* was deficient given IGWA's failure to tender fees to Water District 01 along with proof of legally enforceable contracts as required under the 2009 Storage Water Mitigation Plan. *Deficiency Order* ¶¶ 8, 9.

On June 1, 2023, IGWA submitted *IGWA's Amended Notice of Mitigation* ("Amended Mitigation Notice"), advising that IGWA would mitigate under the 2009 Storage Water Mitigation Plan. *Amended Mitigation Notice* at 3. IGWA also attached "copies of storage lease contracts secured by IGWA's member ground water districts totaling 77,714 acre-feet." *Id.*; *see also Amended Mitigation Notice* app. A. IGWA also objected to the Director's requiring IGWA to pay Water District 01's fees, but advised it had paid the fees notwithstanding its objection. *Amended Mitigation Notice* at 3.

On June 5, 2023, the SWC submitted *Surface Water Coalition's Response to IGWA's Amended Notice of Mitigation* ("SWC's Response"). The SWC argues IGWA's *Amended Mitigation Notice* is unclear whether IGWA members are agreeing to mitigate only for their proportionate shares, or instead for all ground water users as mandated under the 2009 Storage Water Mitigation Plan. *SWC's Response* at 2. The SWC further argues that IGWA's *Amended Mitigation Notice* fails to "address all of IGWA's storage water mitigation obligations for 2023", which include additional requirements beyond those articulated in the 2009 Storage Water Plan. *Id*. at 2–3.

[1] IGWA's submitted the Notice of Mitigation on behalf of: North Snake Ground Water District, Carey Valley Ground Water District, Magic Valley Ground Water District, Aberdeen-American Falls Ground Water District, Bingham Ground Water District, Bonneville-Jefferson Ground Water District, Jefferson-Clark Ground Water District, Madison Ground Water District, and Henry's Fork Ground Water District. *Mitigation Notice* at 1.

On June 6, 2023, IGWA submitted a *Petition for Reconsideration of Order Determining Deficiency in IGWA's Notice of Secured Water* ("Petition for Reconsideration"), wherein IGWA requested that the Director "withdraw the new requirement that Water District 1 fees be paid before the Director will accept signed storage water lease or option contracts as proof of IGWA's ability to provide storage water as mitigation." *Petition for Reconsideration* at 1.

Also on June 6, 2023, IGWA submitted its *Reply to SWC's Response to IGWA's Amended Notice of Mitigation* ("IGWA's Reply"). In its reply, IGWA argued it was not required to mitigate for all ground water users under the 2009 Mitigation Plan, and further argued it was in compliance with all its mitigation obligations. *IGWA's Reply* at 2.

On June 12, 2023, the SWC submitted *Surface Water Coalition's Response to IGWA's Reply* ("SWC's Response to IGWA's Reply"). The SWC reiterated that "[i]f IGWA is relying on the [2009 Mitigation Plan] to mitigate, it must mitigate for all ground water users, not just its members . . . ." *SWC Response to IGWA's Reply* at 2. The SWC emphasized that "IGWA cannot ignore the comprehensive terms of the Settlement Agreement Plan and mitigate only with the [2009] Storage Water Mitigation Plan to satisfy its 2023 obligation." *Id*. at 5. The SWC also reiterated that IGWA must supply an additional 30,000 acre-feet in 2023 as a remedy for IGWA's breach in 2021. *Id*. 2–3.

On July 19, 2023, the Director issued the Department's *Sixth Final Order Regarding Methodology for Determining Material Injury to Reasonable In-Season Demand and Reasonable Carryover*, as well an *Order Revising April 2023 Forecast Supply (Methodology Steps 5 & 6)* ("July 2023 As-Applied Order"). Of import here, in the *July 2023 As-Applied Order* the Director concluded that members of the SWC will not suffer a demand shortfall in 2023. *July 2023 As-Applied Order* at 9.

ANALYSIS

A matter "is moot if it presents no justiciable controversy and a judicial determination will have no practical effect upon the outcome." *Goodson v. Nez Perce Cnty. Bd. of Cnty. Comm'rs*, 133 Idaho 851, 853, 993 P.2d 614, 616 (2000). As noted above, the Director recently issued the July 2023 As-Applied Order, which found that no SWC members would suffer a demand shortfall in 2023. Because there is no demand shortfall, ground water users are no longer required to mitigate. Since ground water users are no longer required to mitigate, questions regarding the sufficiency of IGWA's *Mitigation Notice* or *Amended Mitigation Notice* no longer present a justiciable controversy and are therefore moot.

NOTICE

Having concluded that questions concerning the sufficiency of IGWA's mitigation notices are moot, the Director provides notice that the Department will not issue orders responding to *IGWA's Petition for Reconsideration of Order Determining Deficiency in IGWA's Notice of Secured Water* or *IGWA's Amended Notice of Mitigation*.

Dated this 20th day of July 2023.

GARY SPACKMAN
Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 20th day of July 2023, the above and foregoing, was served by the method indicated below, and addressed to the following:

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BEFORE THE DEPARTMENT OF WATER RESOUCES

OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY OR FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY	Docket No. CM-DC-2010-001 **SURFACE WATER COALITION'S RESPONSE TO CITIES' REQUEST FOR HEARING AND ORDER AUTHORIZING DISCOVERY**

COME NOW, A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, and TWIN FALLS CANAL COMPANY ("Surface Water Coalition" or "Coalition"), by and through counsel of record, and hereby respond to the *City of Pocatello's, City of Idaho Falls', and Coalition of Cities' Request for Hearing and Order Authorizing Discovery* ("Request") filed on August 3,

2023. The Coalition requests the Director to deny the Cities' Request for the reasons set forth below.

BACKGROUND

The Director issued the *Fifth Amended Methodology Order Regarding Methodology for Determining Material Injury to Reasonable In-Season Demand and Reasonable Carryover* ("Fifth Methodology Order") on April 21, 2023. The Cities challenged that order and filed several requests for hearing. *See Pocatello's Request for Hearing* (April 28, 2023); *Coalition of Cities' Amended Request for Hearing* (April 28, 2023); *City of Idaho Falls Challenge and Request for Hearing* (May 4, 2023). The Cities later filed additional statements of issues. *See Pocatello's Statement of Issues* (May 4, 2023); *Coalition of Cities' Statement of Issues* (May 4, 2023); *City of Idaho Falls Statement of Issues* (May 4, 2023). Notably, the Cities raised the following issues subject to the administrative hearing that was held from June 6-9, 2023:

> c) Whether the Surface Water Coalition's ("SWC") actual irrigated acreage was properly determined for use in determining reasonable in-season demand; . . .
>
> e) The reasonableness of Project efficiencies of the SWC members, trends in said efficiencies in recent years, and how the efficiency values are used in determining reasonable in-season demands;
>
> f) IDWR's failure to consider all sources of supply to the SWC;

Pocatello's Request for Hearing at 2; *see also Pocatello's Statement of Issues* at 2.

> b) IDWR's failure to properly identify the Surface Water Coalition's ("SWC") irrigated acreage used in the determination of reasonable in-season demand; . . .
>
> d) IDWR's failure to consider changes in the efficiency of the SWC's operations;
>
> e) IDWR's failure to consider all sources of supply available to the SWC;

Coalition of Cities' Amended Request for Hearing at 2.

> 4. IDWR's failure to consider changes and reasonableness of the project efficiencies of the SWC's operations; . . .

> 11. IDWR's failure to investigate whether the SWC members are using the water they divert efficiently and without waste, and in compliance with the terms of their decreed water rights;

Coalition of Cities' Statement of Issues at 2-3.

> 4. The reasonableness of Project efficiencies of the SWC members, trends in the efficiencies in recent years, and how the efficiency values are used in determining reasonable in-season demands;
>
> 5. Whether IDWR failed to consider all sources of water supply to the SWC; . . .
>
> 12. Whether IDWR's failure to investigate whether the SWC members are using the water they divert efficiently and without waste, and in compliance with the terms of their decreed water rights;

City of Idaho Falls Statement of Issues at 2-3.

The parties were allowed to address the above issues at hearing through both lay and expert testimony and through exhibits.[1] The parties also submitted post-hearing briefing on all issues that were raised, or could have been raised, at the hearing. *See generally, Cities' Closing Brief* (June 16, 2023). The Director issued the *Post-Hearing Order Regarding Fifth Amended Methodology Order* and the *Sixth Final Order Regarding Methodology for Determining Material Injury to Reasonable In-season Demand and Reasonable Carryover* ("Sixth Methodology Order") on July 19, 2023.

The Sixth Methodology Order was issued as a "final" administrative order subject to reconsideration and/or appeal to district court. *See* I.C. §§ 67-5246; 67-5270 to 5272; *see also*, Explanatory Information to Accompany a Final Order (attached to the Director's Sixth Methodology Order).

[1] These issues are essentially the same issues identified in the Cities' present Request. *See Request* at 2 (i.e. "operate reasonably and without waste," "irrigated acreage," "supplemental groundwater" and "enlargement rights"). All of these issues address the Coalitions' use of water and the Cities had an opportunity to discover and present this information at the June hearing.

ARGUMENT

I. IDWR Already Provided a Hearing on the Cities' Issues and the Statute Does Not Provide for a Second Hearing.

The Cities have erroneously petitioned for an administrative hearing on the Sixth Methodology Order pursuant to Idaho Code § 42-1701A(3). The statute only allows an aggrieved person to have a hearing on a director's action or order when that person "has not previously been afforded an opportunity for hearing on the matter." *See* I.C. § 42-1701A(3). The Cities do not fall into that category. Instead, IDWR provided the Cities with an opportunity for hearing on the issues listed in their recent *Request for Hearing* June 6-9, 2023. Issues related to the SWC's reasonable use of water, irrigated acres, supplemental groundwater, and enlargement rights were all subject to the hearing on the Fifth Amended Methodology Order held before the Director this past June. The Director specifically addressed these issues in the Post-Hearing Order. *See Post-Hearing Order* at 17-23. Although the Cities may disagree with the Director's decision, their remedy is not a "second" administrative hearing. Since the Cities had an opportunity for a hearing on their issues, Idaho law does not afford them a right to a "second" hearing. The Cities' request should be denied accordingly.

Moreover, the Sixth Methodology Order was issued as a "final" agency order. Pursuant to section 42-1701A(4) the Cities' statutory remedy is judicial review of that order. Idaho's APA provides the right to ask for reconsideration and/or appeal that decision to district court. The Cities did not ask for reconsideration and have yet to appeal the Sixth Methodology Order, however IGWA did ask for judicial review. *See IGWA's Petition for Judicial Review* (Ada County Dist. Ct., Fourth Jud. Dist., Case No. CV01-23-13713, Aug. 16, 2023). Since the Director's Sixth Methodology Order is on appeal to the district court it is not subject to any

further administrative process or hearing, unless ordered by the court. *See* I.R.C.P. 84. The Cities' request for a "second" hearing should be denied accordingly.

II. The Sixth Methodology Order Updates the Fifth Methodology Order Based on Information Produced at Hearing.

Notwithstanding the Sixth Methodology Order was issued as a "final" agency order subject to reconsideration and/or judicial review, the Director updated the Fifth Order based upon information produced at hearing. In other words, the issues that the Cities seek to address with a hearing on the Sixth Methodology Order were already addressed in the June hearing. There is nothing new in the final order that would warrant an additional administrative hearing. The Cities' request in this regard is unduly burdensome and would cost the parties and agency time and additional resources without any legal basis.

Notably, the Director stated "[t]his Sixth Methodology Order relies on the same data included in the Fifth Methodology Order." *See* Sixth Methodology Order at 8, n. 8, at 9, n. 9, at 10, n .10, at 15, n. 13, at 24, n. 18, at 26, n. 20, at 28-29, n. 21 (emphasis added). All of this information was available to the Cities as of April 21, 2023. However, the Director did identify certain limited corrections to the Fifth Methodology Order:

> As discussed in footnote 12, during the June 2023 Hearing the Department identified an error in AFRD's 2018 diversion data. Hr'g T. vol. IV, at 173-74. This correction was resolved in his Sixth Methodology Order, which relies on the updated data. The updated data did not result in an appreciable increase in 2018's diversion value.

Sixth Methodology Order at 12, n. 11.

> In this Sixth Methodology Order, AFRD2's 2018 diversion value has been increased by 5,000 acre-feet. This increase was necessary to remedy the error committed by Department staff in calculating AFRD2's 2018 adjusted diversion value for the Fifth Methodology Order, which was identified during the June 6 Hearing.

Id. at 13, n. 12.

IDWR staff member Matt Anders addressed the above data correction during the June hearing. He was available for cross-examination by the parties and the Cities had a full and fair opportunity to rebut or contest this information if they disagreed with it. Moreover, the Cities had a full and fair opportunity to rebut and contest any of IDWR's updates to the Fifth Methodology Order that were carried over to the Sixth Methodology Order. Stated another way, there is nothing new in the recent order that was not subject to the June hearing on the Fifth Methodology Order. All of the Cities' issues identified in their *Request for Hearing* were either expressly raised or could have been raised at the June hearing and finally addressed in the Director's *Post-Hearing Order* which resulted in the final Sixth Methodology Order.[2]

Alternatively, and without waiving any right to contest the granting of such a hearing, if the Director grants the Cities' request then the hearing should be limited to the issue of the updated data regarding AFRD2's 2018 diversion volume. The Director has such discretion and has limited review of amended methodology orders in that fashion before. This is the only change in the Sixth Methodology Order that could even be considered subject to another hearing. *See Order Limiting Scope of Evidence and Offering Witnesses (Methodology Order)* (May 21, 2010).

Similar to the request for hearing, the Director should deny or limit the Cities' request for discovery. Any issues that were already addressed at the hearing on the Fifth Methodology Order would be beyond the scope of discovery regarding a hearing on the additional data regarding AFRD2's 2018 diversion volume. Moreover, the Cities' request would be unduly

[2] The Cities have requested judicial review of the July 19, 2023 *Post-Hearing Order*. *See Notice of Appeal and Petition for Judicial Review* (Ada County Dist. Ct., Fourth Jud. Dist., Case No. CV01-23-13238, Aug. 16, 2023). It is anticipated that this appeal will be consolidated with IGWA's appeal of the Sixth Order.

repetitious and burdensome to the SWC in both time and expense. The Director should deny or limit the request accordingly.

CONCLUSION

The Cities' request for hearing on the Sixth Methodology Order is an impermissible attempt at a "second" hearing not authorized by statute. Moreover, Idaho law does not allow an agency to hold a "redo" administrative hearing of a final agency order that is pending on appeal to the district court. Since the Cities' issues were already addressed at the underlying hearing held in June, there is no basis to grant a second hearing on the Sixth Methodology Order.

The Coalition respectfully requests the Director to deny or limit the Cities' request for hearing and an order authorizing discovery accordingly.

DATED this 22nd day of August, 2023.

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BEFORE THE DEPARTMENT OF WATER RESOUCES

OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY OR FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY	Docket No. CM-DC-2010-001 **SURFACE WATER COALITION'S RESPONSE TO CITIES' MOTION FOR CLARIFICATION AND RECONSIDERATION**

COME NOW, A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, and TWIN FALLS CANAL COMPANY ("Surface Water Coalition" or "Coalition"), by and through counsel of record, and hereby respond to the *Motion for Clarification and Reconsideration of Denial of*

Request for Hearing and to Engage in Discovery ("Motion") filed on September 5, 2023.[1] The Coalition requests the Director to deny the Cities' Motion for the reasons set forth below.

BACKGROUND

The Sixth Methodology Order was issued as a "final" administrative order subject to reconsideration and/or appeal to district court. *See* I.C. §§ 67-5246; 67-5270 to 5272; *see also*, Explanatory Information to Accompany a Final Order (attached to the Director's Sixth Methodology Order). The Cities filed a notice of appeal and petition for judicial review concerning the Director's related *Post-Hearing Order*, another order issued as part of the matter resulting in the Sixth Methodology Order. *See City of Idaho Falls et al. v. IDWR*, Fourth Jud. Dist., Ada County Dist. Ct., Case No. CV01-23-13238 (appeal filed August 16, 2023). IGWA filed a notice of appeal and petition for judicial review of various orders as well, including specifically the Sixth Methodology Order. *See IGWA v. IDWR*, Fourth Jud. Dist., Ada County Dist. Ct., Case No. CV01-23-13173 (appeal filed August 16, 2023). The Coalition of Cities and the City of Pocatello filed notices of appearance in that case. The two appeals are pending in district court and it is anticipated the cases will be consolidated.

ARGUMENT

I. The Director Properly Denied the Cities' Request for Hearing.

The Cities request clarification of the Director's Sixth Methodology Order claiming "no hearing has actually been held on the *Sixth Methodology Order*." Motion at 2-3. Yet, the Cities' feigned ignorance about the order is merely form over substance. The Cities fully participated in the contested case and administrative hearing that resulted in the issuance of the Sixth Methodology Order. They cannot dispute this fact. There is no basis to hold a second hearing

[1] The motion was filed the Coalition of Cities (cities of Bliss et al.), the City of Idaho Falls, and the City of Pocatello.

on the Sixth Methodology Order that fully addressed all of the information either presented at or before the administrative hearing. As such, the Director properly denied the requested hearing. *See Order Denying Request for Hearing and Motion Authorizing Discovery* at 2-3.

Moreover, the Cities have appealed the Director's *Post-Hearing Order* that addresses the issues raised on the Fifth Methodology Order, including the updated data the Director included in the Sixth Methodology Order. Although the Cities had a right to appeal the Sixth Methodology Order they failed to do so. Regardless, all of the Cities except Idaho Falls have appeared in IGWA's appeal of the Sixth Methodology Order.[2] Consequently, there is nothing to clarify and the petitions for judicial appeal will proceed pursuant to Idaho's civil rules.

II. The Director Properly Denied the Cities' Request for Discovery.

The Cities have also requested the Director to reconsider the denial of their motion to authorize discovery. *See* Motion at 2-3. Since the request for hearing was denied, the request to authorize discovery was properly denied as well. The Cities misconstrue this matter as a "continuing contested case" with no end. Motion at 2. Although the Director's methodology regarding the SWC delivery call may be updated at some point in time, that does not mean the prior contested cases resulting in "final orders" that have been appealed or are currently on appeal to the District Court are continuing *ad infinitum* as the Cities suggest. To find otherwise would keep the parties in a perpetual state of discovery, motion practice, and litigation, without any culminating hearing or end.[3] Such a scenario has no basis in statute or rule and would be unduly burdensome and mire the parties in endless litigation expense.

[2] Whether the City of Idaho Falls will file a notice of appearance is unknown. If the cases are ultimately consolidated it may not matter as all parties will be participating.

[3] It is curious why the Cities seem determined to re-litigate prior contested cases and outcomes in the face of their approved mitigation plan for the SWC delivery call and safe harbor from curtailment pursuant to the CM Rules. The request for discovery is unwarranted and would be overly burdensome in the context of what has already

Finally, the Cities' argument that they could not "adequately prepare" for the prior hearing is also erroneous and does not support their present reconsideration request. These arguments have been previously addressed by both the Director and the District Court. The Cities' continued efforts to "redo" prior contested cases is unwarranted and was properly denied by the Director. Since the final agency orders are presently on appeal to the district court, the agency should refrain from restarting contested cases as requested by the Cities.

CONCLUSION

The Cities have pointed to no new authority or information that would warrant reconsideration of the Director's August 23, 2023 order. The Coalition respectfully requests the Director to deny the Cities' Motion accordingly.

DATED this 19th day of September, 2023.

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preceded in this matter. The Department is right to deny such tactics that would result in wasted time and resources for the various canal companies and irrigation districts.

CERTIFICATE OF SERVICE

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IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT

OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

CITY OF IDAHO FALLS, CITY OF POCATELLO, CITY OF BLISS, CITY OF BURLEY, CITY OF CAREY, CITY OF DECLO, CITY OF DIETRICH, CITY OF GOODING, CITY OF HAZELTON, CITY OF HEYBURN, CITY OF JEROME, CITY OF PAUL, CITY OF RICHFIELD, CITY OF RUPERT, CITY OF SHOSHONE, and CITY OF WENDELL, Petitioners, vs. IDAHO DEPARTMENT OF WATER RESOURCES, and GARY SPACKMAN in his capacity as the Director of the Idaho Department of Water Resources, Respondents, and IDAHO GROUND WATER APPROPRIATORS INC., A&B IRRIGATION DISTRICT, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, TWIN FALLS CANAL COMPANY, AMERICAN FALLS RESERVOIR DISTRICT #2, MINIDOKA IRRIGATION DISTRICT, BONNEVILLE-JEFFERSON GROUND WATER DISTRICT, and BINGHAM GROUNDWATER DISTRICT, Intervenors.	Case No. CV01-23-13238
IN THE MATTER OF THE DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY AND FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN	

FALLS RESERVOIR DISTRICT #2,
BURLEY IRRIGATION DISTRICT,
MILNER IRRIGATION DISTRICT,
MINIDOKA IRRIGATION DISTRICT,
NORTH SIDE CANAL COMPANY,
AND TWIN FALLS CANAL COMPANY

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BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF	)	
WATER TO VARIOUS WATER RIGHTS	)	
HELD BY OR FOR THE BENEFIT OF A&B	)	**DOCKET NO.**
IRRIGATION DISTRICT, AMERICAN	)	**CM-DC-2010-001**
FALLS RESERVOIR DISTRICT #2,	)	
BURLEY IRRIGATION DISTRICT,	)	
MILNER IRRIGATION DISTRICT,	)	
MINIDOKA IRRIGATION DISTRICT,	)	
NORTH SIDE CANAL COMPANY, AND	)	
TWIN FALLS CANAL COMPANY	)	
_____	)	

BEFORE

HEARING OFFICER: GARY SPACKMAN

VOLUME I

Date: **June 6, 2023 - 9:03 a.m.**

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THE HEARING OFFICER: Welcome everyone, old acquaintances. I have to characterize most of you in that category. We're set up a little differently than we normally set up. And I'm not sure I like it. Many of you seem to be in distant view from this location. So it seemed to me, we needed at least in the past have been a little more intimate in another set up. We arranged the furniture this way, because we have some people participating electronically online in remote locations, and we want to make sure that everybody can see the screens, including the Hearing Officer and reporter. So that's the reason for the change.

This is the time and place scheduled for a hearing regarding the issuance of a Fifth Methodology Order in the Surface Water Coalition delivery call case. And probably the first matter of business is to introduce everyone here and call roll.

So let's start, and we have a court reporter here, that is familiar to many. Colleen, if you would introduce yourself. And then we'll go across the front and go row by row.

THE REPORTER: Colleen Doherty, with M&M Court Reporting.

THE HEARING OFFICER: I might just add that Colleen has been participating in enough of these

hearings that she probably is developed some expertise in the vernacular of water. And so we appreciate M&M Court Reporting and their help.

I'm Gary Spackman, the Director of the Idaho Department of Water Resources.

MR. WOOD: Pete Wood, attorney for the Department.

THE HEARING OFFICER: Let's start with you, Travis, and then wind through.

MR. THOMPSON: Travis Thompson with Marten Law, attorney for A & B Irrigation District, et al.

MR. FLETCHER: Kent Fletcher, attorney for Minidoka Irrigation District, and American Falls Reservoir District No. 2.

MR. BRICKER: Max Bricker with Somach Simmons & Dunn, on behalf of the City of Pocatello.

MS. KLAHN: Sarah Klahn with the Somach Simmons & Dunn, also for the City of Pocatello.

MR. BROMLEY: Chris Bromley with McHugh Bromley for the Coalition of the Cities, the Cities, et al.

MR. HARRIS: Rob Harris with Holden, Kidwell, Hahn & Crapo, on behalf of the City of Idaho Falls.

MR. CONTOR: Bryce Contor at Rocky Mountain Environmental with the Idaho Ground Water District.

MR. SULLIVAN: And I'm Greg Sullivan with Spronk Water Engineers on behalf of the ESPA Cities, and the City of Pocatello.

MR. JOHNS: I'm Skyler Johns with Olsen Taggart, and I represent Bonneville-Jefferson Ground Water District.

MR. ANDERSON: Dylan Anderson, Bingham Ground Water District.

MR. BUDGE: TJ Budge with Racine Olson, Idaho Ground Water Appropriators.

MS. PATTERSON: Elisheva Patterson, Racine Olson, also with the Idaho Ground Water Appropriators.

MR. SIMPSON: Good morning. John Simpson with Marten Law, with A & B Irrigation District, et al.

MR. COLVIN: Dave Colvin with LRE Water representing IGWA.

MR. RIGBY: Jerry Rigby, Ribgy Andrus & Rigby, representing three of ground water districts in IGWA.

THE HEARING OFFICER: Then in the back if you'll speak up loudly.

MS. SUKOW: Jennifer Sukow, Idaho Department of Water Resources.

MS. FERGUSON: Kara Ferguson, Idaho Department of Water Resources.

MR. ANDERS: Matt Anders, IDWR.

MR. JACKSON: Al Jackson with the Bingham Ground Water District.

THE HEARING OFFICER: Thank you, Al.

Okay. Now, we need to call roll for those who are participating remotely. So let's start. And I'll just look at the screen. Sarah, are you there?

MS. McHUGH: Thank you. You mean, Candice.

THE HEARING OFFICER: Candice, did you speak?

MS. McHUGH: Yeah. I wasn't sure if you meant Sarah or Candice. Because we have Candice and Sophia, I think who are remote.

THE HEARING OFFICER: And we have some others who are listening in. I don't think I'll call the roll for all of those folks. Are there other attorneys who are participating? And we have at least one expert witness participating.

MS. SIGSTEDT: Sophia Sigstedt with Lynker on behalf of IGWA.

THE HEARING OFFICER: Thank you, Sophia.

Okay. I don't know unless there is a need for me to call for others who may be listening in. So the instructions that we sent out regarding electronic participation would be that Candice McHugh and Sophia will be participating in the hearing and either will examine or offer testimony remotely. Everyone else is

just listening in, and those folks are not participants in the hearing. And you will be muted for the entirety of the hearing. So that's the instruction. And it's a management requirement for me. Otherwise we would have too many people speaking, and those who are not at least officially parties to this matter.

Okay. Let me just check and see if we have everyone. I know there are attorneys --

MS. McHUGH: Director, this is Candice. Can I ask --

THE HEARING OFFICER: Yes, Candice.

MS. McHUGH: I don't know when everyone is speaking if they make objections or something like that. Travis and Kent were fairly, I could hear them fairly well, but Max, Chris, I couldn't hear them, or Jerry Rigby very well. So just kind of wanted to make sure people were by the mics.

THE HEARING OFFICER: Okay. Well, Candice, since you raised this issue. So we have a room microphone that's set up, I think overhead for the attorneys. But when an attorney is examining a witness, we would like you to come forward. There is a table in front. And you can deposit your exhibits or other materials on the table. You have a choice of either examining from the lectern or the table, itself. There

is a microphone set up in each of those. And the witness will be here to my right.

So hopefully the physical arrangement will promote a verbal dialogue that everybody can hear. But if there are objections from the attorneys, we'll ask that you speak up very loudly, so that the microphone will pick up your voice. And so those participating remotely can hear, and the court reporter can record the objection and any of the exchange. So we'll have to be mindful of the need to be outspoken in these discussions today.

All right. Let me just look at this list again. The Bureau of Reclamation is not represented, but they've been observers more than anything. Okay. I think we have all of the parties represented today.

All right. There are some preliminary matters that we need to talk about. And some either requests or petitions that are pending in front of the Hearing Officer right now. So there is a request for issuance of a subpoena to Mat Weaver and Tony Olenichak to testify as witnesses -- hello -- maybe just a vocal glitch.

And so there is a request that the Hearing Officer or the Director issue subpoenas for Mat Weaver and Tony Olenichak. And because of the timing of those

requests, and because of the nature of the testimony at least is as anticipated. I have prepared or am preparing an order denying that request to issue subpoenas to those two folks. And I'll issue that shortly and will distribute it by hand.

I also have a motion to limit testimony that's pending. And the ground water users, I don't think have had a response or an opportunity to respond. That motion I think came in within the last couple of days. Is there some desire on the part of the petitioners and the ground -- the other -- well, I shouldn't say the ground water users, although I think that's who might oppose the motion.

Petitioners, do you wish to orally present any information at this stage?

MR. THOMPSON: This is Travis Thompson, Director. Just briefly. We filed this yesterday after looking at the list of the witnesses, proposed testimony, and exhibits. And I guess similar to prior hearings in this matter where parties have requested a hearing on the Director's order, in this case the Fifth Order and the As-Applied Order, we think that the scope of that hearing should be limited to those issues identified there.

It looks like to me that we're attempting to

go back and redo an administrative hearing we had in 2008. That was then subject to a final order and then judicial review. We attached a copy of Judge Wildman's decision to Exhibit A to our motion that comprehensively addresses the methodology.

So that was the basis for our motion. I don't have real specifics right now. But I guess as we go through this hearing, we would like a standing objection that if we go beyond the scope of those two orders and issues that are pertinent before the Department, that we would limit that. Thank you.

THE HEARING OFFICER: Responses? Mr. Budge.

MR. BUDGE: Thank you, Director. TJ Budge on behalf of the IGWA, Idaho Ground Water Appropriators. I guess to begin, the parties did file their statements of issues in this case a month ago. So it's a bit peculiar that we got this served on us the day before the hearing as we're traveling to Boise. We have not had a lot of time to prepare for it. But I do want to share just a few thoughts.

If we're going to follow the Coalitions line of reasoning, then the transition from a transient steady state to a transient state model is res judicata. A transient state model was at issue in the earlier hearing in the context of carryover storage. And so

it's certainly something the parties were aware of. It was an issue that could have been litigated in that proceeding. And if that is barred by res judicata, then that component of the Fifth Methodology Order must, you know, be reversed.

Also, acreage was litigated in that prior proceeding, and the Department accepted the acreage evidence presented by the junior ground water users. We were successful in that. And that would also be res judicata.

So if we're going to go that way, we really have to identify what issues are on the table, because it's not a one-way street. You don't get to change just the components that you like, and then claim it's res judicata, so the components you don't like. That's probably not the right approach. And the reason is is that the methodology order is required by law to be based on the best science available. And science changes, facts change, circumstances change. It's not a traditional court order that is locked in place forever. It's more of a living document.

And so if we're going to look at more recent data, if we're going to consider changes in science, then we have the ability to look at all components of the methodology and see, is there a compelling reason to

change any of the components based on experience, science, and recent data.

So for those reasons, we'd ask that the court deny the motion, or the Director deny the motion.

THE HEARING OFFICER: Other responses? Mr. Harris.

MR. HARRIS: Thank you, Director. Ralph Harris on behalf of the City of Idaho Falls. Just to add to what TJ said, we haven't had the chance to research the matter in depth.

But I would draw the Director's attention to the Idaho Supreme Court case of Erickson versus Amoth, which provides the following. Generally the doctrine of res judicata extends only to facts and conditions as they existed at the time the judgment was rendered. And ordinarily res judicata does not apply where there were changed conditions and new facts, which did not exist at the time of prior judgment.

The general view is that where after the rendition of a judgment, subsequent events occur creating a new legal situation, or altering the legal rights relations of the litigants, the judgment may thereby be precluded from operating as an estoppel.

As Mr. Thompson mentioned, the original order was issued in 2008. There have been change

circumstances. In fact, I believe you indicated that was one of the primary reasons you were looking at updating the Fifth Methodology Order. And so for that reason, we think all issues are on the table here today. Thank you.

THE HEARING OFFICER: Other statements?

MR. ANDERSON: Yes.

THE HEARING OFFICER: Dylan, Mr. Anderson.

MR. ANDERSON: Just briefly, Director. One of the things that was called out specifically was something that we intend to introduce as part of Bingham Ground Water refers to, you know, the economic impacts. And the Clear Springs Food, Inc. case was cited in that. And I just wanted to just go on into that case. It introduced, or the Springs Food case quoted the AFRD case.

And it just said somewhere between the absolute right to use a decreed water right and an obligation not to waste it, and to protect the public's interest in this valuable commodity lies an area for the exercise of discretion by the Director. In that sense, the court recognized some discretion by the Director to look at the reasonableness of diversions, look at the reasonableness of what's required by the senior water right holder. I think that the changes contemplated in

the Fifth Methodology certainly would change the reasonableness required by the Department in a sense if you are potentially curtailing ten-fold acreage. The economic impact is increased ten-fold, or actually even exponentially more than ten-fold as it compounds. And so I think that is certainly relevant data for the Department to have, and to understand, and consider in their reasonableness calculations.

The sections that were quoted are not necessarily pertaining to limiting any economic information before the Department. And certainly the Supreme Court didn't deem it inadmissible or completely irrelevant. They just simply didn't use that information for that particular argument.

So we'd join in the rest of the arguments already stated. Thank you, Director.

THE HEARING OFFICER: Other statements?

Okay. As I understood what you presented, Mr. Thompson, you were asking for a standing objection. As I look through the list of witnesses and also the issues, it seems to me that many of the witnesses may be called to testify about the economic impacts of curtailment. And as I read -- well, first of all, as I look at the methodology order and component facts that contribute to the development and to the writing of the

Fifth Methodology Order, economics was not a part of the underlying facts that were considered. And, in fact, the decisions as I read them that have been issued, stated that economic impact and a comparative analysis of economics is not part of prior appropriation administration.

And so I guess what I'm trying to say is, the testimony that I receive in this particular hearing will be limited to the factual components that were a part of the development and writing of the Fifth Methodology Order. And economics were not a part of those facts.

And, in fact, as I read the court decisions, the court has said that the economic comparison would actually frustrate and thwart the administration of water under the prior appropriation doctrine. And so I will cut short in the examination, presentation on the respective economic benefits or the economic impacts of possible curtailment under the Fifth Methodology Order.

Now, there may be other areas that exploration that are outside of the methodology order, itself, and those areas if there is examination regarding those areas, I will allow objections. And will rule on those objections depending on the relevance to the Fifth Methodology Order.

So I'm trying to at least set some boundaries

as to the scope of examination. And there may be other areas beyond economics. But it seemed to me that at least the focus on economic issues in looking at the list of witnesses and the issues is not appropriate in this particular hearing. Okay?

All right. I don't know that I have any other issues that are pending right now. There may be some additional motions that the parties want to offer, and bring before the Hearing Officer at this point. Are there motions, and pre-hearing motions that the parties wish to offer up?

Wow. You're an agreeable crowd.

All right. Let's talk about exhibit numbering. There is a little confusion about it. There were specific ranges of numbers that each of the parties were assigned. And I think there has been some adjustment in that numbering.

Mr. Budge, you may have gone over your range that was my understanding. But I think the parties had recognized that renumbering. But I think just recently there has been an attempt to try to consolidate exhibits.

And I just want to know how the parties want to address that attempted consolidation.

Elesheva.

MS. PATTERSON: Good morning, Director. Yes, as you can see behind you, there is a lot of paper. And so IGWA filed its initial disclosures. We exceeded our allotted range. And so we also used the 800 numbers. Later after all of the initial disclosures were made, our staff went through and tried to identify common exhibits and numbered those as 900, which were unique, in an attempt to save paper and try to simplify things. And so we have disclosed that to all the parties. I have not received any objection to the amended pre-trial disclosures. But will respond to them if there is any objections.

THE HEARING OFFICER: What do the parties want to do?

Mr. Fletcher?

MR. FLETCHER: Director, it might be helpful to just recite, if you remember, I don't know if you remember the ranges that go to each classification. So that the Director is aware of that.

MS. PATTERSON: IGWA was assigned the 100 to 199 numbers. And so we do have documents that range from Exhibit No. 100 to 199. Some of those have been removed. And now are labeled as common exhibits. And then we also have exhibits labeled 800 to 837. And again, some of those in the amended pre-trial disclosure

were removed. And so this will not be a continuous list, but all documents are uniquely identified for the record. And common hearing exhibits --

MS. McHUGH: Elesheva, this is Candice. Did you send us that? In my examination, I just have four exhibits that I refer to in the 300 series. I'm guessing that they have now been renumbered to the 900 series. But I think I'm just going to keep them with the 300 series, because I'm at a little bit of disadvantage not having paper to be able to look through, or I could just tell you what they are, and someone could tell me if they are the 900 series, and I can change the exhibit numbers, but...

MS. PATTERSON: So that is one issue --

MS. McHUGH: I think that might be confusing.

MS. PATTERSON: That is one issue with the common exhibits. So IGWA did send out an amended exhibit list where we had removed from our exhibits those that became common. But I don't know that the Cities and other parties were able to do so. But I think as long as we're all identifying, you know, our submitted document, we can keep the record straight.

And, Candice, you can use the common exhibits if you would like. And I can try to send you an updated numbering for those to keep things simple.

THE HEARING OFFICER: Let me just add that Sarah Tschohl, a paralegal in our office, she has compiled a list of exhibits for me. And she has identified those exhibits that were also designated as common exhibits.

And for the benefit of Candice McHugh, I don't show any of the McCain Foods exhibits as being common exhibits at least in my summary.

MS. PATTERSON: I think that's correct. We had some exhibits that were common with Bonneville-Jefferson and with the Cities exhibits. But I don't think we had any in common with the McCain Foods or the Coalition.

THE HEARING OFFICER: So, Candice, in answer to your question, at least in my summary, your exhibits are numbered 600 through 604. And none of them are common exhibits.

MS. McHUGH: Thank you, Mr. Director. First of all, well, I think the Amalgamated's were 600 through 604, or I mean McCain's. And Amalgamated's were 700 to 703. But I will be examining Jennifer using Coalition exhibits 300, 301, 305, and 318. And I think those are probably Coalition of Cities or -- yeah, the Cities Exhibits 300, 301, 305, and 318. And those are the four exhibits I was specifically talking about.

THE HEARING OFFICER: Well, some of those are common.

MS. McHUGH: Right.

MS. PATTERSON: Candice, if you want to refer to -- Candice, if you want --

MS. McHUGH: Tell me what number to refer to, and I'm good with it.

MS. PATTERSON: I think since we'll be moving into Jennifer Sukow's --

(Interruption had in the proceeding.)

THE HEARING OFFICER: Sarah Tschohl, are you there? Somebody wasn't muted.

MR. HARRIS: I think it's Katie, whoever Katie is.

THE HEARING OFFICER: I don't know who Katie is.

MS. PATTERSON: Yeah, Katie, please mute your mic.

THE HEARING OFFICER: Sarah, can you impose your draconian hand and mute Katie?

MS. PATTERSON: I think she addressed the issue.

THE HEARING OFFICER: Okay.

MS. PATTERSON: Candice, what I was going to suggest since we're starting out with Ms. Sukow first,

and your exhibits that you referenced for the Cities are responsive to that portion of the testimony. Please use those. And we'll just, if we have follow up, we'll refer to the Cities exhibits as IGWA reserve the right to use any exhibits produced by any party.

THE HEARING OFFICER: Okay. So without any objection, we'll introduce, if we can, the numbered exhibits that have been identified as common with the numbering identified by IGWA in the 900 series. Is that acceptable to everyone? And I could supply this cross-reference list if people want this list. If it would be beneficial, we could copy it?

MR. BROMLEY: That would be.

MS. KLAHN: Yes.

THE HEARING OFFICER: So at the first break, I'll ask to have this copied and distributed to all of the parties. And we'll be able to refer to a common list of exhibits if that's okay, Elesheva?

MS. PATTERSON: Yes. Thank you, Director.

THE HEARING OFFICER: Mr. Thompson.

MR. THOMPSON: Just to clarify. We're stipulating to the numbering, and not the actual exhibits themselves; is that correct?

THE HEARING OFFICER: That's correct.

MR. THOMPSON: Okay.

THE HEARING OFFICER: My next question was, have the parties stipulated to the admission of any of the exhibits that have been identified? And if they haven't, maybe there is an opportunity as we go through to stipulate to the admission of some of those. It would speed up the hearing significantly if for every exhibit, we didn't have to move for admission.

MR. THOMPSON: I think that would be our intent to try and do that. We haven't gone through the entire list of the other parties yet. But the ones we'll admit to, we'll stipulate to.

THE HEARING OFFICER: Okay. All right. I have in front of me -- I'll change subjects and not talk about exhibits, unless there is more discussion regarding the exhibits, numbering, and possible stipulation.

All right. I want to move to a proposed witness schedule that has been offered to the parties. And at least my understanding is there has been some discussion about the witnesses, and the order in which they'll be called. And I want to refer back to a discussion about the days that were scheduled for hearing.

It was my intent that we would attempt to finish this hearing in four days, on Friday. And then

Saturday was reserved for any spillover. And I have on this list six witnesses for Saturday, the 10th of June. And I want everybody to know, that I intend to try and finish on Friday. Because I don't want to have an incomplete hearing come Saturday.

And so I will compress this list of witnesses and the days that the witnesses will appear and testify. And if I find that we're getting behind, I will hold you over. And we will start early. Because I want to ensure that we finish, and at least attempt to finish by Friday.

And if you can keep me apprised of some of these witnesses who may or may not testify as we proceed through the hearing, I would appreciate it. I don't want to hold you over, and then finish on Thursday at noon. It would be great, I guess. But I want everybody to know that I want to finish. And my goal is to finish on Friday.

MS. KLAHN: Mr. Director.

THE HEARING OFFICER: Yes.

MS. KLAHN: Sarah Klahn for the City of Pocatello. On the list that you have, Sophia Sigstedt and Greg Sullivan, the order there is flipped. So Mr. Sullivan will go before Sophia, and after Mr. Barlogi, just an FYI.

THE HEARING OFFICER: That would be great. And I appreciate the parties honestly coordinating and figuring out who will be available on which days, so that we can accommodate people as best we can. So I appreciate everybody's efforts. And there may need to be some adjustment because of availability or unavailability.

We had to get Jennifer Sukow excused from jury duty by the way, and issue her a subpoena. So that she could then go present it to the folks at the county, so that she could be here.

Candice, were you wanting to say something?

MS. McHUGH: Yes. I'm sorry. I think there is just a slight delay. And you kind of addressed it. I just wanted to note for the record that McCain's witness, Scott King, and Amalgamated's is Dean Delorey, they are available Friday. So they need to go on Friday. Mr. King might have a little more flexibility, but he's checking his schedule. But Mr. Delorey does not. So regardless, I would ask that they be set for Friday. I expect their testimony to be less than ten minutes. So it would be really quick.

THE HEARING OFFICER: Okay. I also notice on the screen that Katie continues to appear. And I'm assuming that means that she is not muted.

Candice is now there. But Katie was on the screen earlier. So I would ask whoever Katie is, will you please mute your microphone.

And, Sarah Tschohl, if you can control with the Draconian hand, I would appreciate it as well.

Mr. Fletcher, you had a comment.

MR. FLETCHER: I just wanted to clarify the switch in witness order. Is Greg Sullivan going before Delorey?

MS. KLAHN: No. No. Sophia and Greg are switching. That's all.

MR. FLETCHER: Okay. Thank you.

THE HEARING OFFICER: Okay.

MR. THOMPSON: Mr. Director, one point on that list. We do have Justin Temple at some point, probably Friday, not very long, ten minutes. But that will be added.

THE HEARING OFFICER: I expect to have some flexibility in this witness schedule. Particularly if I'm trying to compress. So if the parties will just keep me apprised of what's happening, and keep everybody else apprised, then we'll be able to keep to a semi-rigid schedule. Again, I appreciate everybody's efforts.

Okay. Are there other matters we need to take

up this morning?

Let's talk about the order of questioning. So because this is a hearing that a Hearing Officer and the Director initiated, and because at least the Department's witnesses do not have documents that they prepared, and specifically for the hearing, itself. Often the Hearing Officer will ask for a staff memo.

We will have then the Department witnesses testify at least as in timing as closely as possible to the beginning of the hearing. Then what I'll do is I'll ask the Surface Water Coalition to question the Department witness shortly after to the extent that there are questions. And then allow the other parties to question the Department witness. And then we'll circle back and allow what I would characterize as redirect based on the questions that are asked.

Now, if that's not an order that the parties want to follow, I want to hear about it today. Particularly from the Surface Water Coalition, if you think it compromises your ability to question the witnesses.

MR. FLETCHER: Just a comment. Mr. Director, most of the questions are going to be raised by the ground water users. And until they ask their questions, we can try to cover the areas we think they're concerned

about it. But it might be more efficient to let them question the witness, and then let us address those issues.

THE HEARING OFFICER: And I don't oppose your proposal.

MR. FLETCHER: I think that would be more efficient. I mean, obviously, we're not the ones contesting most of the issues in the matter.

THE HEARING OFFICER: Any other thoughts?

All right. Well, based on your suggestion, Mr. Fletcher, we'll have the Department witness introduced. And some preliminary information brought into the record or offered by the deputy attorney general here today, Pete Wood. And then we'll ask the ground water users and the other parties aligned with them to question the Department witness. And then there will be an opportunity for questioning.

And then I don't know how to characterize this, whether it's redirect or recross. It's really not either, I suppose in the examination of the Department witnesses. But the ground water users will have two opportunities. And the Surface Water Coalition will have two opportunities. And then we'll be done.

MR. FLETCHER: Thank you.

THE HEARING OFFICER: Fair enough?

MR. FLETCHER: Yes.

THE HEARING OFFICER: And then I would expect with the other witnesses, that we follow a more traditional method of examination. Where the witness testifies, and then there is an opportunity for cross-examination, and redirect, and recross. So it's only with the Department witnesses that I think there is an anomalous presentation of testimony.

Okay. Other matters we need to talk about?

Pete, any matters?

MR. WOOD: Not that I can think of.

THE HEARING OFFICER: Okay. I'm ready for the first witness. Again, let me remind everybody, as you examine, I want you to come forward. Assume either a seat at the table or standing at the lectern, and then you can examine from either place. The witness will be here, seated to my right.

TJ?

MR. BUDGE: Yes. Director, there is one more pretrial matter I forgot about. I think counsel did as well. But counsel for the parties did stipulate that the expert witnesses would be qualified as such without needing to go through, you know, their background, and demonstrate their capabilities to testify as experts.

THE HEARING OFFICER: Yes. Thanks for raising

and identifying the stipulation. So I will accept the stipulation. I'm well acquainted I think with most of the experts, if not all of the experts, who will testify today. And I appreciate the pre-hearing stipulation that will encourage efficiency.

MR. FLETCHER: Yes.

THE HEARING OFFICER: Mr. Fletcher.

MR. FLETCHER: On that issue, Mr. Director, we stipulated to a designated list of expert witnesses. We did not stipulate to a Mr. Olson. And I'm not sure we stipulated to Jaxon for everything as an expert on everything he put in his report, Jaxon Higgs. But the rest of the experts I can think of, I believe we can stipulate to their admission as experts. And the ground water users clarified that to be to the matters contained in their reports.

THE HEARING OFFICER: Okay. Clarification accepted, TJ.

MR. BUDGE: Yes.

THE HEARING OFFICER: All right. Anything else?

Jennifer Sukow, if you'll come forward, please.

JENNIFER SUKOW,

first duly sworn to tell the truth relating to said

cause, testified as follows:

THE HEARING OFFICER: Thank you. Please be seated.

Mr. Wood, you may examine Ms. Sukow.

DIRECT EXAMINATION

QUESTIONS BY MR. WOOD:

Q. Hello, Ms. Sukow. Can you please state and spell your name for the record.

A. Jennifer Sukow, J-e-n-n-i-f-e-r, S-u-k-o-w.

Q. And what is your educational background?

A. I have a bachelor's degree in environmental geology and technology from the University of North Dakota, and a master's of science in civil engineering from Utah State University.

Q. And you are a licensed professional engineer and geologist in Idaho; is that correct?

A. Yes.

Q. And you were currently employed at the Idaho Department of Water Resources?

A. Yes.

Q. And how long have you worked for the Department?

A. About 15 years.

Q. And you are currently a technical engineer for the hydrology section?

A. Yes.
Q. And how long have you been in that position?
A. About 13 years.
Q. I would like to turn to the Fifth Methodology Order. Are you familiar with that document?
A. Yes.
Q. And some of the data in the Fifth Methodology Order you know a lot about; is that right?
A. Some of it, yes.
Q. And you played a role in developing some of that information?
A. Some of the findings of fact, yes.
Q. And that is why the Department has selected you to be a witness today; is that correct?
A. That's my understanding.
Q. And you were aware that on May 5th, 2023, the Director issued a notice advising the parties of two topic areas that you might testify today about?
A. Yes.
Q. And those two topic areas are the following: The first is steady state modeling versus transient state modeling, simulations for the ESPA. And the second is calculations of curtailment priority dates for the Surface Water Coalition's delivery call. Does that sound correct?

A. Yes.
Q. And do you have any concerns that you're unqualified to discuss those topics here today?
A. No.
MR. WOOD: The Department has no further questions at this time.
THE HEARING OFFICER: Thank you, Mr. Wood.
All right. Ground water users, is there an order of examination that you prefer?
MS. McHUGH: Mr. Director, this is Candice. I think I'm slated to go first.
THE HEARING OFFICER: Okay. Ms. McHugh.
MS. McHUGH: Just for some efficiency, could I have the witness handed the Coalition of Cities' exhibits No. 300, the binder for that?
MR. WOOD: Was it 300 through 313?
MS. McHUGH: 300 and then through 318.
THE HEARING OFFICER: The witness has the documents in front of her.
MS. McHUGH: Okay. Thank you.

CROSS-EXAMINATION

QUESTIONS BY MS. McHUGH:
Q. Good morning, Jennifer. Candice McHugh on behalf of the Coalition of Cities and McCain Foods. If you could look at the binder, and grab Exhibit 300.

(Exhibit 300 marked.)

Q. (BY MS. McHUGH) If you could identify Exhibit 300?

MR. THOMPSON: Director, this is the --

THE HEARING OFFICER: Just a moment, Candice.

MS. McHUGH: Okay.

MR. THOMPSON: This is our first overlap. I think this is IGWA's common 918. And if you just want to use that once, or admit it twice in the record. I'm confused on what we're going to do?

THE HEARING OFFICER: So should we refer to this as 918?

MS. McHUGH: Okay. We can --

THE HEARING OFFICER: And one of the concerns I have is that the exhibits, themselves, and the documents, themselves, don't bear those numbers; do they? It's only --

MS. PATTERSON: Not the 900s.

MR. THOMPSON: The 900s do. They are all Bates stamped.

MS. KLAHN: We could substitute.

MS. McHUGH: The other option, not to belabor the record, but if you give her Exhibit NO. 918, 919, and 920. And if someone could tell me what 900 series the April 2022 forecast supply order is, I could also

use that 900 number. But I just don't -- from the descriptions, from IGWA's descriptions, I can't tell what 900 number that is.

MR. BUDGE: So Candice 918 is the Fifth Methodology Order.

MS. McHUGH: Uh-huh.

MR. BUDGE: And 919 is the As-Applied Order.

MS. McHUGH: Right. I'm looking for -- I know that. I need the April 2022 As-Applied Order number in the 900 series.

THE HEARING OFFICER: All right. Let's go off the record.

(Off the record.)

THE HEARING OFFICER: Are we ready to go back on? We're recording again. Thank you, Colleen.

All right. Candice, if you will refer to the exhibits you want the witness to review. And we're expecting exhibits in the 300 series.

MS. McHUGH: Great. Thank you.

Q. (BY MS. McHUGH) Good morning, Jennifer. We'll start again. In front of you, you should have Exhibit No. 300. Can you identify that document?

A. It's the "Fifth Amended Final Order Regarding Methodology for Determining Material Injury to Reasonable In-Season Demand and Reasonable Carryover."

(Exhibit 301 marked.)
Q. (BY MS. McHUGH) Okay. And if you could just flip in that binder to Exhibit 301, and identify that exhibit?
A. It's the "Final Order Regarding April 2023 Forecast Supply."
Q. And can you just provide a brief explanation as to what your role was in creating Exhibits 300 and Exhibit 301?
A. In Exhibit 300, I assisted with writing findings of fact relating to the ESPA ground water flow model and calculation of a curtailment priority date for the delivery call. And in Exhibit 301, I did the calculations of the curtailment priority date and the proportionate shares for A & B and IGWA. And I inserted that information in the draft of the order.
Q. Okay. And so if I understand you correctly, once the Director determined that there was shortage to Twin Falls Canal Company, you determined that December 31st, 1953 would be the appropriate curtailment date; is that correct?
A. That's correct.
Q. And the expectation was if water users junior to the December 31st, 1953 were curtailed, you would expect approximately 75,000 acre-feet of water would

accrue to Twin Falls Canal Company; is that correct?

A. We would predict with the model that approximately 75,000 acre-feet would accrue to the near Blackfoot to Minidoka reach between May 1 and September 30th of this irrigation season.

Q. Okay. And Twin Falls Canal Company's water supply is supplied by that reach of the river; is that true?

A. Yes, they have a natural flow that is diverted from that reach of the river.

Q. Okay. And in determining the curtailment date, and the amount of water that would accrue to the Twin Falls Canal Company, you used the model in a transient mode; is that true?

A. Yes, I did a transient simulation as described in the Fifth Methodology Order.

Q. Okay. And if you could look at Exhibit 300 on page 2. And do you see the paragraph there that says that the Department has had additional, and many years to understand the impact of applying steady state modeling? Do you see that paragraph there?

A. Yes.

Q. And you didn't write this paragraph; did you?

A. No, I didn't write it. I think I was asked to look at it, and I edited a couple words in one of the

sentences just to make it technically correct.

Q. Okay. When you first started with the Department roughly 13 years ago, you knew the difference in impacts when you started with the Department between the output from a steady state model and a transient state model; is that correct?

A. Yes.

Q. And your predecessor Allan Wylie also knew the difference in model output between a steady state output and a transient model output; correct?

A. Yes.

Q. And changing from a steady state model to a transient model to predict curtailment date, wasn't a decision in the Fifth Methodology Order, Exhibit 300, based on technical information; was it?

A. Well, I was asked to prepare technical information about the change from steady state to transient, and I did present that technical information to the technical working group and the Director.

Q. I guess my question is, the change from going from a steady state model that had happened for the prior at least 13 years since you've been with the Department, to this year to the move to a transient model, the impetus for that was not a technical decision; correct?

A. It was the Director's decision. I do not know what the impetus was.
Q. Do you believe that it was a technical decision?
A. I don't know.
Q. Do you recall the deposition that I took of you a couple of weeks ago, Jennifer?
A. Yes.
Q. And in that deposition I asked what the impetus was for changing from a steady state model to a transient model in 2023. Do you recall that?
A. Not specifically.
Q. Okay. Well, we'll come back to that in a minute. Were you told why the administrative decision to change from a steady state model to a transient model was implemented in 2023?
A. My understanding is that it is because of direction that the -- direction from the court that the water needs to be provided during the irrigation season at the time and place that it's needed.
Q. And who told you that it was the court that directed that change?
A. I believe Gary Spackman said that.
Q. When we first were at the Department, you understood that the ESPAM model was a transient model;

is that true?

A. The ESPAM model can run simulations in steady state or in transient.

Q. Okay. And the ESPAM model has always been able to run a transient output; correct?

A. Yes, previous versions of ESPAM could also run a transient simulation.

Q. And the current version of the ESPAM model, do you recall when it was implemented or created?

A. I'm sorry. Can you repeat the question?

Q. Yep. The current version of the ESPAM model it's -- maybe I'll do it this way, is 2.2; is that true?

A. Yes.

Q. And ESPAM2.2 when did it first exist?

A. It was finalized in May of 2021.

Q. The current version of ESPAM2 is finalized in May of 2021. And the prior version was ESPAM2.1; correct?

A. Yes.

Q. And when was ESPAM2.1 finalized?

A. It was either the end of 2012 or early in 2013.

Q. Okay. So roughly in 2013 when ESPAM2.1 was updated from the prior version, it was calibrated using monthly stress periods in half-month time steps; is that

true?
A. Yes.
Q. And the current version of ESPAM2.2 also uses monthly stress periods in half-month time steps; correct?
A. Yes.
Q. So prior to 2023, the model was capable of predicting an in-season amount of water that could be expected in the near Blackfoot to Minidoka reach; is that true?
A. Yes.
Q. Because the current version has been able to do that since roughly 2013; correct?
A. Well, I wouldn't say the current version, but the previous version, 2.1 could, yes.
Q. Okay. But there is nothing that changed between 2.1 and the 2.2 version that makes the monthly stress period and the half-month time step different from a transient model standpoint?
A. The time discretization did not change between ESPAM Version 2.1 and ESPAM Version 2.2.
Q. So effectively ESPAM2.2 has always been a transient model?
A. I'm sorry. Repeat that?
Q. So ESPAM 2 and 2.1 -- we'll just say it this

way. So ESPAM2.1 and ESPAM2.2 has always been a transient model; correct?

A. They were both calibrated as transient models, yes.

Q. Okay. In 2023, you understood the difference between the model output for transient versus steady state output; correct?

A. Yes.

Q. And you also understood in 2013, ten years prior, the difference between the model output for transient versus steady state output; correct?

A. Yes.

Q. And since 2013, there were curtailment orders in the surface water delivery call; correct?

A. Yes.

Q. Yet they all used the steady state output; isn't that true?

A. Yes, a steady state simulation was used.

Q. Okay. Even though ESPAM2.1 starting in 2013 through 2021 had the monthly stress periods and half-month time steps capable of being ran in the transient mode?

A. Yes.

(Exhibit 318 marked.)

Q. (BY MS. McHUGH) Could I have you look at

Exhibit 318. Jennifer, can you identify this exhibit?
A. It's a presentation titled "Surface Water Coalition Methodology - calculation of priority dates for curtailment of ground water users."
Q. Is it a PowerPoint presentation that you prepared?
A. Yes.
Q. And the date being November 28, 2022?
A. Yes.
Q. And did you provide this PowerPoint presentation to the Surface Water Coalition technical working group?
A. Yes.
Q. Jennifer, is the exhibit in front of you, does it have page numbers on it or slide numbers?
A. No.
Q. Okay. And so for ease of examination, I'm going to have you like have to thumb through, and I will say like Slide 6, which would essentially be the sixth page of that exhibit. Does that make sense?
A. Yes.
Q. Okay. And if you would just look at that Exhibit 318, is it complete? Is it completely your PowerPoint presentation, are all the slides in that?
A. I don't know. I don't have every page

memorized, so I wouldn't be able to just be able to look at it and know what was missing.

Q. Fair enough. Okay. Can you tell me how many pages it is, just so I'm making sure we have the same exhibit?

A. I have 22 pages.

Q. Okay. And mine has 22 pages, so we're good. Okay. Before we get into the actual pages there, just a little bit of background. Are you aware that there has been a moratorium on new wells without mitigation, so new wells on the Eastern Snake Plain Aquifer since the early 1990s?

A. Yes.

Q. So almost all the wells that withdraw water from the Eastern Snake Plain Aquifer have been pumping for at least 30 years, and some much longer than that; correct?

A. I believe that's correct, yes.

Q. Okay. And if you could look at Slide No. 6 of your Exhibit 318. And Slide No. 6 is a graph that talks about, that shows the steady state conditions. Is that what you see there?

A. It's the time to reach the steady state response.

Q. Okay. And isn't it true that between 90

percent and 99 percent of the impacts of all ESPA pumping on the Snake River flows have been realized?

A. Yes.

Q. And that's what this Slide No. 6 of Exhibit 318 shows that; correct?

A. Yes, it states that in the bullet.

MS. McHUGH: Okay. At this point, I guess I would offer Exhibit 318 as an exhibit, or an offer into the record.

THE HEARING OFFICER: Any objections?

Hearing none, the document marked as Exhibit 318 is received into evidence.

(Exhibit 318 received into evidence.)

Q. (BY MS. McHUGH) Jennifer, continuing on with Exhibit 318, if you could look at Slide No. 13.

THE HEARING OFFICER: Ms. McHugh, it might be helpful rather than just giving us numbers, if somehow we cam identify a title on the page, since the pages are not numbered.

MS. McHUGH: Yes, fair enough.

Q. (BY MS. McHUGH) So on Slide 13, can you read the title of that page?

A. "Comparison of priority dates calculated for April demand shortfall forecasts for May 1 curtailment."

Q. And if you recall, and if you need to look

back at Exhibit 301, which is the 2023 As-Applied Order. Do you recall the amount of water that was forecasted to be short in the 2022 season?

A. Yes.

Q. And that number is roughly 75,000 acre-feet; is that right?

A. Yeah, 75,200 acre-feet.

Q. Okay. And if you look at page No. 13, it says, "Comparison of priority dates calculated." If you look at that graph, based on this slide, curtailment of wells junior to sometime in the mid-1980s would produce roughly 75,200 acre-feet to the near Blackfoot to Minidoka reach of the Snake River in steady state; is that right?

A. Can you --

Q. If you look at the yellow line?

A. So, yeah, if you are looking at the yellow line, a steady state curtailment, which would be a continuous curtailment to the same date every year with a priority date in the mid-1980s would produce approximately 75,000 acre-feet.

Q. So in other words, would you agree that if wells junior to the mid-1980s had never started pumping, there would be an additional 75,200 acre-feet in the river in 2023?

A. Assuming all other aquifer and recharge and discharge occurred the same over those years, then, yes, there should be approximately that additional volume in the reach, in the river reach.

Q. And as a result, without the pumping of those wells junior to the mid-1980s, there would be no forecast shortage for the Surface Water Coalition members in 2023; correct?

A. Yes.

Q. Okay. I'm just going to switch gears for a brief moment. In roughly August of 2022, the Director notified the parties that he was convening a technical working group regarding the Surface Water Coalition delivery call; is that your understanding?

A. Yes.

Q. And how were you notified or told that there was going to be this technical working group?

A. I was told by Matt Anders.

Q. Okay. And did you know which people were told or asked to, or invited to be part of the technical working group?

A. No.

Q. Who made the decision on who would be invited to participate in the technical working group?

A. I don't know.

Q. And when did you first become aware of who was invited to participate in the technical working group?

A. I don't know that I was ever aware of who was invited. My only knowledge is of who was in attendance when I gave the presentation. And I doubt that I even recall who all was in attendance. But I am aware of some of the attendees.

Q. Okay. And when you gave your presentation, which I think you are referring to Exhibit 318, the PowerPoint. Did you do that via Zoom, or some other remote meeting format?

A. I gave the presentation from our conference rooms. But there were some attendees in person and some that were participating remotely.

Q. Okay. And then did you provide the PowerPoint presentation to the technical working group via the Department's website; is that how people got the information?

A. I presented it in the meeting, and I believe -- and I gave a PDF version to Matt Anders, that I believe he sent out to the technical working group. But I did not personally send it out.

Q. Okay. Coming back to Slide 13 in Exhibit 318. This year the Director predicted that approximately 75,200 acre-feet of shortfall was going to Twin Falls

Canal Company. If you look at your graph there on Slide 13 of Exhibit 318, it shows the difference in the number of acres that would be curtailed using a transient model versus a steady state model; correct?

A. Yes, you can determine that information by comparing the different points on this graph.

Q. Okay. And then I think in your presentation you also -- well, let's just stick with this slide first. If you look at the graph there, it shows that in order to get 75,000 acre-feet to Twin Falls Canal Company using a steady state model, the number of acres that would be curtailed is approximately 75,000 acres. Do you see that, or would you agree with that?

A. If you curtailed to the mid-1980s, the acres curtailed would be somewhere in that ballpark, yes.

Q. Okay. And that would show roughly 75,000 acre-feet to the near Blackfoot to Minidoka reach; correct?

A. Well, it would show that that would get there -- that that would be the long-term annual average if that curtailment occurred continuously every year.

Q. Okay. And if you also look at that graph, in order to get 75,000 acre-feet of water to Twin Falls Canal Company during this season in a transient state model, it would require the curtailment of approximately

700,000 acres; is that correct?
A. That's correct.
Q. So nearly ten times as many acres; correct?
A. Roughly, yes.
Q. Okay. Were there any discussions on whether that was a reasonable outcome?
A. I think that was discussed, yes.
Q. And was it discussed with you?
A. To some extent, yes.
Q. And the conclusion was what?
A. The conclusion I think is evident in the Director's order was that the conclusion was that the requirement is to get the water to the reach during this irrigation season and that that was the deciding factor.
Q. Okay. So you agree that in order to get 75,000 acre-feet of water to Twin Falls Canal Company during this irrigation season needing to curtail 700,000 acres is a reasonable outcome?
THE HEARING OFFICER: Okay. Ms. McHugh, I will insert and just state that this line of questioning is not one that Ms. Sukow is qualified to answer.
And I'll instruct the witness not to answer the question. That was not her assignment in developing the data and producing the report that she produced.
MS. McHUGH: Okay.

(Exhibit 305 marked.)

Q. (BY MS. McHUGH) Ms. Sukow, could I have you look at Exhibit 305. And can you identify Exhibit 305 for the record?

A. "Final Order Regarding April 2022 Forecast Supply."

Q. And did you assist the Director in preparing any portion of the April '22 forecast supply?

A. I calculated a curtailment priority date using the ESPA ground water flow model, and I calculated, I believe in this one, yes, a proportionate share for A & B Irrigation District.

Q. Okay. And if I'm correct, the Director predicted that Twin Falls Canal Company would be short approximately 162,000 acre-feet in that order; is that correct?

A. It says 162,600 acre-feet.

Q. Okay. And if you look at Exhibit 318, back to Slide No. 13. How many acres would be curtailed in a steady state model run to supply 162,000 acre-feet of shortage?

A. It's somewhere around 150,000 to 170,000 acres perhaps.

Q. Okay. And if you were to run that same number with transient model output, how many acres would be

curtailed, approximately?

A. Approximately 940,000 acres.

Q. Okay. And if you could turn to Slide No. 15. If I'm looking at Slide No. 15 -- do you have that there?

A. Yes.

Q. And could you give me the title of that slide?

A. "Predicted response to May 1 curtailment of water rights junior to October 11, 1900."

Q. And this slide shows that if you curtailed back to a 1900 priority date, the April to September accrual to the reach that supplies Twin Falls Canal Company would be approximately 97,700 acre-feet; is that correct?

A. Yes.

Q. Isn't it true that if you curtail all the ground water users starting May 1st of any given year, that the maximum amount of water that accrued that season would be 97,700 acre-feet to that reach?

A. That is the predicted volume to accrue from curtailing all of the ground water users junior to October 11th, 1900 within the area of common ground water supply.

MS. McHUGH: Okay. I don't have any further questions. Thank you, Jennifer.

THE HEARING OFFICER: Okay. Thank you, Ms. McHugh.

MS. McHUGH: I would just ask that Exhibits 300, 301, and 305 be admitted. I realize they are the Director's orders in this case, and then the order from last year. But I think for ease of examining it is helpful to have them in as exhibits.

THE HEARING OFFICER: Any objection to the admission of the documents marked as Exhibit 301, 302, and 305?

MR. FLETCHER: No objections.

THE HEARING OFFICER: Hearing no objections, documents numbered 301, 302, 305 are received into evidence.

MR. BRICKER: I just want to clarify.

THE HEARING OFFICER: Yes.

MR. BRICKER: Was it 300 to 301, or 301 and 302?

THE HEARING OFFICER: I'm sorry. I'm assuming that it's 300, 301 --

MS. McHUGH: 300, 301, and 305.

THE HEARING OFFICER: And 305. And I misstated. Thank you.

(Exhibits 300, 301, 305 received into evidence.)

THE HEARING OFFICER: Okay. Anything further, Ms. McHugh?

MS. McHUGH: Nothing further. Thank you.

THE HEARING OFFICER: Okay. Thank you.

It's 10:30. We've been engaged for an hour-and-a-half. Do you the parties want a break, should we continue with another set of questions? Anybody?

Let's forge ahead. Who's next.

MS. KLAHN: I have a couple of questions. I was trying to send then to Candice, but it didn't work.

THE HEARING OFFICER: Ms. Klahn.

CROSS-EXAMINATION

QUESTIONS BY MS. KLAHN:

Q. Good morning, Jennifer. My name is Sarah Klahn. I represent the City of Pocatello. I wanted to ask you about some things related to the modeling questions that Candice was asking you. And I want to back up a step and ask you a little bit about model calibration. Is that something you are involved with?

A. Yes.

Q. Okay. In the framework of model calibration, is one of the inputs you use to compile the return flows associated with Twin Falls Canal Company?

A. Indirectly they are used to calculate. Their

return flows are used in the calculation of the Kimberly to King Hill reach gain, which is used in the calibration.

Q. Okay. And is that because the calibration involves understanding reach gains that come from ESPA discharges versus reach gains that accrue from return flows from the south side, where Twin Falls is located?

A. Yes.

Q. Okay. So when you are compiling these, you would subtract them from the reach gains coming from the north side in order to get the correct relationship; is that true?

A. No, that's not correct.

Q. Okay. Can you tell me what is correct?

A. So the reach gain from the north side the target for that is calculated by taking the inflow gage at Kimberly, the outflow -- and so the river flow at Kimberly, the river flow at King Hill going out of that reach. And then adding or deducting adjustments for all of the other surface flows that occur in between there, and the inflow from the south side.

Q. Okay.

A. So it's not an adjustment to the ESPA discharge. The ESPA discharge is the reach gain. It's just used to calculate how much of what's in the river

in that reach, you know, there is other components in the river flows at that reach. So we have to adjust to them, adjust those out to know what our target is for the ESPA discharge.

Q. Okay. Thank you for that explanation. Can you confirm that the total amount of return flows associated with Twin Falls Canal Company that you're using in that manipulation you just described, is between about 300,000 and 400,000 during the irrigation season?

A. I don't recall. I would have to look at my spreadsheet to -- I don't have that number, that volume memorized.

Q. Have you evaluated any long-term trends in Twin Falls return flows as part of your calibration efforts for the model?

A. Oh, we don't need to do that for the model, because we're looking at the past. So we just look at the measured data that occurred and subtract that off when we're calculating the reach gain.

Q. But in the spreadsheet you are describing, it would include sources of water from the Twin Falls system that are contributing the return flows?

A. Well, it includes the measurements made at the locations where those returns occur.

Q. Is seasonality any part of the evaluation that you do when you are doing that?

A. Well, we use monthly data, so the seasonality is inherent in those monthly averages.

MS. KLAHN: Okay. Thank you. That's all I have.

THE HEARING OFFICER: Okay. Further questions? I thought I saw a hand up.

Mr. Budge.

CROSS-EXAMINATION

QUESTIONS BY MR. BUDGE:

Q. Thank you, Ms. Sukow. I'm TJ Budge, on behalf of the Idaho Ground Water Appropriators. I will try not to duplicate the questions you got from Ms. McHugh.

Jennifer, you are the lead ground water modeler with the Department?

A. That's not officially my title, but...

Q. Did you provide all of the modeling work that was utilized in the Fifth Methodology Order?

A. I provided the modeling work that was presented to the technical working group and the Director that was used I think as a basis for that, yes.

Q. Was there other modeling work that was created in the Department that you did not provide to the technical working group?

A. No.
Q. Okay. And if the Director wanted to know any modeling issues related to the Fifth Methodology Order, you're the one who would have produced that information?
A. To my knowledge, yes.
Q. Okay. In terms of the initiation of the review of the Fourth Methodology Order, that decision came from the Director; correct?
A. I'm sorry. Repeat the question.
Q. The decision to review the Fourth Methodology Order, that came from the Director?
A. That's my understanding.
Q. You didn't tell the Director that there had been some change in the modeling data that necessitated a change to the methodology order?
A. No.
Q. And the modeling work that you did on the Fourth Methodology Order, that came at the direction of the Director or Matt Anders?
A. I was directed by Matt Anders to do that, yes.
Q. Okay. So if Matt told you to do some type of modeling, then you performed that at his direction?
A. Yes, and he was the one who communicated to me what the Director wanted me to model.
Q. Understood. And if Matt told you not to do

some type of modeling, then you would not have done that?

A. He told me what modeling -- or told me what questions they wanted to address, and I did the modeling. I wasn't directed not to do any modeling.

Q. Got you. You did not go outside the scope of the instructions that Matt had given you?

A. No.

(Exhibit 914 marked.)

Q. (BY MR. BUDGE) Okay. If you could turn to Exhibit 914.

THE HEARING OFFICER: We should have two common exhibit binders. 914, Mr. Budge?

MR. BUDGE: Yes.

Q. (BY MR. BUDGE) Jennifer, do you recognize that document?

A. Yes.

Q. Could you read the title for the record?

A. "Comments on behalf" -- oh, I might be on -- what did you say?

Q. 914.

A. Okay. Never mind. "Comments on Behalf of the Coalition of Cities and the City of Pocatello on the Idaho Department of Resources Summary of Recommended Technical Revisions to the Fourth Amended Final Order

Regarding Methodology for Determining Material Injury to Reasonable In-Season Demand and Reasonable Carryover for the Surface Water Coalition," by Kara Ferguson and Matt Anders, on December 23, 2022.

MR. BUDGE: Okay. Director, could we go off the record for a moment?

THE HEARING OFFICER: Yes.

(Off the record.)

MR. BUDGE: Back on the record.

Q. (BY MR. BUDGE) Jennifer, before we went off the record, you had read the title of what I think is Exhibit 915; is that correct?

A. That's correct.

Q. Why don't you go ahead and read the title of 914?

A. "Summary of Recommended Technical Revisions to the Fourth Amended Final Order Regarding Methodology for Determining Material Injury to Reasonable In-Season Demand and Reasonable Carryover for the Surface Water Coalition."

Q. Do you recognize that document?

A. Yes.

Q. Is this a document the Department staff prepared in connection with its work on the Fifth Methodology Order?

A. It was prepared by Kara Ferguson and Matt Anders.
Q. And you did not participate in drafting that document?
A. I did not draft or edit the document.
Q. Okay. If you could turn to Exhibit 318? Jennifer, this is the presentation that you gave to the technical working group; is that right?
A. That's correct.
Q. And my understanding is that this presentation, along with the underlying data that was posted to the Department's website, that consists of all of the modeling work you did related to development of the Fifth Methodology Order?
A. Yes.
Q. Okay. You didn't do any modeling work after that presentation was given, but prior to the issuance of the Fifth Methodology Order?
A. Not for this issue, no.
Q. What issues did you do modeling work?
A. Well, I'm doing modeling work all the time. That was a pretty vague question.
Q. Not related to the Fifth Methodology Order?
A. Not related to the Fifth Methodology Order.
Q. Thank you, I appreciate that. I'm going to

shift gears just briefly.

During your deposition we discussed an irrigated lands dataset that's used in the ESPA model; correct?

A. Yes, I believe we did.

Q. And can you explain what that dataset consists of?

A. The irrigated lands datasets that we're currently using in model calibration are developed by IDWR's GIS staff. And they delineate what -- they delineate lands as being either irrigated, or semi-irrigated or non-irrigated by using a variety of data sources.

Q. What are the data sources they utilize to make those designations?

A. Some of the data sources are the CDL common land unit polygons. They use Landsat photography. They use aerial photography. They use, I should say, Landsat images. I believe they sometimes refer to the metric ET images. I don't do that work myself. So there may be other data sources that I'm not aware of that they look at.

Q. Okay. And that dataset identifies for each irrigated field, whether it's ground water irrigated or whether it's irrigated or non-irrigated?

A. Yes, they have three classifications; irrigated, non-irrigated, or semi-irrigated, which means part of it might be irrigated and part of it not. There are areas where typically there are developed areas. You might have a subdivision with houses and lawns and roads. And it's too time consuming an effort to delineate each of those little polygons. So they lump them altogether.

Q. How is this dataset used in the aquifer model?

A. It is used to calculate aquifer recharge and discharge in conjunction with ET data and precipitation data. So it's used to calculate the irrigation demand.

Q. Could that dataset be used within a particular geographic area just to identify the total number of irrigated acres?

A. Yes.

Q. And is that the best dataset available for use in the model for the purpose for which it's used?

A. That is the best dataset we have for model calibration, yes.

Q. Okay. Let me ask you about another component of the model that we discussed during your deposition, which you referred to as the ground water fraction. Could you describe what that term means?

A. So the ground water source fraction is so

some -- you know, some of the irrigated lands have only surface water supply. Some have only ground water supply. But some have both, and we call that mixed source. And within that mixed source, we need to estimate what fraction of that is supplied by surface water, and what fraction is supplied by ground water.

Q. And how is that dataset created?

A. The original dataset and the -- I guess I should clarify that dataset also includes zeros and ones for things that are entirely supplied by surface water ask ground water. That dataset was initially produced by IWRRI for a previous version of ESPAM. So I don't have direct knowledge of how they produced it.

Q. Okay. And how is that dataset used in ESPAM?

A. It is used to -- the irrigation demand that we calculate from the irrigated lands ET and precipitation, it is used to assign that to either surface water diversions or ground water pumping. So it's used to estimate, you know, which source of supply provides that.

Q. Okay. And is that the best dataset available to you for use in the model for distinguishing between land that's irrigated with surface water, ground water, or a combination?

A. It is the best dataset we have, yeah.

Q. Okay. I want to just ask a few follow-up questions about the change from a steady state to transient state application of the model in this case just to make sure I understand.

The model was capable of being used in a transient state at the time the Fourth Methodology Order was issued?

A. Yes.

Q. Could the model also be run at a transient state when the Third Methodology Order was issued?

A. Yes.

Q. How about the Second Methodology Order?

A. I think you may be getting beyond what -- I don't know the dates of those orders. If there was a version of ESPAM available at those dates, then it was capable of running the transient simulation.

Q. Okay. So if ESPAM was utilized, then it was capable of being run in a transient state?

A. Yes.

Q. Okay. So the Director's decision to change from a steady state to transient state was not based on a change in model capabilities; correct?

A. The model capabilities with respect to being able to run a transient simulation did not change.

Q. Okay. So it would have been a policy decision

of the Director?

A. Yes.

Q. Let me just ask a few questions about the presentation you gave to the technical working group. I believe you have that in front of you. It's Exhibit 318. If you'll please turn to page 20 of that exhibit. And this slide is labeled "Comparison of priority dates calculated using transient and steady state analyses." Do you have the that in front of you, Jennifer?

A. Yes.

Q. As I understand this slide, it provides a comparison of the number of acres that would be curtailed under a steady state application of the model versus a transient state application of the model under different curtailment scenarios?

A. Yes.

Q. And this data was prepared to show those who participated in the technical working group, that a transient state application results in exponentially more acres being curtailed in response to a predicted demand shortfall than under a steady state; is that correct?

A. It is approximately one order of magnitude, yes.

Q. Okay. Let me have you go back to page 15 of

that exhibit. This slide is titled "Predicted response to May 1 curtailment of water rights junior to October 11, 1900." Yes?

A. Okay. Just to clarify, because there is two in a row that have that title. Is it the bar chart or the line graph?

Q. The line graph.

A. Okay.

Q. And thank you for that clarification. I appreciate that.

Ms. McHugh may have asked you this, so I don't mean to be repetitious. But can you explain why the date October 11th, 1900 is selected?

A. I asked Matt Anders what the, you know, controlling priority date was. And my understanding from him is that Twin Falls Canal Company and North Side Canal Company have natural flow rights to the Snake River with that priority date. So any ground -- you know, there is some small amount of ground water use that is senior to that. And, obviously, they weren't included in the curtailment scenarios, because they are senior to the delivery call water right.

Q. The number of ground water rights senior to that 1900 date is very, very small; is that right?

A. It's pretty small.

Q. Generally speaking, a 1900 curtailment date will result in curtailment of every ground water right from the Eastern Snake Plain Aquifer?

A. Well, again, like I said, there are some that are senior, and there are some that are outside the area of common ground water supply, which would not be subject to administration and so -- but it would be -- it would be a very large percentage of -- yes.

Q. And you've got a slide. I don't have the number in front of me. But a slide that shows that with an October 11th, 1900 curtailment date, there would be 941,400 curtailed acres; is that right?

A. That sounds right. What I recall is it's approximately 941,000. Yeah, 941,400.

Q. Okay. So just to connect the dots. Your transient modeling shows that anytime there is a predicted demand shortfall of 97,700 acre-feet or more, in the absence of mitigation, you would have curtailment of 941,400 acres?

A. Approximately, yes.

Q. Okay. Let me have you flip forward again to page 20. We reviewed this a moment ago. But on the right side of the table, it compares the number of acres that would be curtailed under the transient state application of the model versus a steady state. These

are aquifer wide figures, or maybe to be more precise, this is the area within -- this is within the area of common ground water supply?

A. Yes.

Q. Did you analyze what the transient state reach gains would be from curtailment ground water district by ground water district before the Fifth Methodology Order was issued?

A. Not for this, not in connection with the Fifth Methodology Order.

Q. Had you done that in connection with other modeling work?

A. And I can't recall exactly what I did. But I was asked to do some modeling in support of the settlement discussions between the parties. And I recall I was asked to do something by ground water district. And I don't recall exactly what I did, or how it would or would not fit in with what you just asked in your question. But it was not for this proceeding.

Q. Okay. Were you aware prior to when the Fifth Methodology Order was issued, were you aware of the different transient state impacts by ground water district on the near Blackfoot to Minidoka reach?

A. I mean, yes, I'm aware of different impacts from different locations in the aquifer, certainly.

(Exhibit 197 marked.)

Q. (BY MR. BUDGE) Let me have you turn to Exhibit 197. Jennifer, do you recognize this document? It's labeled "Attachment 1, IGWA Proportionate Share Modeling, May 2023 Curtailment"?

A. I believe I did see this in one of the expert reports that was submitted.

Q. This was a document prepared by Jaxon Higgs. And I just want to ask if you are familiar with any of the data that's in here. And maybe what I'll do is I'll just note in the column labeled "IDWR Portion of April 2023 Predicted Demand Shortfall," there is actually two columns there. There is an acre-foot column and a percentage column. And if you go to the bottom of the acre-foot column, you'll see the figure 63,645 acre-feet. Do you see that figure?

A. Yes.

Q. You understand that that represents IGWA's proportionate share of the total predicted demand shortfall of 75,200 acre-feet?

A. Yes.

Q. And then if you go to the next block of columns on the right, kind of in the middle of the spreadsheet. There is a column that says, "Transient May to September Impact." And that's showing the May to

September reach gains from near Blackfoot to Minidoka reach from curtailment in each of those districts. Do you see that column?

A. I see that column.

Q. Are you familiar with the data that's shown in that column that shows the reach gains attributable to curtailment within each ground water district?

A. I did not develop that, those columns. That analysis I believe was done by Jaxon.

Q. Is this an analysis that you've done independently for other purposes, or it's just part of your general modeling work for the Department?

A. I have not done that analysis for -- I did not do that analysis for this priority date, no.

Q. Okay. Have you done that for other curtailment dates?

A. I don't think I did it for any curtailment dates, no.

Q. Have you done that analysis in any other context?

A. Again, I did some sort of analysis by ground water district for the discussions in the settlement talks. And I don't recall exactly what I did. I did not review that in preparation for this hearing.

Q. Okay. So I understand this is Jaxon's

analysis. But if you look at that column, maybe we'll go to the bottom line for North Snake Ground Water District. It shows that curtailment of every water right junior to 1900 in North Snake Ground Water District would curtail 217,000 acre-feet. And the transient benefit to near Blackfoot to Minidoka reach from May to September would be 0.06 acre-feet.

Were you generally familiar, or did you understand prior to when the Fifth Methodology Order was issued, that curtailment of water rights in North Snake Ground Water District would provide essentially no reach gains to the Coalition?

A. During this irrigation season, I didn't do the analysis. But, yes, you would expect that.

Q. Okay. So Jaxon's figures are consistent with your general understanding of the transient impacts by ground water district?

A. Yes, they are consistent with my general understanding. Yes.

Q. Thank you. During your work related to development of the Fifth Methodology Order, did you ever inform Matt Anders or the Director that curtailment in places like North Snake, Henry's Fork, Madison are likely or at least predicted to provide little if any benefit to the Coalition?

A. Well, they will provide benefits in future years in years of -- so they do provide long-term benefits. And they do have long-term impacts on the water in the river reach. So if you don't include them, then you are putting the -- you are basically shifting the responsibility for the shortfall to those users that are closest to the reach, and have the most immediate impact, even though the impacts have been caused by decades of pumping of people that are also further away. So we did have some discussion about that at some point.

Q. Okay. And as part of that discussion, did you explain that there wouldn't be any benefit in terms of mitigating the predicted demand shortfall for 2023?

A. I don't recall whether or not we specifically discussed that.

Q. Okay. So to your knowledge was information provided to the Director before he issued the Fifth Methodology Order that would have made him aware that curtailment in North Snake Ground Water District, Carey Valley Ground Water District, Henry's Fork Ground Water District, and Madison Ground Water District would provide no reach gain benefits to the Coalition in 2023?

A. I was not asked to provide any analysis by ground water districts for the Fifth Methodology Order. So, no, he would not have had that specific information

by ground water district.

Q. Okay. Aside from that information being specific to a ground water district, did you advise the Director that just generally speaking curtailment in these further away locations would not provide any benefit to the Coalition in 2023?

A. I don't recall.

Q. To your knowledge the Director did not have the benefit of this type of information before him when he issued the Fifth Methodology Order?

A. I don't know.

(Exhibit 929 marked.)

Q. (BY MR. BUDGE) Okay. Let me have you turn next to the Exhibit 929. Jennifer, this is a copy of IDAPA 37.03.11, the Rules for Conjunctive Management of Surface and Ground Water Resources. Do you have that in front of you?

A. Yes.

Q. We refer to these generally as the Conjunctive Management Rules. Are you familiar with these rules?

A. To some extent.

Q. I'm just going to draw your attention to page 4 -- excuse me -- page 5. Do you see Rule 20.03?

A. Yes.

Q. If you can just take a moment to read Rules

20.03 and 20.04. And let me know if you are familiar with these rules?

A. (Witness complying.) I'm familiar with them to the extent that I'm aware they exist.

Q. Okay. I'll draw your attention to the last sentence in Rule 20.03, and I'll read that. It says, "An appropriator is not entitled to command the entirety of large volumes of water in a surface or ground water source to support his appropriation contrary to the public policy of reasonable use of water as described in this rule."

Were you asked to do any ground water modeling related to the disparity and -- let me strike that question.

Did this rule ever come up in your discussions with Matt Anders or other Department staff relative to the development of the Fifth Methodology Order?

A. I did not discuss those types of legal aspects with them, no.

Q. Okay. And Rule 20.04 refers to the futile call doctrine. Did that ever come up in your discussions with Matt Anders or other Department staff relative to the development of the Fifth Methodology Order?

A. Not that I recall, no.

Q. So you performed no analysis of the magnitude of curtailment compared to the predicted benefit to the Surface Water Coalition?

A. Well, I did present the magnitude of curtailment compared to the benefit of curtailment. That data are in Exhibit 318.

Q. Okay. Aside from page 20 of Exhibit 318, you didn't do any other analysis that compares the magnitude of curtailment to the predicted benefit to the Coalition?

A. No.

Q. Are you familiar with the concept of a trimline that has been used in delivery calls?

A. Yes.

Q. Can you explain what you understand that term to mean?

A. My understanding is it's an area designation that identifies -- it identifies an area beyond which the impacts of pumping are de minimis to the reach of interest.

Q. Okay. Did the concept of a trimline ever come up in your work related to the Fifth Methodology Order?

A. Again, I don't recall discussing a trimline with respect to this proceeding.

Q. So you didn't ask Matt Anders or the Director

if that's something you should look into?
A. Not that I recall.
Q. And neither of them instructed you not to evaluate trimlines?
A. No, I don't recall receiving any instruction about trimlines.
Q. Okay. Let me next have you turn to Exhibit 301. This is what we called an As-Applied Order of the April 2023 As-Applied Order. I believe Ms. McHugh asked you some questions about this document. This is something you are familiar with, Ms. Sukow?
A. Yes.
Q. If you'll flip to page 5. At the bottom of page 5 there is a footnote, Footnote 5. And it identifies the proportionate mitigation obligation of IGWA as 63,645 acre-feet. Is that a calculation that you made using the model?
A. Yes.
Q. As you know IGWA is made up of several ground water districts. Before the Fourth Methodology Order was issued, had you calculated each individual ground water districts proportionate share of that 63,645 acre-foot figure?
A. I don't refer to it as a proportionate share, because they did not -- they didn't have mitigation

plans. But our attorney, Garrick Baxter, asked me to calculate the percentage of IGWA's proportionate share that could be assigned to each ground water district, I believe, in a response to a request that was made by yourself or one of the other attorneys.

Q. Yes. Thank you.

(Exhibit 126 marked.)

Q. (BY MR. BUDGE) If you could turn to Exhibit 126.

A. I don't have that one.

MR. FLETCHER: 126?

MR. BUDGE: Yes, 126.

Q. (BY MR. BUDGE) Jennifer, what I have in front of me is Exhibit 126 is an email from Garrick Baxter to myself and others. And the subject line says, "Request to delineate proportionate shares of mitigation obligation." Do you see that?

A. Sorry. Say that again.

Q. The Exhibit 126 that I have up is an email from Garrick Baxter to myself and others --

A. Yes.

Q. -- is that what you see?

A. Yes. Yes.

Q. Okay. In that email there is a table that shows the ground water districts, and their

proportionate percentages in acre-feet with respect to the 63,645 acre-foot mitigation obligation of IGWA. Do you see that table?

A. Yes.

Q. Did you generate the data that's shown in this table?

A. Yes.

Q. Okay. And you mentioned a moment ago that you were asked by Mr. Baxter to apportion out IGWA's mitigation obligation, the 63,000 acre-feet figure among the ground water districts. Does this reflect your analysis in that regard?

A. Yes.

Q. That middle column that has acre-feet figures totaling 63,645 acre-feet. I want to ask you some questions about that. And we can continue to use North Snake Ground Water District as an example. But on that bottom row for North Snake, it shows that its portion of the 63,645 acre-feet is 3,262 acre-feet. Does this table indicate that curtailment of every water right within North Snake junior to December 30th, 1953, that would produce a transient state reach gain to the Surface Water Coalition of 3,262 acre-feet?

A. No, it does not.

Q. What does this column represent then?

A. So this is not -- this column is not looking at the benefit of curtailment. This column is looking at what their share of the demand shortfall is if they are going to mitigate by providing storage water. And the shortfall is the result -- this year's shortfall is the result of decades of pumping. So if they are going to mitigate by providing storage water, then their share of the demand shortfall is based on their long-term impact.

Q. Okay.

A. Not what will happen as a result of curtailing starting this May.

Q. Okay. And the demand shortfall predicted in the As-Applied Order that's a predicted demand shortfall for the 2023 irrigation season; correct?

A. Yes.

Q. And under this approach to allocating that predicted demand shortfall. Some ground water districts such as North Snake would have to provide more water as mitigation than the Coalition would receive from curtailment. And other ground water districts would have to provide less water as mitigation than the Coalition would receive from curtailment?

A. I don't think that's true as far as the Department's concerned. IGWA's proportionate share is

63,645 acre-feet. And the Department, I don't think, has a say in how you decide to split that up. You asked us to provide a breakdown, and I did it by this method. And Garrick sent it to you as a courtesy. But we are not telling you that that's how you have to split up the proportionate share.

Q. Yeah. And I appreciate that. And I don't actually even mean to be critical of the method. It's just one method; right? It's not the only method. And I just wanted to highlight that under this method in the proportionate mitigation obligations don't match up with the transient modeled reach gains?

A. No, they do not.

MR. BUDGE: Okay. Thank you, Jennifer. I don't have any further questions.

THE HEARING OFFICER: Okay. Thank you, Mr. Budge.

Do we want to take a break?

MR. FLETCHER: Yes.

THE WITNESS: I could use a restroom break, if I'm allowed to ask.

THE HEARING OFFICER: Yes. Let's break for ten minutes. We'll be back at 11:30.

(Recess.)

THE HEARING OFFICER: Back on the record,

Colleen. All right. We are recording again.

More questions of Ms. Sukow. Mr. Harris.

CROSS-EXAMINATION

QUESTIONS BY MR. HARRIS:

Q. Ms. Sukow, I'm Rob Harris, attorney for the City of Idaho Falls. I have just some follow-up questions to some of your prior testimony.

Mr. Budge talked to you about the IDWR irrigated lands datasets. Could you just explain to me what those are again?

A. They are delineation of -- a land use delineation done by IDWR GIS staff that delineates land units --

MR. BAXTER: Sorry, Director. We're not able to hear Ms. Sukow online.

THE WITNESS: Sorry. I had my microphone off.

THE HEARING OFFICER: Okay. Are we okay? Let's try.

THE WITNESS: The irrigated lands datasets are delineations of land use by IDWR's GIS staff, where they delineate land unit boundaries, and then classify them as either irrigated, non-irrigated, or semi-irrigated.

Q. (BY MR. HARRIS) And so those are hand digitized maps of irrigated acres; correct?

A. Correct, yes.

Q. And those irrigated lands datasets are used to calibrate the ESPAM model; correct?

A. They are used in calculation of the water budget input data that's used in the calibration, yes.

Q. So the answer is, yes, they are used in your model calibration?

A. They are used in the model calibration, yes.

Q. To the best of your knowledge, is there anything else that they are used for within IDWR?

A. There probably is, but I'm not specifically aware.

Q. When you say "probably," what makes you say that?

A. I have the general impression that I am not the only one that uses them.

Q. Okay. You testified about calibrating the ground water model and minusing out return flows from the Twin Falls Canal Company return flows; is that correct?

A. I said that they are used in the calculation of the Kimberly to King Hill reach gain target.

Q. Okay. And so you used river gaging information to help with that calibration; correct? Or I should ask, do you use river gage information for that calibration of --

A. We use river gage information in the calculation of reach gains. So that's to calculate an observation, a physical observation of how much of the river flow is coming from the aquifer.

Q. And do you also do that in the near Blackfoot to Minidoka reach?

A. Yes.

Q. So could you just generally explain how you calibrate model runs to what's actually seen or measured in the Snake River from near Blackfoot to Minidoka?

A. So we have -- during the model calibration we have model input data that we use that, you know, we put aquifer recharge and discharge in. And then we try to match observations. And in model calibration, there are adjustable parameters, like aquifer transmissivity, specific yield, and some other components that are adjusted to best match observed data. So some of that observed data is aquifer head, some of it is aquifer interaction with the river. So places where the aquifer either discharges to the river or receives recharge from the river. And those observations of reach gain are used as calibration targets.

Q. So let me just to make sure I understand, let me use a hypothetical. Let's say that there is 5,000 cfs measured in the river. How do you determine how

much of that is from snow melt versus reach gains from ground water in that reach?

A. You take all of the known surface components and account for them. So you have your measured inflow on the upstream end of your reach. Your measured outflow on the downstream end of your reach. You have diversions from the reach that you account for. You have surface return flows that you account for. And also you might have tributary surface streams that you have a measurement that you account for. So you just account for all those surface inflows and outflows. And then you have a residual. And the residual is your best estimate of the contribution of ground water to that reach.

Q. I see. And in terms of the measurements that you use in that calibration, do you obtain that information from Water District 1 and its watermaster, Tony Olenichak?

A. Some of it.

Q. When you say "some of it," is there anything specifically that you recall that you would obtain from him?

A. The diversion data are obtained from the Water District 01 records.

Q. You had mentioned too, though, that you will

look at water supply from other tributary basins in your calibration. Did I understand your testimony correctly?

A. In a few cases there is a tributary stream, for example, you know, the Malad River, for example, above the springs. There is flow in that river, and we have to account for that when we calculate the reach gains. Lower Salmon Falls Creek is another example of that.

Q. But I want to focus more on the near Blackfoot to Minidoka. Do you or did you in your calculations, do you look at flows out of either Willow Creek, the Blackfoot Basin, or the Portneuf Basins in that calibration?

A. Yes, I know the Portneuf is in that calibration or that calculation. The reach gains above Minidoka are actually calculated for me by another staff member. I do have a list of all the inflows and outflows that are accounted for, but I don't have them memorized.

Q. Who is that other staff member who calculates those reach gains?

A. Ethan Geisler, Guys-ler. I'm not sure how to pronounce his last name.

Q. And he works for the Department?

A. Yes.

Q. Is he a modeler as well?
A. No.
Q. Okay. You were asked before about the model runs that were presented in your PowerPoint presentation. I don't need you to refer to it. But just a follow-up question. In any of the model runs that you did for curtailment, were any ground water rights removed from those runs?
A. I'm sorry. Could you say that question again?
Q. Yeah. In the model runs that you performed, you didn't take out like, for example, A & B Irrigation District's ground water rights in those simulations? They were all just ground water rights on the Eastern Snake Plain Aquifer within the area of common ground water supply; is that right?
A. For the simulations that were presented for the various curtailment dates?
Q. Correct.
A. Yes. So anything within the area of common ground water supply junior to those curtailment dates, yeah.
Q. Yeah. And I just want to make sure that it included all ground water rights in there for any specific reason that there were any that were left out. None were left out on these curtailment runs?

A. Yeah, I -- well, so we have -- yeah. Anything that's in our irrigation POD file, and anything that's in the municipal files.

Q. Just a couple follow-up questions. In the methodology order there is an April forecast supply methodology. And I just want to ask, did you provide any technical information on the forecasted supply that only looks at the unregulated flow at Heise?

A. I'm sorry. Say that again.

Q. Well, in the methodology order, there is a part that forecast the water supply. Are you familiar with that part of the order where it looks at the unregulated flow at the Heise gage on the Snake River.

A. No, I didn't participate in that.

Q. And that's really my question. Is you weren't asked to provide any technical information on that part of the order; were you?

A. No.

Q. But as far as the technical aspects that you were asked to participate in, did you have any discussions on those technical aspects with Mat Weaver or other Department staff?

A. I probably did. I don't have a specific recollection.

Q. Okay. When you say "you probably did," what

makes you say that?

A. I'm sure we just -- I mean, we discussed what I was going to present to the technical working group.

MR. HARRIS: Okay. I have no further questions. Thank you.

THE HEARING OFFICER: Further questions by the ground water users of Ms. Sukow?

Okay. Let's shift.

MR. ANDERSON: Director, very, very quick.

Mr. Anderson.

CROSS-EXAMINATION

QUESTIONS BY MR. ANDERSON:

Q. Jennifer, when did you first learn that the Fifth Methodology Order was going to move from steady state to transient?

A. I don't know when Gary made a final decision on it. I know when I was asked to provide information on it. And that was -- that was for the technical working group.

Q. So after the technical working group, the next time you knew that it was actually going to change to transient, was when it came out in April, or did you know before the issuance of the order that it was going to?

A. I knew when I was asked to assist with

preparing the draft order.

Q. And when was that?

A. I don't recall exactly. Not that long before it came out.

Q. A few weeks, a month?

A. I don't recall.

Q. You don't recall. But when you were asked to prepare the draft order to assist in the preparation, you knew then that it was going to move from steady state to transient?

A. Yes.

MR. ANDERSON: Okay. I don't have any further questions.

THE HEARING OFFICER: All right. Thank you.

With no further questions from the ground water users, we'll shift to the Surface Water Coalition. Mr. Simpson, you stood up. Are you the examiner?

MR. SIMPSON: An examiner, Mr. Director. So I thank you for that acknowledgment.

CROSS-EXAMINATION

QUESTIONS BY MR. SIMPSON:

Q. Good morning, Ms. Sukow. My name is John Simpson. I represent A & B Irrigation District, et al., with Mr. Thompson. I just have a couple follow-up questions for you.

If you could turn to Exhibit 318 from which you testified to before. And I believe that's your slide presentation from November. And, Jennifer, if you could just look at pages 21 and 22. I believe those are your conclusions; is that correct?

A. That's correct.

Q. Those are your conclusions from the modeling you produced as a part of that presentation in November; correct?

A. Correct.

Q. As you sit here today, are those still your conclusions that you would represent to the Hearing Officer and to the parties in terms of the modeling exercise you completed in the comparison between steady state and transient?

A. Yes.

Q. Okay. And then if you would look at page 6 of that presentation. And that's the graph that you testified to earlier regarding examination by Ms. McHugh. Do you see the paragraphs in the middle of the graph regarding the "Less than 15 percent of the steady state impacts of a single-season curtailment are realized." Do you see that language in that graph, that insert?

A. Yes.

Q. Okay. And that's your conclusion; correct?
A. Yes, that's --
Q. Yes.
A. -- data from the analyses.
Q. Right. So that would support your conclusions on page 21 and 22, that the basis for why steady state analysis is not appropriate for short-term river reach gains; is that correct?
A. Well, I think beyond that, because the steady state simulations do not simulate the short-term curtailments that are prescribed in the Surface Water Coalition methodology.
Q. Okay.
A. But the difference in volume is just the result of doing something that does simulate the short-term curtailment.
Q. Right. So if you utilize the steady state model run, you are just not going to realize the amount of water into the reach to mitigate for the identified injury in the Fifth Methodology As-Applied Order; correct?
A. Not within this irrigation season.
Q. And so then the second item is in response to questions by Ms. Klahn regarding the south side returns and the consideration of those south side flow returns.

Do you recall that testimony?

A. Yes.

Q. Okay. And those numbers identified by Ms. Klahn that you testified to, were those estimates of the ground water recharge contribution from irrigation on the North Side Canal Company system?

A. I believe she was asking me about inflows from the south side.

Q. From the south side. With respect to those south side return flows, and the numbers you've testified to, or were asked about. Were those in response to the estimations, calculations regarding the estimated ground water return flows from irrigation on the Twin Falls system; do you recall?

A. Oh, I think you said north side, and I was confused.

Q. If I did, I apologize.

A. No, they are measured flows in the return channels, which are on the south side deeply incised. And in a previous version of ESPAM, we were estimating those based on a water budget method, which is I think what you are asking about. But I determined that our measurements were giving us the same volume. And then having the actual measurements is much better for calculating the reach gain, because it accounts for the

seasonality.

Before we had been averaging it. But with the measurements, we're actually able to account for the monthly seasonality, which gave us -- allowed us to remove a fair amount of noise from our reach gain calibration target.

Q. So those south side return flows that you are discussing, were those only the Twin Falls return flows, or did those include some other tributaries to the Snake River on the south side of the river?

A. Well, there is Lower Salmon Falls Creek, which, you know, we deduct out the total flow in Lower Salmon Falls Creek. Some of that is from return flows, but we don't really care whether it's from return flows or other surface flows. We just deduct off the entire creek flow.

Q. Okay.

A. And then there is also return flows from surface return flows from the north side that we deduct off?

Q. Correct.

A. Yeah.

Q. And then Mr. Budge was asking you about a calculation that you did with respect to dividing up the IGWA's proportionate share under the Footnote 5, I

believe, of the As-Applied Order. Do you recall that testimony?

A. Yes.

Q. I'm not sure if I fully appreciated the calculation you made. But my understanding is that your method that you utilized, and this was your proposed method, acknowledged the long-term impacts of each ground water district on the Blackfoot to Minidoka reach. And then once that percentage was calculated, then it was utilized in the calculation of the responsibility of each ground water district of the total for IGWA; is that correct?

A. Well, and again, that was provided as a courtesy, and the Department is not telling them, IGWA what each ground water districts responsibility is. But it is just an apportioning of it based on their long-term impacts.

Q. Right. And with respect to your work under Exhibit 318, you weren't asked whether or not to consider, when you looked at the curtailment scenarios and transient curtailment, and the number of acres to be curtailed as you've testified here today, whether or not any of those acres were the subject of ongoing mitigation plans or stipulated agreements; were you?

A. I'm sorry. Say that again.

Q. Well, simply your work that you did for Exhibit 318, the modeling you produced in November. Didn't consider whether or not any of the ground water acres that you identified that would be subject to curtailment, were part of an existing or an approved mitigation plan?

A. No.

MR. SIMPSON: Okay. That's all the questions I have. Thank you.

THE HEARING OFFICER: Any other questions from the Surface Water Coalition?

Mr. Fletcher, you represent clients independent of Mr. Simpson.

MR. FLETCHER: Yeah, I don't have any additional questions. Thank you.

THE HEARING OFFICER: Okay. Thank you.

All right. So let's now characterize the next examination as a redirect. So let's just go in the same order as previously followed.

Ms. McHugh, questions?

MS. McHUGH: I have no redirect. Thank you.

THE HEARING OFFICER: Ms. Klahn?

MS. KLAHN: No, Your Honor.

THE HEARING OFFICER: Any of the others who questioned, further questions of Ms. Sukow?

MR. WOOD: I've got a question, Director.

THE HEARING OFFICER: Okay. Mr. Wood.

REDIRECT EXAMINATION

QUESTIONS BY MR. WOOD:

Q. Jennifer, do you recall Mr. Budge asking you a couple questions about trimline?

A. Yes.

Q. And in your professional opinion would a trimline be appropriate in this delivery call?

MR. BUDGE: Objection; foundation.

THE HEARING OFFICER: Sustained.

Mr. Wood, would you just lay a foundation with her.

Q. (BY MR. WOOD) Jennifer, do you recall Mr. Budge asking you a few questions about a trimline?

A. Yes.

Q. And what is a trimline?

A. I believe I answered that for Mr. Budge. But it's a delineation of an area where pumping has a larger than de minimis impact on the reach of interest.

Q. And so in this context, was your understanding of Mr. Budge's question whether or not you were asked to employ a trimline in this situation?

A. I think that's probably a fair characterization, yes.

Q. And in your opinion --

MR. BUDGE: Objection. It misstates the testimony.

THE HEARING OFFICER: Well, I'll allow an opportunity to clarify, if you want.

Answer the question, please. If you remember the question.

Q. (BY MR. WOOD) I'll put it this way. Ms. Sukow, what was your understanding of why Mr. Budge was asking you about a trimline?

A. I don't know why he was asking me about a trimline.

Q. Would a trimline in your professional opinion be appropriate for this delivery call?

MR. BUDGE: Objection. Mr. Director, may I comment.

THE HEARING OFFICER: What's the basis of the objection, Mr. Budge?

MR. BUDGE: In violation of the Director's order limiting the scope of testimony. So what I asked Ms. Sukow is if she had done any analysis or provided any information to the Director. I understood we can't ask her opinions on legal and policy issues based on the Director's order, and so I did not ask those questions. I just asked what analyses information she had provided

to the Director. So I don't think we can be in a position where we can't ask questions about the thinking and the group process. But then the Department can't ask those questions.

THE HEARING OFFICER: Okay. Mr. Budge, Mr. Wood, I will sustain the objection at least at this point in time. But anticipating that there will be further development and testimony regarding a trimline, and Ms. Sukow may be recalled and the question may be posed to her at that time.

Thank you, Mr. Wood.

MR. WOOD: Thank you.

THE HEARING OFFICER: Okay. Further questions of Ms. Sukow anybody?

All right. Well, the timing is perfect I guess. It's the lunch hour. So thank you, Ms. Sukow. And thank you, Colleen. So let's recess for lunch. And come back at what time; 1:00? We'll be back, convene at 1:00. Thank you.

(Lunch recess.)

THE HEARING OFFICER: We're back on the record, Colleen. One suggestion before we start. Some participating remotely have observed that it's difficult to hear objections. You are farther away from the microphone system. If you could speak up, and it might

help if you stand up. There is a microphone in the ceiling somewhere there.

Okay. Is it my understanding that Mr. Colvin is the next witness?

Mr. Colvin, if you would come forward, please.

DAVID COLVIN,

first duly sworn to tell the truth relating to said cause, testified as follows:

THE HEARING OFFICER: Mr. Thompson, you may examine Mr. Colvin.

MR. THOMPSON: Director, there should be a Surface Water Coalition binder exhibits. Probably the smallest skinniest ones back there. If you wouldn't mind getting those out.

DIRECT EXAMINATION

QUESTIONS BY MR. THOMPSON:

Q. Dave, could you state and spell your name for the record, please?

A. My name is Dave Colvin, spelled D-a-v-e, or David, David, Colvin, C-o-l-v-i-n.

Q. And where do you presently work?

A. I work at LRE Water in Denver, Colorado.

Q. And what is your occupation?

A. I'm the ground water team leader, principal hydrogeologist with the firm.

(Exhibit 3 marked.)

Q. (BY MR. THOMPSON) And in that binder we have in front of you, we have what's marked as Exhibit 3. Could you describe that, please?

A. That's Exhibit 3 is my expert report for the Fifth Methodology Order and this hearing.

Q. And is your CV attached to that exhibit?

A. It is.

Q. And does that CV generally describe your education and work history?

A. Yes, it does.

Q. Have you been qualified as an expert witness before IDWR in prior cases?

A. I have.

Q. Are you a member of the Eastern Hydrologic Modeling Committee?

A. Yes, I am.

Q. And did you participate in the technical working group last fall?

A. I did, yes.

Q. And can you generally describe what you were asked to do with that report identified as Exhibit 3?

A. I was asked to review the Fifth Methodology Order and this year's As-Applied Order for steps 1 through 3, and look at the ground water modeling issues

in particular, and evaluate the procedures that were implemented, and formulate my opinions.

Q. And do you want to describe your general conclusions or just refer to those in the report?

A. Yeah. So in my report on page 2, I have a summary of opinions. And so maybe I'll just run through those opinions. And then the rest of my report goes into greater detail. But in summary, I started with Opinion No. 1, stating that ESPAM, specifically Version 2.2 is the widely accepted as the best available scientific tool for evaluating regional ESPA hydrology, particularly reach gain impacts due to curtailing ground water pumping.

Opinion No. 2 was that the steady state use of ESPAM for curtailment analysis in particular is inappropriate due to the methodology's requirement for in-season benefits from curtailment. And so the in-season timing component renders a steady state model ineffective and inappropriate for modeling curtailment benefits. No. 3 is that the transient superposition model for ESPAM2.2 is the appropriate model for calculating the reach gain benefits from curtailing junior ground water pumping.

No. 4 is that regardless of prior approaches from other methodology orders, that transient is the

proper approach for the Fifth Methodology Order. No. 5 is that transient modeling of ESPA has been happening for over ten years for various other applications of ground water modeling.

And then No. 6 is that specific to the steady state modeling that Ms. Sukow described for proportionate share analysis of the demand shortfalls. That that steady state modeling is appropriate for that use, but only when it is applied to mitigation requirements that might be covered by direct delivery of surface water. And that that steady state modeling has no bearing on the ground water curtailment approach to mitigation.

Q. Thank you.

MR. THOMPSON: We would move to admit Exhibit 3 into the record.

THE HEARING OFFICER: Any objection to the admission of this document?

Hearing no objection the document marked as Exhibit 3 is received into evidence.

(Exhibit 3 received into evidence.)

MR. THOMPSON: And we would tender Mr. Colvin as an expert on the subjects addressed in that report for cross-examination. Thank you.

THE HEARING OFFICER: Thank you, Mr. Thompson.

Cross-examination? I want to call you, Max. What's your last name.

MR. BRICKER: Bricker.

THE HEARING OFFICER: Mr. Bricker, you may examine the witness.

MR. BRICKER: Thank you.

CROSS-EXAMINATION

QUESTIONS BY MR. BRICKER:

Q. Good afternoon, Mr. Colvin. How are you doing?

A. Great.

Q. Good. Okay. Would you agree that the Department uses ESPAM to determine which ground water users must be curtailed or must supply mitigation water to offset the predicted shortfall to the Surface Water Coalition?

A. Yes.

Q. Okay. Now, in your report, Exhibit 3, it's your opinion that transient modeling is the most appropriate mechanism to determine the actual increase in Snake River flow in the near Blackfoot to Minidoka reach that would occur in the first year of curtailment; right?

A. Yes.

Q. And you've also stated that the results from

the steady state run overestimated the curtailment benefits by more than an order of magnitude; right?

A. For in-season benefits, yes.

Q. Okay. And you've also stated that the steady state model curtailment results have been clearly demonstrated to be a grievous error; right?

A. Yes.

Q. But Department staff has been aware of the technical differences between the steady state and the transient modeling runs for many years now; right?

A. I can't speak for their awareness, but I would presume so.

Q. Okay. And the Department could have been using transient model runs before 2023; correct?

A. Yes.

Q. So is it fair to say that the use of the steady state runs in modeling was not in error, but was made as a policy decision?

A. I wouldn't be able to speculate on policy decisions.

Q. Okay. And you are aware as was asked of Ms. Sukow, that there has been a moratorium on new wells without mitigation since the early '90s; right?

A. Yes.

Q. So almost all wells have been pumping for at

least some 30 years now; correct?
A. Approximately.
Q. And looking at Exhibit 318, which was the presentation by Ms. Sukow from last November.
A. Yes. Okay. I've got it.
Q. All right.
A. Do you have a page number you are referencing?
Q. I'm looking for it myself. You know what, perhaps it isn't in this. It might be elsewhere. But would you agree that over 90 to 99 percent of the impact of pumping on the ESPA has been realized?
A. You must -- I think you might be referring to page 6.
Q. Let's see. Yes, in fact, there it is.
A. Okay. Can you restate your question?
Q. Would you agree that 90 to 99 percent of pumping impacts on the ESPA have been realized at that particular river reach?
A. Approximately, yes.
Q. So wouldn't you agree that given that, a steady state curtailment run is a reasonable estimate of the current impact on Snake River flows in that reach resulting from the current and prior pumping of those curtailed wells?
MR. THOMPSON: Objection; a compound question.

Q. (BY MR. BRICKER) Would you agree that a steady state curtailment run is a reasonable estimate of the current impact on Snake River flows resulting from current and prior pumping of curtailed runs -- or wells? Excuse me.

A. No.

Q. Okay. All right. Would you agree that the predicted shortfall in 2023 is 75,200 acre-feet?

A. That's what was in the Fifth Methodology Order -- or the As-Applied Order, yes.

Q. Okay. So looking back at that Exhibit 318, looking at page 13, the "Comparison priority dates calculated for DS forecasts," the first of those two pages. Curtailment of wells junior to sometime in the mid-1980s would produce 75,200 acre-feet in the near Blackfoot to Minidoka reach based on steady state modeling; right?

A. It's hard to see in this graph here, but it seems about right.

Q. Sometime in the mid to late '80s?

A. Sure.

Q. So in other words, the current and prior pumping of wells junior to the mid-1980s is currently depleting the near Blackfoot to Minidoka reach by about 75,200 acre-feet given that slide; right?

A. That would be the impact on the reach gains there, so, yes.

Q. Okay. So if the wells junior to the mid-1980s had not started pumping, there would be an additional 75,200 acre-feet in the river at that reach in 2023; right?

A. If they had never started pumping, that would be about the increase in reach gains, yes.

Q. Okay. So as a result, if the pumping of the wells junior to the mid-1980s did not happen, there would be no forecast shortage to the Surface Water Coalition members; right, in 2023?

A. That's possible. And a very different analysis than curtailment.

Q. Okay. Would you agree that it may be unduly burdensome to curtail wells senior to the mid-1980s if it were that those wells senior did not cause the 75,200 acre-foot shortage in 2023?

A. I haven't evaluated the burden of curtailment, but the impacts to reach gains are due to the cumulative pumping across the ESPA for many decades. And so you can apportion it how you want, which is essentially what IDWR did with their proportionate share analysis but -- I guess can you restate your question?

Q. Sure. It was does it seem unduly burdensome

to force wells senior to the mid-1980s to be curtailed if they were not the cause of the 75,200 acre-foot shortage in 2023?

A. Well, again, I haven't evaluated the burden of curtailment compared to being involved in an agreement or mitigating by some other measure. So I guess I don't know.

Q. How about instead of to force curtailment, but to require mitigation water from?

A. Again, I haven't reviewed the burden of what forced mitigation would require. So I don't really know how to answer that question.

Q. How about if you change burden to, is it fair to require mitigation or curtailment of those rights?

A. I guess I don't know what you mean by "fair." But according to prior appropriation, if you mean is it a priority date; is that fair? And I think under prior appropriation administration, a priority date that returns the demand shortfall to the Surface Water Coalition is fair.

MR. BRICKER: Thank you. I have no further questions.

THE HEARING OFFICER: Further cross-examination?

Mr. Budge.

CROSS-EXAMINATION

QUESTIONS BY MR. BUDGE:

Q. Good afternoon, Mr. Colvin. Do you mind if I call you "David"?

A. That's fine.

Q. I have just a few questions.

(Exhibit 306 marked.)

Q. (BY MR. BUDGE) First, if I could have you turn to Exhibit 306.

A. Okay.

Q. What's that document title that you are looking at?

A. This is the Fourth Amended Final Order Regarding Methodology for Determining Material Injury to Reasonable In-Season Demand and Reasonable Carryover."

Q. Thank you. That's the right one. I refer to that as the Fourth Methodology Order. Were you working for the Surface Water Coalition back when that was issued?

A. No, I was not.

Q. When did you begin working for the Coalition?

A. I believe it was 2019 --

Q. Okay.

A. -- maybe 2018.

Q. And what type of work have you done for the

Coalition since then?

A. Evaluation of Eastern Snake Plain Aquifer hydrology related to transfers or the agreement with IGWA, monitoring the Eastern Snake Hydrologic Modeling Committee and participating there, being involved in technical work groups related to the sentinel well tracking, and recharge planning, various other activities on the plain.

Q. Is the methodology order that we're discussing here, is that within the purview of the representation you provide for the Coalition?

A. Yes.

Q. And you mentioned that you participate on the Eastern Snake Hydrologic Modeling Committee?

A. Yes.

Q. Did you participate in the 2015 technical working group that the Department held regarding the methodology order?

A. I did not.

Q. Okay. Back to that exhibit you've got in front of you. If you could flip to page 35?

A. Okay.

Q. About halfway down, there is a heading that says "Order." And then it begins walking through the steps of the methodology order. I assume you are

familiar with all of the steps?

A. Yes.

Q. Step 1, which you are familiar with, requires members of the Coalition to report annually their irrigated acreage to the Department. Are you familiar with that step?

A. Yes.

Q. As a consultant for the Coalition, has the Coalition or any member of the Coalition ever asked you to help them evaluate the irrigated acres within their service area?

A. No, that's kind of out of my specialty. I'm more ground water focused.

Q. Got you. Are there people in your firm that have that type of expertise?

A. There are.

Q. But that's not something the Coalition has ever asked for your help with?

A. No.

Q. Have they ever shared with you the reports that they submit to the Department, where they report their irrigated acreage?

A. Not shared with me directly. I've seen them posted, though.

Q. Okay. But that's not a component of the

methodology that they've consulted your advice in relation to?

A. No.

MR. BUDGE: Okay. I don't have any further questions.

THE HEARING OFFICER: Further examination of Mr. Colvin?

Okay. Any redirect, Mr. Thompson?

MR. THOMPSON: I don't have any.

THE HEARING OFFICER: Mr. Colvin, you are off easy.

THE WITNESS: Okay.

(Witness excused.)

THE HEARING OFFICER: Now, I understand the next witness in the list is Matt Anders, an employee of the Department.

If you'd come forward, Matt.

MATTHEW "MATT" ANDERS,

first duly sworn to tell the truth relating to said cause, testified as follows:

THE HEARING OFFICER: Mr. Wood, you may examine.

DIRECT EXAMINATION

QUESTIONS BY MR. WOOD:

Q. Hello, Mr. Anders.

A. Hello.
Q. Can you please state and spell your name for the record.
A. My name is Matthew Anders. I go by Matt, M-a-t-t, A-n-d-e-r-s.
Q. And what is your educational background?
A. I have a bachelor's in geology from Gustavus Adolphus College, and a master's in geology from Utah State University.
Q. And you're a licensed professional geologist in Idaho; is that correct?
A. I am.
Q. And you are currently employed at the Idaho Department of Water Resources?
A. I am.
Q. And how long have you worked for the Department?
A. Worked a total of 18 years. I was a contractor for about the first three. And then I worked for the Department directly for about 15.
Q. And you are the technical services bureau chief; is that correct?
A. I am.
Q. And how long have you been in that position?
A. About four months.

Q. And what are your duties as the technical services bureau chief?
A. I either oversee directly or indirectly staff from the hydrology section and the GIS section.
Q. I would like to turn your attention to the Fifth Methodology Order.
A. Okay.
Q. Are you familiar with that document?
A. Yes.
Q. And some of that document you know quite a bit about?
A. Yep, I do.
Q. And that you even played a role in developing some of that data?
A. Yes, I did.
Q. And this is why you've been called as a witness here today?
A. I believe so, yes.
Q. And you are aware that the Department has identified nine topics for you to testify; is that correct?
A. Yes.
Q. And I'm going list those line, and let me know if this is correct. Okay?
A. Okay.

Q. Baseline year, forecast supply, surface water irrigated acres, crop water needs. I am going to try hard not to screw this one up -- near real-time mapping evapotranspiration of high resolution with internalized calibration?

A. It's evaporation, but, yes.

Q. See, I knew I wouldn't do it right. All right.

Project efficiency?

A. Yes.

Q. Reasonable carryover?

A. Yes.

Q. Twin Falls Canal Company's increase in diversions?

A. Yes.

Q. And that 2023 technical working group meetings?

A. Yes.

Q. Do you have any concerns that you were unqualified to discuss those topics here today?

A. No, I do not.

Q. One additional issue, Mr. Anders. You brought to our attention some shapefiles that were not included in the original, I guess we'll call it, a data dump on May 5th; is that correct?

A. Correct.
Q. And as I understand it, we provided to the parties the 2022 shapefiles for Minidoka and Milner. And what we meant to provide was the 2023 shapefiles; is that correct?
A. Correct.
Q. And the 2023 shapefiles are what is used in the Fifth Methodology Order?
A. Yes.
Q. And those numbers are correct?
A. The methodology order, the acres that we used, they are correct, yes.
Q. And you provided a zip file that had those two files in them; is that correct?
A. Yes, I did.
Q. And we provided those to the parties this morning. Did you have you an opportunity to look at those files and ensure their accuracy?
A. Before I gave them to you, I inspected them, yes.
Q. Okay. And do you think they are a reasonable representation of what those shapefiles are, the accuracy of the shapefiles?
A. Yes, I do.
MR. WOOD: And with that, Director, we would

move to admit the Minidoka and Milner 2023 shapefiles.

THE HEARING OFFICER: I assume that what you are asking me to do is take official notice of them?

MR. WOOD: Or take official notice of them, sure.

THE HEARING OFFICER: Any objection from the parties?

Okay. I will take official notice of the 2023 shapefiles from Milner and Minidoka as represented.

Thank you, Mr. Wood.

MR. WOOD: The Department has no further questions for Mr. Anders.

THE HEARING OFFICER: Okay. Examination of Mr. Anders by the ground water users?

Ms. Klahn, I see you turning in your seat.

MS. KLAHN: That's right.

THE HEARING OFFICER: Welcome to the podium.

CROSS-EXAMINATION

QUESTIONS BY MS. KLAHN:

Q. Good afternoon, Mr. Anders. I'm Sarah Klahn, representing the City of Pocatello. And it's nice to see you in person after seeing you on Zoom for two days.

I wanted to start by asking you some questions about the Fifth Methodology Order. You should have a notebook up there with a 300 series of exhibits in it.

And you would be looking at Exhibit 300?

A. Binder one of Exhibit 300. And you said tab 300?

Q. Yes.

A. Yes, I have it.

Q. Okay. And let's turn, if you would, in Exhibit 300 to page 12. Starting at paragraph 29, there is a section of the order related to project efficiency. And that's one of the topics you were disclosed for; right?

A. Yes, it's at the bottom of the page.

Q. I wanted to ask you about the statement at the bottom of the page there. The statement in paragraph 29 says, "Project efficiency is the ratio of total volumetric crop water needs within a Surface Water Coalition entity's boundary and the total volume of water diverted by that entity to satisfy its crop needs." The second sentence says, "It is the same concept as efficiency, which was presented at the hearing."

What's your understanding of what was presented at the hearing? Or let's start with, which hearing are we talking about; do you know?

A. I don't know.

Q. Okay. So this wasn't a sentence that you have

any knowledge of?

A. No, I didn't add that sentence.

Q. Okay. Well, let's flip over then to page 13. And there is an equation at the top of the page. And above that equation is some narrative about the relationships that are contained in project efficiency. And I want to ask you about those. So the first component listed there is "seepage loss." Do you see that?

A. I do.

Q. What is seepage loss in your understanding?

A. As water is -- after it's been diverted and is being sent or conveyed to get to the place of use for the water, there are losses out of the canals. Maybe they are unlined. There is some small amount of evaporation. If there happens to be vegetation, they may be pulling. So it is kind of any losses in route to where the water is going to be applied.

Q. Okay. The second item listed there is on-farm application losses. And the first example is deep percolation. Do you have an understanding of what that means?

A. To me, deep percolation is when the soil becomes saturated, because you are applying water. And you get infiltration down below the root zone, so the

plants can no longer access it. And it may stay there, or it may go farther all the way to the aquifer, depending how much water is available.

Q. Okay. The second is "field runoff" listed there in that parenthetical at the top of page 13. How would you characterize "field runoff"?

A. To me, that's over land flow. So it's on the surface of the land. Either the water is applied too quickly, and it can't infiltrate, or the soil is saturated. But in any either case, the water is running off to someplace outside of the field.

Q. Okay. And then the third item there listed is "system operational losses," and the parenthetical is "(return flows)." How is that different in your understanding from the other seepage and the on-farm application losses?

A. I think of return flows as at the end of the system, there is water that's needed to get to deliver water to the end of the system. And there is always excess water there. That water, I think where return flow, the term comes from, either returns to the original source or a different source of water.

Q. Okay. Now, the sentence up there at the top of the page of page 13, goes on to say, "system operational losses for which data is not obtainable by

the Department." Do you see that?
A. I do.
Q. But the Department has data associated with Twin Falls Canal Company return flows; isn't that right?
A. We have some of the return flows monitored through our Eastern Snake Plain's spring and return flow monitoring program. But we don't have everything monitored.
Q. Were you in the room this morning when Ms. Sukow testified?
A. I was.
Q. And you heard her testify about the incorporation of Twin Falls Canal Company return flow data to calibrate the model?
A. Yeah, I heard her say that.
Q. Okay. And so your understanding is that the Department has some Twin Falls return flow data, but there is more that you don't have?
A. I think there are some return flows that are small enough that were not -- we have decided not to monitor.
Q. And are you aware that the return flows associated with Twin Falls Canal Company operations are in the neighborhood of 300,000 to 400,000 acre-feet a year?

MR. THOMPSON: I'm going to object to that question; characterization, foundation.

MS. KLAHN: I asked him if he was aware.

THE HEARING OFFICER: Overruled.

THE WITNESS: I'm not sure I knew that it was that exact number. I've seen numbers, presentations where they've talked about it, but I don't remember that number specifically.

Q. (BY MS. KLAHN) All right. Let's talk for a minute about that equation at the top of page 13. Could you sort of just walk us through how the calculation works, what each of the variables are?

A. Sure. The Ep is the project efficiency. And that is equal to the crop water need, divided by the demand or the diversion, the Q, the discharge of the diversion. Crop water need is composed of, we use ET, we use precipitation, we use acres to calculate that. The diversions are, those are directly measured that we take from water right accounting.

Q. Okay.

A. From Water District 1.

Q. From Water District 1?

A. Yeah.

Q. Okay. So tell me if this is correct from a mathematical perspective. As the irrigation diversions

go up, the project efficiency will go down. As the denominator gets larger, the project efficiency gets smaller; is that true?

A. If the crop water need stays the same, yes.

Q. Okay. In your work with the Department on the methodology order, have you done any evaluation of whether the project deficiencies that you are measuring using this calculation are reasonable?

A. When we're doing our calculations, we are always doing, you know, quality control, quality assurance to see if the numbers make sense. And that's on a technical level. You know, did it compare to previous years, or compared to the previous month, is it a reasonable number? So all of our calculations go through that. We make our calculations. And Kara Ferguson and I switch and review each other's data. So just on the reasonableness of the calculations, yes, on a numbers basis we're looking at.

Q. You were the lead of the technical work group in November and December of 2022; is that right?

A. Yeah, correct.

Q. And there was some discussion there of project efficiency and the methods that the Department uses to calculate those. Do you recall that?

A. Yeah, I gave a presentation on project

efficiency.

Q. And Greg Sullivan, one of the consultants for the Cities in this proceeding, provided some input on alternative ways of looking at project efficiency using the same kind of calculation that the Department was using, but made some suggestions about other ways to look at it. Do you recall that?

A. My recollection of, at the technical working group, he presented us some graphs looking at the relationship between crop water need and project efficiency. I don't remember at that time that he made a proposal about different ways to calculate it. But he did in his expert report at a later date. He may have stated that at the technical working group. I don't remember it. But I do remember it from his technical, his expert report.

Q. During the technical work group process was there any conversation internally in the Department about taking another look at how to do project efficiencies, keeping in mind that you want to use this kind of equation, but to try and I mean get a more meaningful project efficiency measure?

A. We, on a technical level, we have discussed, you know, the accuracy of the project efficiency, and where errors may come in that calculation. But we

haven't gone down the road of like proposing, or even working out possible ways to calculate it differently.

Q. Thank you. Could we turn now to page 10 of Exhibit 300, please? And you'll recall during our deposition, I had quite a log of questions for you on acreage?

A. Yes.

Q. So based on the table that's shown in Exhibit 300, paragraph 22, the Department used the Twin Falls Canal Company 2013 shapefile for purposes of Twin Falls Canal Company acreage in this Fifth Methodology Order; correct?

A. Yes.

Q. And I think you've testified during your deposition, that this Twin Falls Canal Company acreage shown in the table does contain hardened acres. Do you recall that?

A. Yes.

Q. In other words, hardened acres would mean they can't be irrigated?

A. Yeah, correct.

Q. And we also talked during your deposition about the Department's previous reliance in earlier methodology orders on lower numbers for Twin Falls Canal Company acres. Do you recall that?

A. Yes, I believe it was about 183,000, and I think they came from SPF.

Q. I think that's right.

(Exhibit 324 marked.)

Q. (BY MS. KLAHN) So let's take a look at some of those values. I would like you to find in that same notebook, I think in that same notebook, it should be Exhibit 324.

A. No, this one only goes to 313.

Q. I guess it's in, we'll guess, Volume 2.

MR. WOOD: It should be in that.

THE WITNESS: Could you repeat the number I'm looking for?

Q. (BY MS. KLAHN) Sure. It should be a 2015 PowerPoint that you prepared.

A. Yep, I'm to Exhibit 324.

Q. Okay. Could you identify that, please, for the record?

A. The title -- well, it looks like it is a printout of a PowerPoint presentation titled "Proposed Modification to Method Determining Reasonable In-Season Demand for the Surface Water Coalition: Irrigated Acres for SWC Members, Presented to the SWC Methodology Technical Working Group by Matt Anders, February 19, 2015."

Q. Okay. Let's turn, the pages are not numbered. I believe it's page 3. There is a table.

A. "Summary of irrigated acres" is the bullet?

Q. Correct. And I want to draw your attention to the bottom row of the table there, which shows the SPF acres you referenced a minute ago, 183,589. So in 2013, if we go all the way over to the right, "2013 RISD," what does that column represent?

A. That is acres that we used for the 2013 order for the reasonable in-season demand calculation.

Q. Okay. So that number was used in 2013. The same number was used in 2015; wasn't it?

A. Reviewing what we call the calculator, it looked like that number was use from 2010 to 2014.

Q. 2014?

A. Yeah.

Q. You didn't use it in 2015?

A. When I looked at the calculator, we changed it in 2015.

Q. Okay.

A. But that's based on what I see in the calculator.

Q. Okay. Can I hand you -- or I'm not going to hand you, because hopefully you have it in front of you. We're looking at the IGWA notebook, Exhibit 135.

(Exhibit 135/306 marked.)
MS. KLAHN: TJ, any idea if that is Volume 1, 2, or 10?
MR. BUDGE: The numbers are on the binder.
THE WITNESS: They are in the common exhibits.
MS. KLAHN: No, it's in IGWA 135.
MR. SIMPSON: It's the same as 306.
MS. KLAHN: Yes.
THE WITNESS: I'm at Exhibit 135.
Q. (BY MS. KLAHN) Thank you. Would you identify Exhibit 135 for the record, please?
A. It says it's the "Fourth Amended Final Order Regarding Methodology for Determining Material Injury to Reasonable In-Season Demand and Reasonable Carryover."
Q. And then let's turn to the last page. Actually, let's turn to page 39.
MR. FLETCHER: Sarah, for the record, it's already been admitted under a different number.
MS. KLAHN: Oh, it has. I apologize. I missed that.
MR. FLETCHER: Well, we don't want any confusion.
MS. KLAHN: Well, let's keep using 135, but I won't admit it. How is that? I will start talking about it as 306.

MR. FLETCHER: I just thought we should have it on the record, it has been marked as 306.

Q. (BY MS. KLAHN) Okay. Let's not switch the exhibit notebooks.

A. Okay.

Q. But I'm going to refer to this as Exhibit 306?

A. Okay.

MS. KLAHN: Thank you, Kent.

THE WITNESS: I forgot the page number.

Q. (BY MS. KLAHN) 39.

A. All right. I am there.

Q. And that this Fourth Methodology Order is the final order signed by the Director; correct?

A. Yes, it appears to be.

Q. Okay. Now, I would like you to look through the Fourth Methodology Order, Exhibit 306, and find the paragraph where the Twin Falls Canal Company acres used in the Fourth Methodology Order are identified. And I'm not meaning to belabor the suspense. I can't find a spot in there, which it is identified, which is why I wanted you to look at it, and see if that's accurate?

A. I believe that that's accurate.

Q. Okay.

A. And that we started that table which was new in the Fifth Amended Methodology Order of adding the

acres.

Q. Okay.

A. Generally, I think we add the acres, I can't remember, it's either for each year in the April or the July in the as-applieds. They weren't in the fourth amended, I believe.

Q. Okay. That's fair. All right. And so this Fourth Methodology Order was signed by Director Spackman in 2016. So by 2016, you were still using the 2013 shapefile number of 194,000 acres or so for Twin Falls Canal Company; correct?

A. I believe, yeah, we were.

(Exhibit 325 marked.)

Q. (BY MS. KLAHN) Now, let's switch over and take a look at Exhibit 325.

A. Yes I've got it.

Q. And could you identify Exhibit 325 for the record, please?

A. It looks like a printout of a PowerPoint titled "Proposed Modification to Method for Determining Reasonable In-Season Demand for the Surface Water Coalition: Use of the Near Real-Time Metric," Presented by Ethan Geisler, Kara Ferguson, and Matt Anders, on December 1st, 2022.

Q. And I apologize, these pages are not numbered,

but I believe it's page 19. There is a table that's titled "Surface Water Coalition Irrigated Acres." Could you find that, please?

A. I think I'm on that. The first table or the first column is "SWC Member," and the last one is "Methodology Acres"?

Q. Correct. Thank you.

A. Okay.

Q. So let's talk about each column for a minute. So the first column is "SWC Member," as you said. The second column is titled "Created by SWC for IDWR PPU." What does that stand for?

A. It's the source of the shapefile. Whether it was created by a Surface Water Coalition member or sent to us, or it was created by us during the Snake River Basin Adjudication. "PPU" stands for permissible place of use.

Q. Then the next column, "Date of Shapefile," what does that tell us?

A. If it was submitted by the Surface Water Coalition, it was the year that we received it. If it was a permissible place of use, they all have a 2010. That was my understanding of when they were created.

Q. Okay.

A. Or maybe last updated. Maybe not created, but

the last version.

Q. The next column is the "Shapefile Acres." That's self-explanatory; would you agree?

A. Agreed.

Q. The next column is "If Remove Nonirrigated Acres With 2011 Irrigated Lands Dataset." What does that column represent?

A. I'm on a different table. I'm on "CDL Processing Acres." Am I on the wrong one?

Q. Yeah, you are on the wrong one. And that's probably my fault.

A. Well, wait. Three pages later, there is another table.

Q. Let's do that one.

A. Okay. The same, and it says, "If Removed Nonirrigated Acres with 2011 Irrigated Lands Dataset."

Q. Right. And so for purposes of the record, we should be on page 22 of that exhibit, I think?

MR. FLETCHER: It was page 19.

MS. KLAHN: Is it page 19. It was correct. Okay.

THE WITNESS: Okay.

Q. (BY MS. KLAHN) Sorry.

A. I was just -- I didn't count. I just went to it.

Q. That's okay. That's all right. So let's stick with that column. What does it stand for?

A. Those are the acres, if we did a GIS analysis using the 2011 IDWR irrigated lands dataset, if we removed all the polygons in the 2011 dataset. All that area under the non-irrigated from the shapefiles that they list here, either PPU or from the Surface Water Coalition.

Q. Okay. And focusing on Twin Falls Canal Company, if we look at the bottom row, the difference in acres, the Surface Water Coalition's shapefile is 194,727. If you remove the non-irrigated acres with the 2011 irrigated lands dataset, it goes to 179,486; is that right?

A. Correct.

Q. And then the next column over is titled, "If Remove Non-Irrigated Acres with 2017 Irrigated Lands Dataset." What does that tell us?

A. The same thing as we did with the -- or the same process with the 2011 irrigated lands dataset. We did it with the 2017 irrigated lands dataset.

Q. Okay. And then the final column is the column that has been of acres that has been used in the methodology order since the Fourth Methodology Order?

A. Yes, I think it's since the third. The third

came out in 2015.

Q. Okay.

A. I think that's what we've used those acres since then, or Twin Falls specifically since then.

Q. Okay. And before we go on, let's just stop for the record. What is the IDWR irrigated lands dataset?

A. Jennifer was asked this same question. I thought she gave a good answer. It is a -- hopefully, I can give the same answer. It is a dataset that we prepare here at IDWR. We use -- we prepare it by hand. We use several different types of data to create polygons on the Eastern Snake Plain, and then classify them as irrigated, non-irrigated, or semi-irrigated.

Q. Okay. The Twin Falls Canal Company row that we've been looking at shows two acreage numbers that are derived from using the 2011 and 2017 irrigated lands dataset that are roughly 13,000 acres smaller than what's used in the methodology order; correct?

A. Yeah, roughly.

Q. And Ms. Sukow testified this morning that the IDWR irrigated lands dataset is used to calibrate the model. Were you aware of that?

A. I was aware of that, yes.

Q. And yet, during your deposition you testified

that you didn't think the irrigated lands dataset was sufficient to satisfy the clear and convincing standard. Do you recall that?

A. I do recall that.

Q. And in 2017, soon after, you issued the Fourth Methodology Order, you had a brand-new irrigated lands dataset. So why not incorporate that into the methodology and use that instead of the larger shapefile number?

A. So until -- so since about 2015, I haven't been using the irrigated lands dataset at all. So it wasn't a consideration when, in 2017, that I would use that. I wasn't using one to remove the non-irrigated acres. Which was an oversight on my part, because at the same time I was doing that, I was working on the near real-time metric and removing the irrigated acres -- or the non-irrigated acres with the irrigated lands dataset. So it was an inconsistency between processes I had going.

Q. Would you agree the Department's hand digitized maps that are created using the irrigated lands dataset process are highly accurate?

A. I think they are highly accurate for the year that they are created for.

Q. So in an ideal world, there would be a new

irrigated lands dataset every year, and that's what you would use in the methodology order?

A. To use your term "ideal world," yes.

Q. And in the meantime, the dataset you are using is at least ten years old. And you would acknowledge that there is hardened acres incorporated in it; right?

A. Correct.

Q. So right now, the difference between the 2017 irrigated lands dataset and the methodology acres is roughly, what; eight, nine percent difference?

A. Okay. Rough math, sure.

Q. Yes. At some point as the technical lead on the methodology analyses, is there a threshold at which you say, we simply can't use this 2013 dataset anymore from Twin Falls, because it's simply too inaccurate based on what our hand digitizing is showing?

A. Until we get something that passes, or that I feel passes the, or achieves the clear and convincing, I think we're going to use that. The clear and convincing by Judge Wildman of, if you are going to reduce the acres, you have to be clear and convincing.

Q. So the standard isn't really clear and convincing, it's whether or not Judge Wildman has blessed it; is that fair?

A. I don't know the answer to that.

Q. So for purposes of the Fifth Methodology Order, have you done any investigations into Twin Falls Canal Company return flows?

A. Not as part of the order.

Q. You had a conversation with Mr. Barlogi, who's the manager of Twin Falls Canal Company, about their return flows at some point, though; didn't you?

A. I don't think I've ever talked to him, that I remember.

Q. About return flows and their impact on the Murphy gage flows?

A. I stand corrected. As part of the Swan Falls technical working group and work we were doing there, I think -- I can't remember exactly. I may have sat in on a call with Collin Macheel with Mr. Barlogi. I'm not sure on that. I've talked to Collin several times about return flows at Twin Falls. I can't remember if I sat in on a call or not.

Q. Well, Mr. Barlogi testified he was on a call with you in January of this year about Twin Falls Canal Company return flows. And the timing to me was interesting, because it was when the methodology order was being, I guess, being drafted. So that's the source of my question.

In your experience, have you evaluated whether

Twin Falls Canal Company return flows contribute to Swan Falls gage flows -- or sorry -- Murphy gage flows?

A. Yes. And I think that's what that call was about. As we were preparing data to present to the Swan Falls Technical Working Group, that was going on at the same time. We have calculated the contribution at the Murphy gage for what they call the adjusted average daily flow at Swan Falls.

Q. Let me ask you another question related to the Twin Falls Canal Company.

MS. KLAHN: Let's mark this as Exhibit 362.

(Exhibit 362 marked.)

Q. (BY MS. KLAHN) So, Mr. Anders, you've been handed Exhibit 362, which is a contract between the Idaho State Board of Land Commissioners and Twin Falls: Land & Water Company, dated January 2nd, 1903. And I'll represent to you that this is the basis for one of Twin Falls Canal Company's water rights. I would like you to take a look in here at the section --

Well, first of all, have you ever seen this?

A. No.

Q. And so are you familiar with the fact that this describes five-eighths of an inch delivery as the basis for deliveries of water under the Twin Falls Canal Company water right?

A. No.

MR. THOMPSON: Director, I'll object to this exhibit. I guess we need inquiry that it represents the water rights of the canal company. Those rights have been decreed. And I think they are in the Department's files.

THE HEARING OFFICER: Well, these questions are foundational. I'll overrule the objection at least for the moment, Ms. Klahn.

Q. (BY MS. KLAHN) So if you haven't seen this contract before, you are not familiar with the fact that there is a term in here that requires rotation of deliveries at the Twin Falls Canal Company?

A. I'm not familiar with that.

Q. And so when you're doing your evaluations for baseline year for the Twin Falls Canal Company, you don't consider any of this kind of information; isn't that right?

A. No.

MS. KLAHN: Okay. That's all I have.

I would like to move for admission of Exhibit 362, 325, and 324.

THE HEARING OFFICER: Any objection?

MR. THOMPSON: Yeah, I'll object to this exhibit, again. Ms. Klahn, is characterizing it as

conditions of the water right, and how it should be delivered. This is not the partial decree in the SRBA. It doesn't have any sort of general provisions for administration relating to this contract.

So what she's offering it for is a mischaracterization of the water right that's been decreed, in descriptive by the state laws.

MS. KLAHN: Mr. Director, if I may be heard?

THE HEARING OFFICER: Sure.

MS. KLAHN: We can before tomorrow morning, produce the SRBA related documents relating to these kinds of elements of the water right. Originally in 2012, I think it was, the City of Pocatello filed a protest against the Twin Falls Canal Company claims in the SRBA asserting the delivery be related to five-eighths instead of three-quarters, some stuff happened. We entered into a stipulation with Twin Falls about the fact that this would not be decided in the SRBA. That these were elements of administration.

So these are elements that we're asserting should be taken into consideration, because they aren't on the face of the partial decree, and that was by agreement. And if you if you'd like to reserve, and wait for something to be provided, we're happy to do that.

MR. BUDGE: Just one comment.
THE HEARING OFFICER: Mr. Budge.
MR. BUDGE: Director, if you want to look at the SRBA filing that Ms. Klahn is referring to, it's Exhibit 179. And it's an SF5 filed with the SRBA court. So it is the type of document that the Department would typically take judicial notice of.
THE HEARING OFFICER: My reaction is this, Mr. Budge, and, Ms. Klahn. I would take notice of the decrees. I would take notice of the SF5. But do I take notice of a contract document that's been presented to me, that I know nothing about, and Mr. Anders knows nothing about, and receive this into evidence. I mean, it needs to have foundation. And Mr. Anders is not the witness by, or through whom this document should be presented.
So I'll receive into evidence exhibits marked as Exhibits 324 and 325. And I won't allow what's been marked as Exhibit 362 into evidence at this time.
MS. KLAHN: Thank you.
(Exhibits 324 and 325 received into evidence.)
THE HEARING OFFICER: It can be re-offered if there is sufficient foundation, Ms. Klahn.
MS. KLAHN: Okay. Thank you.
MR. FLETCHER: So excuse me. You admitted 324

and what was the other one?

MS. KLAHN: 325.

THE HEARING OFFICER: 325.

MR. FLETCHER: Thank you.

THE HEARING OFFICER: They were presentations by Matt Anders to the Surface Water Coalition technical working group.

Mr. Budge?

MR. BUDGE: One housekeeping item, did Exhibit 306 get admitted into evidence?

THE REPORTER: No, I don't have it.

MS. KLAHN: I misunderstood, Mr. Fletcher. I thought he said it had been used and admitted. So I'll offer Exhibit 306 as well.

THE HEARING OFFICER: So 306 is being offered as 306, not as a combined exhibit?

MS. KLAHN: Yes.

THE HEARING OFFICER: Any objection to the admission of Exhibit 306?

Hearing no objection, the document marked as Exhibit 306 is received into evidence.

(Exhibit 306 received into evidence.)

THE HEARING OFFICER: Further examination of Mr. Anders?

Mr. Anderson.

///

CROSS-EXAMINATION

QUESTIONS BY MR. ANDERSON:

Q. How are you doing, Matt?

A. Good. Thank you.

Q. You should have the methodology order exhibit. Is that still in front of you, 300?

MR. FLETCHER: 301.

Q. (BY MR. ANDERSON) 301.

A. 301.

THE HEARING OFFICER: I think it's 300; isn't it?

MR. ANDERSON: I thought it was 300.

MR. FLETCHER: You mean, the Fifth Methodology?

MR. ANDERSON: I'm sorry. Yes, the Fifth Methodology. The As-Applied is 301.

MR. FLETCHER: Yes.

THE WITNESS: Yes, I have 300.

Q. (BY MR. ANDERSON) Would you go to paragraph 9, and it kind of goes on to page 4 there. I am more curious about the last two sentences there. It says it starts with "an above average diversion year."

A. On page 4. Okay.

Q. Yeah. At the top of page 4.

A. Yes, I see it.
Q. Would you mind just reading that sentence for us?
A. Sure. "An above average diversion year or years selected as the baseline year should also represent a year or years of above average temperatures and reference ET, and below average precipitation to ensure that increased diversions were a function of crop water need and not other factors."
Q. Could you help me understand what those other factors might be?
A. I'm not sure.
Q. Okay. So then is it safe to conclude that an above average diversion year wouldn't matter whether it was above average temperatures, if they divert, they divert? If you cannot identify what other factors it might be, why does it need to be above average temperatures?
A. Well, I don't quite understand the question.
Q. Well, I'm just trying to understand the methodology order as it's stated. It gives the list of factors in choosing the baseline year. And it says "to ensure that the increase in diversions were from a crop water need and not other factors." I don't know either. I'm trying to understand what those other factors are?

But I've asked and answer -- I'm not trying to put you on the spot and make you come up with an answer. If you don't know what those other factors are, that's fine.

A. Okay.

Q. Do you believe there are other factors without naming them?

A. Not that I can think of.

Q. Okay. Let's go to paragraph No. 28.

A. On page 12, correct?

Q. Yes. Okay. There is a quote here at the end of 28. And I'll read it this time. I won't put everything on you. It says, "The concept of a baseline is that it is adjustable as weather conditions or practices change, and that those adjustments will occur in an orderly, understood protocol." Are you with me on the same --

A. I did see that sentence. Yes.

Q. So I have a question. Did weather conditions change in the last seven years to prompt a change in the baseline year?

A. I don't think significantly.

Q. Did practices change?

A. I think the crop mix, crop type, and maybe some harvesting methods may have changed in that time.

Q. Okay. And maybe you can just direct me, which

part of the methodology order looks specifically at that crop mix and --

A. The crop mix is part of the crop water need calculation.

Q. Okay. Do you calculate the change in that crop water need, and evaluate it as a requirement to update the baseline year?

A. Could you restate that question?

Q. Sure. Sure. Maybe I can rephrase it and give a little foundation for it.

The concept of baseline year as it says, it's adjusted as whether conditions change or practices change. So my question is, do you evaluate the crop water need and determine these practices changes?

A. We are evaluating the crop water need. We are also over time watching, especially over the last few years, watching the baseline year to see if it still meets the criteria.

Q. Understand. And could you explain just the orderly and understood protocol for changing a baseline year?

A. The only way a baseline year could be changed is through an order issued by the Director.

Q. The crop water need that you are talking about that you say, the practices changes would show up in the

crop water need; is that correct?

A. They can.

Q. They can?

A. Yeah.

Q. Is there any other way that they could be manifested?

A. I think changes in crop type or crop mix that are being grown can show up in diversion. It can show up in project efficiency. These are all pieces that we're calculating.

Q. But you don't look specifically for changes in practice, those will just show up as a difference in efficiency; correct?

A. Yeah, we're not specifically tracking -- I think I see now. We're not specifically tracking what are their harvesting practices or things like that. We are watching the crop. We do calculate the crop mix. But you are right, that changes in practices, we would only see like the secondary effect of that. It would show up in some kind of number that we're calculating.

Q. I want to talk to you a little bit. I'm kind of confused about the clear and convincing standard that you apply to the crop water acres --

A. Yes.

Q. -- or the irrigated acres? Sorry. Not a

crop water acres.

A. Yes.

Q. What data, I guess, that you would consider needs to meet that clear and convincing standard?

A. I think it has to -- the data have to be timely and accurate. And when I say "timely" --

THE HEARING OFFICER: Go ahead.

THE WITNESS: When I say timely, to use a term used by Ms. Klahn, is it would be really nice to have it in-season, but that's impractical.

Q. (BY MR. ANDERSON) Okay.

A. So as soon as we could get, you know, something recent. That's what I mean by timely.

Q. Not to nitpick you. That's still a different standard than clear and convincing. I'm trying to understand the clear and convincing standard that you apply to the irrigated acres. You said it wasn't clear and convincing. Maybe you could explain what part of the study that the Department did was unclear first?

A. You are talking the 2017 irrigated lands dataset?

Q. Yes, I believe that's what Ms. Klahn was talking about when you gave that answer.

A. Okay. So the part of that to me is that was created in 2017. So while it has the accuracy, I think

the timeliness of that dataset does not meet the standard of clear and convincing. You can open that dataset and see acres that are considered non-irrigated. Overlay it on a recent air photo, maybe a 2021 or something a 2022, and see that it is irrigated.

So to me, that's not convincing that those acres should be removed. They said in the 2017, that dataset indicates that they should be removed. But if we look at recent air photos. It shouldn't be. They are irrigated.

Q. And the Department has done those studies, recent studies of irrigated acres?

A. It was just a preliminary analysis to see what does it look like compared to current conditions, the 2017. So we did not do a full-blown project or analysis of it. It was more of a preliminary.

Q. And with that study, did you find acres that were considered irrigated back then, but are no longer appearing to be irrigated acres?

A. I didn't identify any, but I would say it's likely that there are exactly that.

Q. Is there any other data or evidence that you think needs to meet a clear and convincing standard that you did not consider in this methodology order, because it did not meet that standard?

A. Can you repeat that question?
Q. That was a little bad. I'll take that.
Is there any data or information that you didn't consider as part of this methodology order, because you felt it didn't reach that clear and convincing standard?
A. I think that the supplemental ground water is the same, is in the same category that to adjust the acres downward, it needs to be clear and convincing.
Q. Okay. But all the other data that you used, you felt was clear and convincing?
A. I'm not sure that that standard is applied to everything. When Judge Wildman, at least the piece that I have read, was talking about irrigated acres, not the methodology as a whole.
Q. Okay. I understand. I want to talk a little bit maybe about the recommendations.
(Exhibit 914 marked.)
Q. (BY MR. ANDERSON) This is Exhibit 914. You know, I don't know that we even need to take the time to even get it out. I'm going to reference it. 914, I'll represent was the recommendations in December that the Department made. It was a one-page document. You are familiar with that; correct?
A. For the technical working group?

Q. Yes.
A. Yes, I am familiar with that. Yes.
Q. Yes. And that didn't recommend a move to transient; correct?
A. No, it did not.
Q. And if you need to look at it for reference, you can. But that's all I'm going to touch on it.
A. No, it did not.
Q. When did it first become evident to you, that the new methodology order, the Fifth Methodology Order was going to move to transient?
A. The official time is when the Director signed it.
Q. All right. Now, I understand that there may have been discussions. But when do you, for example, I assume you saw drafts of the order prior to it being signed and released?
A. Yes, correct.
Q. When did you first see a draft of the order that switched to transient?
A. The first draft of the order that I saw was sometime in late January. I can't remember if that draft had proposed language to move to transient. But at that time that the draft was given to technical staff, to Jennifer and Kara and I, so soon after. If it

didn't have it at that point, late January, it would have had it soon after. We were editing it actively at that point.

Q. And did you from your edits from that draft, did you add in the language regarding the move to transient?

A. No, that would have been Jennifer Sukow.

Q. Okay. But in a draft that you returned to the Director, did that have the language showing a move to transient?

A. Yes, there would have been -- I don't know the timing of it exactly, but it -- when we would have given him drafts that had that recommendation in it, or proposed language in it for that.

Q. Were you aware of any settlement negotiations going on between the Surface Water Coalition and ground water users at the time the Fifth Methodology Order was being prepared?

A. I don't remember if there were negotiations going on. I remember that there was some through the summer. And I thought they ended in the fall, but that's what I remember.

MR. FLETCHER: I'm going to object. I don't know the relevancy of that question to this proceeding.

THE HEARING OFFICER: Sustained.

Q. (BY MR. ANDERSON) I'm going to wrap it up here pretty soon. Can we go back to the methodology order, No. 300?

A. Okay. I have it.

Q. We're going to go to paragraph 30.

A. On page 13?

Q. Yes. I kind of want you just to walk me through a process, if you can. On paragraph 30, it references a Q sub D. How do you refer to that internally. Do you just say, "QD"?

A. We just call it diversions. But what it is discharge from diversions. The "Q" is discharge. And the "D" indicates it's from diversions.

Q. Okay. When you look at it, though, I appreciate your reference to calling it diversions. But it's actually a specific type of diversions; correct? You could look right above paragraph 30 if you --

A. It says above it, "QD" is defined as "irrigation entity diversion of water specifically put to beneficial use for the growing crops within the irrigation entity."

Q. So there is a slight difference in QD than just diversions; correct, or does the Department see no difference?

A. I think there is a difference. Here we are

referring to their entire diversions, the seepage loss, everything. What they diverted at their headgates.

Q. Okay. And that's how the Department sees QD is just diversions?

A. In the methodology?

Q. Yes.

A. Elsewhere? I don't know.

MR. ANDERSON: I don't think I have any further questions.

THE WITNESS: Okay.

THE HEARING OFFICER: Thank you, Mr. Anderson.

MR. ANDERSON: Thank you.

THE HEARING OFFICER: Further questions of Mr. Anders?

Mr. Harris.

CROSS-EXAMINATION

QUESTIONS BY MR. HARRIS:

Q. Mr. Anders, my name is Rob Harris. I represent the City of Idaho Falls. I don't think we've met before. But in the list that was read by Mr. Wood earlier. I understand that you are the person that the Department is designated to testify about the forecast supply; is that right?

A. You are correct.

Q. Okay. And you have in front of you Exhibit

300, which is the Fifth Methodology Order?
A. I do.
Q. Could you turn to page 18 for me?
A. What page?
Q. Page 18, paragraph 49?
A. Did you say, paragraph 49?
Q. Yes.
A. Okay. I'm there.
Q. Okay. As I understand the order when the Department or the Director looks at the forecast supply, he is looking at a prediction of the unregulated inflow volume at the Heise gage as of April 1st; is that right?
A. Yes.
Q. Okay. And that forecast is prepared by who?
A. We get that forecast from the Bureau of Reclamation, who does a joint -- what they call the joint forecast, with the Army Corps of Engineers.
Q. Okay. And Heise gage is generally located where on the Snake River; do you know?
A. It's located by Palisades. I don't know the exact mile, how many miles, but between Palisades and Idaho Falls generally speaking.
Q. So it's predicting the inflow in the watershed above that gage; correct?
A. The unregulated flow means if there were no

reservoir operations going on, how much would be there, so, yes.

Q. Are you familiar with some of the other watersheds of the tributary streams or basins in eastern Idaho?

A. A little familiar.

Q. Are you familiar with the Willow Creek drainage?

A. Somewhat.

Q. Okay. It's the drainage where Ririe Reservoir is located. How about the Blackfoot River drainage.

A. Not as familiar with that one.

Q. Okay.

A. But I know roughly where it is.

Q. The Blackfoot River comes below where the Heise gage would be; would you agree with that?

A. I believe it comes in from the east.

Q. The same with Willow Creek?

A. Yes, I believe my geography is right. They both come in from the east below Heise.

Q. Also the Portneuf River drainage; correct?

A. More familiar there. It comes in from the southeast, but also -- yes.

Q. And those are all tributary streams to the Snake River; correct?

A. I believe so, yes.
Q. And what is the source of the water right for the Twin Falls Canal Company; do you know?
A. The Snake River.
Q. The Snake River. And so these tributary basins come in above Twin Falls Canal Company's points of diversion; do you agree?
A. Yes.
Q. Okay. Are you familiar with the snow water equivalency maps that the Department posts routinely during the non-irrigation season?
A. Yes, I am.
Q. Okay. How are you familiar with those?
A. They are prepared by the NRCS. We take their data, and we create maps. And then we post it on our web page.
Q. And were you aware on the snow equivalency map for April 3rd, that the percentage snow pack in the Portneuf basin was 216 percent?
A. I knew it was very high. I didn't know the exact number.
Q. Did you know in the Blackfoot River drainage, it was at 186 percent?
A. Again, I knew it was high, not the exact number.

Q. The same for Willow Creek at 178 percent?
A. Again, I knew it was high, but not the exact number.
Q. Was there ever any discussion within the Department to look at these other basins, in addition to the unregulated flow at Heise, forecast as part of the water supply to the Surface Water Coalition?
A. We didn't have any discussions about adding them to our regressions or adding them some way to the joint forecast, no.
Q. But you would agree, it would provide water to the water supply of the Twin Falls Canal Company; correct?
A. Among others. They can supply water to the reservoirs. They can supply water to anybody below there that's in priority. But Twin Falls is among those water users.
Q. And the Portneuf River, for example, flows directly into American Falls Reservoir; correct?
A. Yeah, uh-huh.
Q. But that wasn't considered in the revised methodology order at all looking at anomalous snow pack situations and tributary basins?
A. No, we didn't do any review like that.
Q. In paragraph 49, there is also some discussion

about shifting one, was it one standard deviation in the forecast supply? Did I understand that correctly?

A. We calculate the supply. And then shift it down by one standard deviation, yes.

Q. Is that something that you recommended to be done?

A. That method was developed around 2014 or '15. My best guess is that was recommended by Liz Cresto.

Q. I'm sorry. Who is that?

A. Liz Cresto was formerly a hydrologist with IDWR, and she worked on the methodology. And her portion, or the portion she worked on was the forecast supply.

MR. HARRIS: I have no further questions. Thank you.

THE WITNESS: Thank you.

THE HEARING OFFICER: Thank you, Mr. Harris.

Further questions of Mr. Anders?

Mr. Budge.

CROSS-EXAMINATION

QUESTIONS BY MR. BUDGE:

Q. Thank you. Mr. Anders, I'm TJ Budge. I represent IGWA. Do you mind if I call you Matt today?

A. Sure, that would be great.

Q. All right. Matt, I want to follow up with

just some questions that Mr. Harris asked that piqued my curiosity. And maybe I didn't follow that. But I think I understood that the forecast supply, the joint forecast that goes into the forecast supply does not take into account inflows from the Portneuf or Blackfoot River basin?

A. That forecast is prepared by the Bureau of Reclamation and the Army Corps of Engineers. I'm not familiar with everything that they consider, or how they calculate it. But my understanding it's the flow, unregulated flow at Heise.

Q. Okay. So I want to ask a few follow-up questions. If that forecast doesn't take into account the Portneuf, or, you know, the Blackfoot River basins, is there anything else in the methodology that would account for the inflow from the Portneuf on a year like this?

A. I'm unsure what you mean by "account for."

Q. Are you aware that the Portneuf River basin had record snow pack this winter?

A. I knew it was high, yes.

Q. Yeah. And I'm from Pocatello, so this is, you know, close to home. But are you aware of the flooding that's been going on there for the last month or so?

A. I was not.

Q. Well, I'll just represent that the Portneuf had the highest snow water equivalent in Idaho this year. And it was record for the Portneuf basin. And there has been flooding for the last month in the lower Portneuf basin.

And so my question is, do you know if there is anything in the methodology order that would take into account that excess inflow on a year like this, that's coming in from the Portneuf?

A. We don't do an adjustment, or something on the forecast -- or on the joint forecast.

Q. Okay. And it's a genuine question, because I don't know that either. But I appreciate your answer. If there is no adjustment, then, you know, the record inflow or excess inflow would that become a windfall to the Surface Water Coalition or be accounted for in some other way?

MR. THOMPSON: I'll object to the form of the question.

THE HEARING OFFICER: Overruled.

THE WITNESS: I don't know about a windfall for Twin Falls Canal Company. It would be captured and delivered like any other tributary, or captured in the reservoirs. It would become part of the water supply. Who's going to benefit from that? It depends on which

reservoir is filling, what space is filling, who's in priority.

Q. (BY MR. BUDGE) Fair enough. Let me move back to the questions I had planned on asking you. But I appreciate that explanation. That's helpful. I will try not to duplicate questions that others have asked.

I understand that you have worked on prior versions of the methodology order?

A. I worked on the Third and the Fourth, yes.

Q. Okay. And then in respect to reviewing the Fourth and preparing the Fifth, you are the lead Department staff member overseeing the technical aspect of that review?

A. Yes.

Q. My understanding is that you took directions from the Director in terms of which analyses to perform. And then you would make those assignments to Jennifer Sukow and other staff members to perform those analyses?

A. Definitely took direction from the Director about what he wanted us to look at. When we started the review, I was not either directly or indirectly supervising Jennifer. I was supervising Kara.

Q. Okay. And your review began in the summer of 2021?

A. We started reviewing in 2020.

Q. 2020.
A. Fall of 2020, that check-in review on it, on the methodology.
Q. And that continued through 2021 and then into '22, until the Director's assignment in August of '22 that he was going to proceed with amending the methodology order?
A. Not continuous. We worked for a few months reviewing it, and presenting our results to the Director between maybe October and February -- October 2020 and February 2021. And then we, Kara and I may have been working a little bit on our own, individually.
But there was no formal kind of check-in review going on, until fall of 2022, or I should say, late summer, when we started talking about it again. We had been talking about it on and off in there, but that's when in August, that's when the Director issued we needed to convene the technical working group.
Q. What components of the methodology did you work on in the fall of 2020, and then into the winter of 2021?
A. Originally we were looking at baseline year, we were looking at forecast supply, and we were looking at near real-time metric.
Q. And I understand that a main impetus for

reviewing the Fourth Methodology Order was just the passage of time, and additional data that had been developed since 2016?

A. That was part of it. We were also -- one of the variables that we used for forecast supply is Box Canyon at after -- we issued the Third Methodology Order in 2015. And then the USGS did a shift on that gage that spring. And we were unsure about what that did to our regression that we were using for forecast. So we have been -- we had been watching that on and off for years.

In 2020, we became concerned again about is Box Canyon performing the way we want it to? And then the passage of time on the baseline year, was that still meeting all the criteria?

Q. And Box Canyon is part of the regression equation used to predict forecast supplying?

A. It is. Not for all the companies, but specifically it is for Twin Falls Canal Company, which is the one that has the first shortfall. So we watch that closely.

Q. Okay. And the deterioration in that regression equation in the R-squared value was one of the impetuses for reviewing the Fourth Methodology Order then?

A. Yes, that's an indicator of, is the regression performing the way we want it to be?

Q. Okay. So there wasn't some type of emergency circumstance that forced the Department to review the Fourth Methodology Order?

A. Not that I remember.

Q. Okay. You participated in the August 5th, 2022 status conference, where the Director announced publicly that the Department was going to review the Fourth Methodology Order?

A. Yes, I was present.

Q. And do you recall from that, that I raised a concern about how this proceeding would comply with due process?

A. I remember you talking. I don't remember what you said.

Q. It must not have been that memorable.

A. Sorry.

Q. Are you aware that there was subsequent correspondence between myself and Garrick Baxter about holding a hearing, and complying with due process in the Administrative Procedures Act?

A. No, I'm not aware.

Q. Was there any discussion among technical staff as to whether the Department would hold a hearing before

or after issuing the Fifth Methodology Order?

A. Say that again. Please repeat that question?

Q. Yeah. Was there any discussion among the Department staff, about whether the Department would hold a hearing before or after issuing the Fifth Methodology Order?

A. I hate to do this again. When you say "hearing," were you talking about on the Fifth Methodology Order, or were you still talking about the August 5th? I'm confused which one you are talking about. A hearing for each one?

Q. I apologize for not asking clear questions. So the hearing we're holding today on the Fifth Methodology Order. Was there ever any discussion as to whether an evidentiary hearing would be held before, versus after the Fifth Methodology Order was issued?

A. Not with me.

Q. Okay. Let me ask you to turn to Exhibit 914. In fact, you don't need to turn to it. This is the preliminary recommendation document that you and Kara Ferguson authored?

A. Yes.

Q. You are very familiar with that.

A. Yes.

Q. That document is titled a recommendation

concerning the Fifth Methodology Order. Ultimately, was that a recommendation to the Director?

A. Yeah, I believe that is. It's from Kara and I to the Director.

Q. Okay. And did the Director contribute to reviewing and editing that recommendation before it was published?

A. Yes.

Q. That's dated, I think, was it December 23rd? What's the date on that?

A. That sounds familiar. It was right before Christmas. Yeah.

Q. And that followed the technical working group presentations that were made in November and December; correct?

A. Yeah. I think the last technical working group meeting was about a week before that.

Q. Okay. So as of the time of that recommendation, all of the technical presentations to outside consultants had been completed?

A. Yes.

Q. And we heard Jennifer this morning testify that she didn't really do any modeling related to the Fifth Methodology Order, you know, after our technical presentation was made; is that correct?

A. I don't know.
Q. Okay. Had the technical review of the Fourth Methodology Order essentially been complete by the time you issued the December 23rd recommendation document?
A. I would call the preliminary was complete. That's what I would call that. There was additional review. And as we were drafting the order, talking about different aspects of it, and things changed. So I would say that's more of kind of like the preliminary portion was done.
Q. Was the subsequent review a discussion of the technical work that was presented in November or December, or did the Department continue to perform additional analyses that, you know, had not been presented in November, December?
A. I don't think there were -- there were additional analyses that we worked on after the technical working group.
Q. What did those consist of?
A. The ones that I remember the most, were centered around reasonable carryover. When we presented that to the technical working group, we actually realized about halfway through the technical working group, that we hadn't planned on modifying reasonable carryover. But then we realized, or I realized that the

baseline year is part of that calculation. So that we were going to have to take a look at reasonable carryover.

And we -- that was during the technical working group. So the way that I presented it there was, if we just inserted the 2018 baseline year in the reasonable carryover calculation. Here's what you -- here's the results. And here would be the impact on how often we would have a reasonable carryover shortfall.

After we got the comments, and after we were into the drafting, we started doing additional analyses looking at the reasonable carryover.

Q. Okay. Was there an updated PowerPoint presentation or some other type of report that reflected the additional carryover review that you conducted?

A. No, we did not send anything out.

Q. Okay. Was there something generated internally within the Department, or was it more just verbal discussions?

A. There were several meetings. There were proposed drafts, or proposed language in the order, conversations about it. And then ultimately, what our final decision is in the order.

Q. Understood. Any other components of the

methodology that you continued to conduct additional analyses on after December 23rd?

A. I can't remember the date on the email. Kara sent -- Kara Ferguson sent out some additional analysis about kind of follow up for additional variables on the forecast supply. I want to say that came out late December, after that summary.

Q. Okay.

A. But that was to the technical working group, mailed out to everybody.

Q. So that email went to the folks that were invited to those November, December technical working group --

A. Correct. Everybody that was on our list that we sent everything to, that would have gone out to all of those.

Q. Okay.

A. I can't remember the date on it, but I think it was after the 23rd, when that went out.

Q. Okay. So other than the email that you just mentioned that Kara sent out, and the additional carryover analysis. All the other technical work had essentially been completed by the end of 2022?

A. I think on irrigated acres, based on input from the technical working group, I calculated -- I

think I did some additional work on the irrigated acres to calculate what they would be, with the new shapefiles, and like the 2023 shapefiles. So I had to do some additional work there. I also worked on Milner, which is why we released that one.

Q. Got you. When you say the 2023 acres, is that based on the acreage that the Coalition reported in 2023 under Step 1 of the methodology?

A. Yeah.

Q. Okay.

A. We received a new shapefile. And I -- for Minidoka. And I recalculated the acres for Milner.

Q. Okay. And Twin Falls Canal reported the same acreage in '23 as they have since 2013; correct?

A. They sent us a letter. I don't remember if the acreage is in that letter, or if they just say it hasn't changed five percent from our previous year. I'm not sure of that.

Q. Okay. You didn't go run the methodology based on the other acreage figures for Twin Falls that were discussed earlier today? And what I mean by that, I'll clarify. Is in the technical working group presentation where it shows the irrigated lands, dataset acres, and the metric acres that were around 179,000 or 180,000. You didn't run the methodology based on those acreage

figures?
A. No, I used the 194 number for the methodology.
Q. Okay. Thank you.
(Exhibits 915 and 916 marked.)
Q. (BY MR. BUDGE) Let me have you open the common exhibits binder, and turn to Exhibits 915 and 916.
A. So, yep, I'm on 915.
Q. And is 915, the comments that Sophia Sigstedt with Lynker Technology submitted to the technical working group, I think that was January 16th?
A. Yeah, they are from Heidi Netter and Greg Sullivan, 915.
Q. I've got those backwards. So 915 are the comments from Spronk Water Engineers?
A. That's what I have.
Q. Okay.
A. Yep.
Q. And then 916 are the comments from Sophie Sigstedt with Lynker Technology?
A. Yep, that's true.
Q. Are you familiar with those documents?
A. Yes, I am.
Q. Just describe briefly what those are?
A. So these are the comments provided. 915 is

the comments by Spronk Water Engineers related to the information that we presented in the technical working group and the summary. And the same is true for 916, but this one is from Sophia Sigstedt of Lynker Technology.

Q. Thank you. And these comments were solicited by Department staff as part of the technical working group process?

A. Yeah, they were.

Q. And they were kept by the Department, among its records, considered in connection with developing the Fifth Methodology Order?

A. Yes, we reviewed them in our process.

MR. BUDGE: I would move to admit Exhibits 915 and 916.

THE HEARING OFFICER: Any objection to the admission of these documents?

With no objection -- well, it seems odd to me that they are coming in through Mr. Anders, and not the experts, themselves, who will testify. But they are the documents marked as Exhibits 915 and 916 are received into evidence.

(Exhibits 915 and 916 received into evidence.)

Q. (BY MR. BUDGE) Matt, did you review those documents when they came in?

A. Yes.
Q. And did you communicate those to the Director, and bring to his attention the issues raised in those documents?
A. Yeah, we did.
Q. Let me shift gears back to a discussion we had a moment ago about forecast supply. And we talked about the degradation of the regression equation used for Twin Falls Canal Company.
My understanding is that the forecast supply for Twin Falls Canal was based on a regression analysis comparing natural flow of the Snake River near Heise to the natural flow diverted by each Surface Water Coalition entity; is that accurate?
A. I think there is an additional variable there, predictor. I think it's Box Canyon. I would have to look at the -- for Twin Falls Canal Company, I would have to look at the order to make sure.
Q. Okay. Can you just summarize their regression equation as you understand it, utilized to predict Twin Falls Canal Company's forecast supply?
A. I think it's the unregulated flow at Heise. And I think November through March flow at Box Canyon is the other variable.
Q. Okay. And you mentioned that one of the

reasons that the Department undertook a review of the Fourth Methodology Order is due to concerns with the reliability of that predictive tool?

A. Yes. Is that tool, or is that regression accurate still.

(Exhibit 103 marked.)

Q. (BY MR. BUDGE) Okay. If you'll turn to Exhibit 103. That's in one of the binders of IGWA's exhibits.

A. 103 for me is the 2015 technical memo from Liz Cresto and I, to the Director.

Q. That's correct. Thank you. I'm sure you recognize this document, since you are one of the authors?

A. Yep, I recognize it.

Q. Just explain briefly what this document is?

A. So in two-thousand- -- I think all the meetings were in 2015. We held a series of technical working group meetings with the consultants and representatives of the parties. And we talked about several topics. And based on those, or kind of that -- those meetings, Liz and I wrote this technical memo to the Director.

In addition to this technical memo, I think attached to it, were comments if the consultants of the

different parties wanted to submit comments, that we attached them to this. And I believe they all did. I can't remember.

Q. I believe they may be attached.

A. Yes.

Q. Okay.

A. I see them attached here.

Q. If I look at the introductory paragraph at the bottom of that, it identifies three specific issues that the Director had tasked Department staff with evaluating. And Issue No. 1 is "Revising the natural flow forecast methods for Twin Falls Canal Company."

Can you explain what was going on at that time, and why Department staff had been tasked with analyzing this?

A. I don't remember exactly why we were tasked with that. But in the fall of 2014, we received a court ruling that listed several things that we had to adjust or look at in the methodology. This may have been one of them.

Q. Okay.

A. I don't remember.

Q. So does the simple fact that that action item was being assigned for review and improvement, indicate that there were some concerns with the reliability of

the natural forecast methods that had been used at that time?

A. I'm not sure. But I would expect that there was some concern with the way we were doing it.

Q. But you don't remember whether there was concerns with that at that time or not?

A. I don't at that time.

Q. Okay. Has the Department had concerns with Twin Falls' forecast regression for some time now?

A. We've been concerned about it, I'll speak, since 2015, since we issued the Third Methodology Order. We've been concerned and monitoring that forecast. We're seeing a degradation or a downward decline in the R-squared for that one.

(Exhibit 901 marked.)

Q. (BY MR. BUDGE) Let me have you turn next to Exhibit 901.

A. Okay. I have that, 901.

Q. So I'll read the title "Evaluation of Method for Determining Material Injury to Reasonable In-Season Demand and Reasonable Carryover: April and July Forecast Supply," presented by Kara Ferguson, dated November 17th, 2022. Is that the one you are looking at?

A. I am.

Q. Do you recognize that document?
A. Yep, I do.
Q. Is that a copy of the presentation that Ms. Ferguson gave to the technical working group this last November of 2022?
A. I didn't memorize the presentation, but it does look like the slides that she gave.
Q. Okay. If you'll turn to page 9 of that exhibit?
A. Yep, the page number at the top, Exhibit 901, page 9.
Q. I'm going to bookmark that just for a moment.
MR. BUDGE: Director, I'm going to take a step back and move to admit Exhibit 103, which is the 2015 staff memo we discussed a moment ago.
THE HEARING OFFICER: Any objection?
Hearing no objection, the document marked as Exhibit 901; is that correct, Mr. Budge?
MR. BUDGE: 103.
THE HEARING OFFICER: I'm sorry. 103. Wait a minute.
MR. BUDGE: We're on 901 currently. But I'm stepping to the prior exhibit. I failed to move for its admission while we were discussing it.
THE HEARING OFFICER: Okay. Let me work

through that again. So you've moved for admission of document marked as Exhibit 103. Any objection?

Hearing no objection, the document marked as Exhibit 103 is received into evidence.

(Exhibit 103 received into evidence.)

MR. BUDGE: Okay. Thank you.

Q. (BY MR. BUDGE) And, Matt, thanks for the detour there.

Let's go back to Exhibit 901. If you could flip to page 9 of that exhibit?

A. Yep, I'm there.

Q. Are you familiar with this page of the exhibit?

A. Yes, I am.

Q. And can you explain what that table on page 9 shows?

A. So the top half of that slide talks about how we -- what the multi-linear regression that we're using for AFRD2, BID, Minidoka, North Side, Twin Falls Canal Company, and then it provides the equation.

And then the table at the bottom is by each one of those members, it's showing what the adjusted R-square value was in 2014 when we established it, or 2015. I think the order was signed in 2015. And then it shows the progression of the R-squared for each one

of those, in 2016, 2018, 2020, and 2022.

Q. And can you explain the significance of an R-squared value, what that term refers to?

A. It is a statistic that's calculated with regressions that help users understand how much of the variability that regression equation is accounting for. Generally speaking, the ranges between one and negative one. As you get closer to one or negative one, that's a better value. So in this case the higher values, the higher decimal values that you see here are a better result.

Q. And when you say "better," it means that the regression equation is more accurately predicting supply, the higher the number?

A. Yeah, generally speaking, yes.

Q. And we can see that for the first for SWC members, AFRD2, BID, Minidoka and North Side Canal Company, the R-squared value has remained relatively constant. But for Twin Falls it has declined over time. Do you see that?

A. I do see that.

Q. You testified earlier that the Department has had some concerns about the regression equation for Twin Falls Canal. Is this representative of the Department's concern?

A. Yes, this is it. The reduction in that number from 2014 to 2022 is our concern.

Q. And you testified that the Department started in 2020 to begin looking at certain components of the methodology. Is this one of the components that you started reviewing early on?

A. Yes, this is one of the first ones we were looking at, forecast supply. Specifically Box Canyon was, but we looked at other things. But we were for sure looking at Box Canyon.

Q. Okay. Explain why you were looking at Box Canyon?

A. We, as I said earlier, we developed the regressions -- Liz Cresto developed these regressions in 2014 and 2015. And then we issued the order in April. And then there was a shift on that gage at Box Canyon. And we were unsure what that meant. We had developed the regressions before that. We were unsure what that meant to our regressions now. Are we going to accurately predict. So that was the first. It's been in our minds since then about, did something change? Can we rely on the regressions that we built? So we had that concern since right away, since day one almost after we issued the order.

Q. So Box Canyon may be one of the contributing

factors that's causing the degradation in the R-squared?

A. It could be, yes.

Q. Do you have any other ideas what might be contributing to that?

A. The only other variable is Heise, and it's working for the other companies. Maybe for some reason, it's not working for Twin Falls. But it seems like it's Box Canyon.

Q. Okay. Is it possible that the model, itself, for Twin Falls Canal just needs to be changed?

A. It's possible. And we would consider if we could find another predictor variable that works better that we would change it.

Q. Okay. Has the Department evaluated alternative models for Twin Falls?

A. At this point, our recommendation was that we would keep watching it, and see if it continues to degrade. So we've done -- I think Kara did three, maybe three variables looking at possible alternatives. But nothing extensive at this point.

Q. Okay. Let me have you turn to Exhibit 916, which you might still have in front of you. We reviewed that one earlier today.

A. The Lynker comments?

Q. Yes.

A. From Sophia?
Q. Yes.
A. Okay.
Q. If you turn to page 4 of that exhibit, I think it's --
MR. FLETCHER: Did you say 915.
MR. BUDGE: 916.
MR. FLETCHER: Thank you.
Q. (BY MR. BUDGE) It's that top paragraph, No. 2.
A. Yep, I see it.
Q. Okay. That's not the paragraph, actually. Under the heading "Section 2: Forecasting Natural Flow Supply." You've read this document, Matt?
A. Yes.
Q. You may remember that in the second paragraph underneath that heading, "Section 2," and you can review it, it's in front of you. That Lynker Technology or Sophia Sigstedt had proposed an alternative recommendation in 2015, a different approach to modeling forecast supply for Twin Falls Canal.
Are you familiar with this part of Sophie's report?
A. Yes, I am familiar that that's what she's stated, yes.

Q. Did you recall that Sophia had made an alternative proposal in 2015?
A. I did not remember that proposal.
Q. Okay. Do you know if the Department has done any work to evaluate the proposal that Sophia suggested in 2015?
A. Not to this point that I know of.
Q. Okay. Do you recall advising the Director that Sophia had proposed an alternative mechanism to forecast supply for Twin Falls?
A. I don't think I passed that recommendation along to the Director.
Q. Matt, let me have you turn to Exhibit 300, which is the Fourth Methodology Order?
A. Okay. I'm there.
Q. And then turn to page 9.
A. Okay. I'm on page 9.
Q. If you look down to paragraph 19, it's under a heading "Irrigation Practices." And the sentence in that paragraph states that, "Current condition should be represented by: (a) the net area of the irrigated crops." And then I'm not going to read B and C.
A. Okay.
Q. But in terms of net area of irrigated crops, do you understand that to mean that current conditions

should represent actual irrigated acreage?
A. I think that's what "net" means there, the irrigated acres.
Q. Okay. And you've been asked a number of questions earlier about different irrigated land datasets. The 2011 irrigated lands dataset, the 2017, near real-time metric dataset, and then there was an analysis done by SPF water engineers in 2009. You are familiar with those different acreage representations?
A. Yep.
Q. And for Twin Falls Canal Company each of those analyses showed actual irrigated acres around 180,000 acres total?
A. More or less, somewhere --
Q. More or less?
A. -- between 180, 179, 183, somewhere in that range.
Q. Right in there?
A. Yes.
Q. After the 2017 irrigated lands dataset came out -- well, let me back up. Can you explain how irrigated acreage is utilized in the model to predict reasonable in-season demand?
A. Yes. So --
Q. Let me clarify. I said used in the model. I

meant used in the methodology.

A. Okay. That's what I was going to answer anyway. So when we calculate crop water need, the equation is we take the ET, and we subtract off the effective precipitation. And then we take the ET by crop type, and multiply it by the acres of each crop type that we have calculated with the crop mix.

Q. Okay.

A. And then -- go ahead.

And then with the crop water need, we divide that by project efficiency, and that becomes the reasonable in-season demand on a monthly basis.

Q. So if irrigated acreage goes up, the demand prediction goes up. And if irrigated acres goes down, the demand prediction goes down?

A. If crop water need -- I guess if the ET and everything else is held constant, that is true.

Q. Okay. After the 2017 irrigated lands dataset came out, and that one showed for Twin Falls Canal 180,956 acres. Did the Department approach Twin Falls Canal Company and ask them to justify the higher number that they had been reporting, the 194,000 acre number?

A. Not that I know of.

Q. After the 2021 near real-time metric dataset came out that also showed around 179,000 acres

irrigated, do you know if the Department approached Twin Falls at that point and asked them to justify their higher figure?

A. Not that I know of.

Q. The 194,000 acre-foot figure acre figure the Twin Falls Canal Company reports, that's based on 2013 shapefile, I believe; is that right?

A. Yes, they submitted us a shapefile. We do some GIS analysis on it to remove overlaps or anything outside the service area.

Q. Okay. On that shapefile you said you remove overlaps. Can you explain what that consists of?

A. If there is two polygons in a shapefile that overlap, those acres will be double counted.

Q. Okay. Did the Department take that 2013 shapefile, and also remove hardened acres from that shapefile?

A. No.

Q. Okay. The 2017 irrigated lands dataset, I understood from Jennifer Sukow's testimony, that it does go kind of field by field and removes hardened acres; is that correct?

A. That dataset has three classifications in it. In the irrigated, it takes out any hardened acres. That's usually just fields. But the semi-irrigated will

have, as Jennifer explained, will have farmsteads, or maybe a subdivision, where there are a mixture of hardened acres and irrigated acres in there.

Q. As of 2017, is it your view that that 2017 irrigated lands dataset would have been more accurate than the 2013 shapefile?

A. Can you restate the question?

Q. Yes. Once the 2017 irrigated lands dataset was completed, at that time do you agree that it would have provided a more accurate representation of irrigated acres than the 2013 shapefile?

A. I think so, yes.

Q. And I understand that a metric dataset was completed in 2017; is that correct?

A. I'm not sure what you mean by a metric dataset?

Q. Excuse me. 2021.

A. When I saw that on -- I don't know where I saw that -- on a table that came in or something. I think what that is, is when we were doing the real-time metric, we were removing the irrigated acres -- or the non-irrigated acres, using the 2011 irrigated lands dataset for consistency.

I think that's where that number comes from. It wasn't generated by near real-time metric. It was us

in our processing removing the acres. And what was left may have been reported by as 2021 acres in the technical working group. But it was actually, I'm pretty sure, it was done with the 2011 irrigated lands dataset.

Q. Okay. Let me have you turn to Exhibit 325.

THE HEARING OFFICER: Mr. Budge, how much longer do you have with Mr. Anders? I think I need to call for a break here. We've been at this probably --

MR. BUDGE: I've got probably a half an hour. And I don't mind taking a break.

THE HEARING OFFICER: All right. Let's take a break for 15 minutes. And come back at 3:40.

(Recess.)

THE HEARING OFFICER: Let's start.

MR. BUDGE: Back on the record.

Q. (BY MR. BUDGE) Okay. Matt, let's shift gears. And let me have you turn to Exhibit 300, which is the Fifth Methodology Order. And when you get there, you can turn to page 10.

A. Okay. I'm on page 10.

Q. If you look at paragraph 23, that's a finding of fact in the methodology order that deals with supplemental ground water use. Are you familiar with that paragraph?

A. Yes, I am.

Q. The second sentence, and I'll read that. It says, "Supplemental ground water is a factor the Director can consider in the context of a delivery call." It then cites a district court decision. And then it says, "At this time, the information submitted or available to the Department is insufficient to determine the extent of supplemental irrigation on lands within the service areas of SWC entities."

During the Department's technical review of the Fourth Methodology Order, was any effort made to evaluate supplemental ground water use?

A. No.

Q. The Department does have a database of all surface water and ground water rights; correct?

A. Yes, we do.

Q. And the Department has a WMIS database that keeps track of all ground water diversions and surface water diversions?

A. I don't think that database has all ground water diversions. I believe it just has the ground water diversions that have some kind of measurement order on them that require them to be measured.

Q. Okay. I appreciate the clarification. So there are some, you know, small domestic rights and other comparatively small water rights that aren't being

measured and reported in WMIS?

A. Yes.

Q. But in terms of irrigation rights, any irrigation right larger than five acres essentially is being reported in WMIS; correct?

A. I don't believe all irrigation rights in Idaho, ground water irrigation rights greater than five acres are in that database. I think they have to have a measurement order or something to get them in that database.

Q. The water rights on the -- the ground water rights from the ESPA within the area of common ground water supply, do you understand that they do have a measurement order?

A. Yes.

Q. Okay. So the ground water rights that are affected by this delivery call, their diversions would be in the WMIS database?

A. I believe they are.

Q. Okay. Could the Department utilize place of use shapefiles, water right conditions, and diversion data to analyze supplemental ground water use within the Surface Water Coalition entities?

A. I think that you could start the analysis with those pieces of data, the water rights, and the WMIS I

pumping data. I don't think you can get all the way to clear and convincing with those two pieces of data.

Q. What else would you need?

A. Those -- I think you need to talk to the individual water users or some fraction of them to try to get an idea of how they are using the water. Some of those systems are complicated. They have well water in with surface water shares. You have to understand the system about where the water is being applied, and when it's being applied. And I don't think you can get that without talking to the users, at least on some level.

Q. Yeah. So the Department does have the metric database that's calculating ET?

A. Yes.

Q. And we do have surface and ground water delivery records. So between irrigated acreage, ET, surface water and ground water deliveries, is it not possible to calculate, at least to the extent we're able, the supplemental ground water use?

A. We don't know where the shares are going inside the service areas, you know, for the companies, where they are applying the water. I think, yeah, I don't think you can get the clear and convincing without talking to the users just on a remote sensing type of analysis.

Q. Well, I'm not asking about legal standards --
A. Okay.
Q. -- clear and convincing evidence. So disregard what the legal standard is?
A. Okay.
Q. I'm just saying, technically does the Department have a way to do that? Because we heard Jennifer Sukow say that, yes, they do that in the model?
A. In the model, they have a dataset that they are using.
Q. Okay. Could we use that same dataset in the methodology order?
A. Theoretically, we could.
Q. Okay. If that's all we've got, that's the best we've got, could we use that?
A. When I say "theoretically" we could use that dataset. I don't think that dataset achieves or meets the clear and convincing, again.
Q. Okay. But --
A. You've told me not to do that.
Q. -- setting that aside. I'm just asking technically, is that the best data you've got today?
A. That dataset is -- my understanding of that dataset was, it was originally created before the SRBA, based on water rights. And at that time, IDWR was

tracking surface and ground water on the water rights. That's a very old dataset. We haven't updated it since. So theoretically we could use that dataset. It may be the best dataset we have. It's not the best dataset.

Q. Yeah. I'm going to think of it kind of like the R-squared for Twin Falls. It's not that great. But it might be the best thing we've got. Is that a fair analogy?

A. Those are such vastly different datasets. When you say that for Twin Falls Canal Company for that regression, we have been working on that. We have been updating that. You are talking about a very old dataset here in my mind. Perhaps those might be the best dataset we have.

Q. Okay. Because the methodology does not account for supplemental -- actually, let me strike that question. I'm going to take a step back.

You are aware that many of lands within the surface water entities do have supplemental ground water rights?

A. I do know they do have supplemental ground water rights. How many? I don't know.

Q. But we know there is ground water being used to irrigate some the lands within the surface water entities; right?

A. I think there are likely lands that are ground water only within the Surface Water Coalition service areas. And what we would call a supplemental, where there is surface water and ground water used on the same land. Yeah, I think they are in there.

Q. And so when the methodology order does not take into account supplemental ground water use, the effect of that is an assumption that all of the land within each Surface Water Coalition entity, is irrigated solely with surface water; correct?

A. Yeah, that is the way that we're doing that.

Q. And if in reality there is ground water being used to irrigate some of those lands, then by not taking into account supplemental ground water use, the methodology effectively overstates surface water demand within the Surface Water Coalition entities?

A. I think so. It would over calculate, yes.

(Exhibit 928 marked.)

Q. (BY MR. BUDGE) Okay. Let me turn your attention next to Exhibit 928. Matt, I'm actually going to change numbers on you. Let's go to 907.

A. Okay. I have that presentation.

Q. I apologize for the delay. I'm not pulling up the slide that I expected. I've got a typo in my notes. That was a mistake on my part.

I am going to go back to Exhibit 928. This is a PowerPoint presentation. It is titled "Proposed Modification and Method for Determining Reasonable In-Season Demand for Surface Water Coalition Use of the Real-Time Metric," by Ethan Geisler, Kara Ferguson, and Matt Anders, dated December 1st, 2022.

Is that what you are looking at, Matt?

A. I am.

Q. Do you recognize this as one of the working group presentations given last December?

A. Yes.

Q. Why don't you flip to the last slide, Slide No. 22. It's labeled "SWC Methodology Acres." And it lists what I understand are the number of acres utilized for each Surface Water Coalition member in the methodology order.

A. Yep, I'm on page 22.

Q. And is that what that slide reflects?

A. Yes, for the 2022 irrigation season.

Q. Okay. And under "SWC Member," A & B, there is an asterisk. And then there are some notes down at the bottom it says asterisk "A & B acres include," and there is a "1-14, 14,637 acres." Can you explain what that refers to?

A. That is -- so this bullet is our notes, are my

notes about how we got the irrigated acres for A & B. So the first bullet under "A & B acres include:" 1-14 is the water right. And the 14,637 is the number of acres.

Q. So A & B owns water right number 1-14. And that water right authorizes the irrigation of 14,637 acres?

A. Yes.

Q. And then in the table, it shows that the methodology order is using 15,924 acres. Do your other notes explain the difference there?

A. Yes. So the second bullet, it's "beneficial use claims," and then it lists the series of water rights there. And then the number of acres for those. And then the final bullet is enlargement. It lists two water rights, and then 1175.2 for acres. So A & B if you add those three numbers together, they should -- the 14,637, the 111, and the 1,175, it should total up to 15,924 in the upper table.

Q. Do you know what priority rights are in the beneficial use claims in the enlargement water rights?

A. I do not.

Q. Are you familiar with enlargement water rights generally?

A. Very, very generally.

Q. Okay. I'll just represent that enlargement rights have an effective priority date of 1994, which is junior to probably all of the ground water rights that are at risk of curtailment under the methodology order.

And so my next question is, has there been discussion within the Department staff as to whether the methodology should be run based on the 14,637 acre figure instead of the 15,924 acre figure?

A. No, we haven't had any discussions about that.

Q. Okay. If, as I represented, the enlargement rights are junior to the ground water rights of IGWA and others, do you agree that it would probably be important or appropriate to make that adjustment, and run the methodology based on the 14,637 acre figure?

A. I don't know. I would have to investigate it further.

Q. Okay. Fair enough. Let me ask a few follow-up questions about the Director's move from the steady state to a transient state model. Are you aware of the settlement agreement between IGWA and the Surface Water Coalition related to the Coalition's delivery call?

A. Yes, I'm aware of it.

Q. Are you aware that there is an ongoing dispute between them concerning the breach of that agreement?

A. Also aware of that, yes.
Q. Did that ever come up in your discussions concerning the Fifth Methodology Order?
A. No, not that I remember.
Q. Okay. Are you aware that IGWA and the Coalition were involved in settlement negotiations this last February?
MR. FLETCHER: Director, I'm going to object, again, to the same line of questioning I objected to earlier. I'm not sure whether this is relevant.
THE HEARING OFFICER: Sustained.
Q. (BY MR. BUDGE) Matt, let me ask, I've just got a few more questions. I'm almost done. So I appreciate your patience.
Is it your understanding, Matt, that the change in the baseline year from the Fourth Methodology to the Fifth Methodology would result in much larger and more frequent demand shortfall predictions?
A. In April.
Q. In April?
A. It will increase the shortfall predictions.
Q. Okay.
A. In July, we also use the baseline year. So it will likely increase July, not for certain. But it will likely do that as well.

Q. Okay. And then as the demand shortfall becomes larger and more frequent, that translates into larger and more frequent curtailments of junior ground water rights in the absence of mitigation?

A. In April and July.

Q. In April and July?

A. Yes.

Q. And you understood that when you change from a steady state to transient state curtailment, you end up with exponentially more acres being curtailed under the Fifth Methodology Order than what have occurred under the Fourth?

A. I don't know about exponentially. But it is a larger acreage that's curtailed.

(Exhibit 929 marked.)

Q. (BY MR. BUDGE) Okay. Let me have you turn to the Conjunctive Management Rules, and that's Exhibit 929.

A. Okay. I have the rules.

Q. Are you familiar with the Conjunctive Management Rules?

A. Generally.

Q. If you'll scroll down to, I believe, it's page 4, Rule 20. I'll just give you a moment to read rules 20.03 and Rule 20.04.

A. Did you say page 4?
MR. WOOD: Page 5.
Q. (BY MR. BUDGE) It's page 5. My mistake.
A. Page 5. I'm sorry?
Q. Yes.
A. Okay.
Q. Yes, just take a moment to refresh your memory as to 20.03 and 20.04.
A. Okay.
Q. At the bottom of 20.03, there is a statement, "An appropriator is not entitled to command the entirety of large volumes of water in a surface or ground water source to support his appropriation contrary to the public policy of reasonable use of water as described in this rule."
Are you familiar with that concept?
A. A little bit familiar.
Q. Okay. Looking in 20.04, there is a reference to the futile call doctrine. The second sentence says, "The principle of the futile call applies to the distribution of water under these rules."
Are you familiar with the futile call doctrine?
A. Yes, I am.
Q. Okay. And then next I'm going to have you

scroll down to Rule 40.03. It's on page 9.

A. "Reasonable Exercise of Rights."

Q. Yeah. Go ahead and review that?

A. (Witness complying.) Okay.

Q. And so just to summarize 40.03, just explains that the Director will consider reasonable use of water under Conjunctive Management Rules. And so my question, were the concepts we just reviewed, were these ever brought up in connection with the technical work that you did in connection with the Fifth Methodology Order or the As-Applied Order?

A. Not that I remember.

Q. There wasn't any discussion of how -- let me strike that question.

You weren't given any instructions from the Director to perform technical analyses related to those concepts?

A. No, I was not.

Q. Are you familiar with how the Department applies the futile call doctrine in surface water systems?

A. Yes, I am.

Q. Can you just explain briefly how that's applied?

A. If a water user makes, in my layman's terms,

if a water user makes a water call, if the water cannot be delivered to that user, it's considered futile, and the call is not honored or made.

Q. Okay. Have you been involved just personally, in water distribution where the futile call doctrine is applied in Idaho?

A. I don't know if they apply it. But the closest would be in the Big Lost for the water righted county. They argue every year about, can we get water down below the Darlington Sinks. I don't know if they use the futile call. But they are always talking about it.

Q. Okay. Do you know if there is any like time parameters that are utilized in the Big Lost to evaluate whether a call is futile or not?

A. I don't remember off the top of my head if they use a parameter.

Q. Okay. Who within the Department would be most qualified to testify as to that?

MR. THOMPSON: I guess I'll lodge an objection here, Director. I guess the surface water administration around the state, and how futile call is applied to specific basins, I think is irrelevant to this proceeding.

THE HEARING OFFICER: I'll overrule the

objection.

But, Mr. Budge, I wonder about the relevance of the question. But I'll ask Mr. Anders to answer it.

THE WITNESS: Probably somebody in the water compliance Bureau. They deal with watermasters, and rules, futile calls, things like that.

Q. (BY MR. BUDGE) Okay. And, Director, I only have a couple questions on this topic.

Are you familiar with the application of the futile call doctrine in the Teton River basin?

A. I am not.

Q. Okay. Would Tony Olenichak be most suited to explain how it works in that context?

A. If it's in Water District 1, he would be the person to talk to as the watermaster.

Q. Okay. That's all the questions I have in that regard. Just a few more questions.

Has the Department conducted any analysis of just the long-term effects of the beneficial use of water from the ESPA as a result of the changes made in the Fifth Methodology Order?

A. No.

Q. Has the Department attempted to quantify the additional beneficial use that would occur within members of the Surface Water Coalition as a result of

changes made in the methodology order?

A. Not that I know of.

Q. Are you familiar with the concept of a trimline that's been used in other delivery calls?

A. I've heard of the trimline, yes.

Q. Okay. What's your understanding of the concept?

A. It is a geographic area used in modeling.

Q. Did that term ever come up in connection with your work on the Fifth Methodology Order?

A. No.

Q. So to your knowledge, none of the Department technical staff asked if there should be some evaluation of trimlines?

A. It's related to modeling. I don't remember any conversations, but I am not involved in all of the conversations related to modeling.

MR. BUDGE: Okay. That's all the questions I have. Thank you, Matt.

THE WITNESS: Thank you.

THE HEARING OFFICER: Thank you, Mr. Budge.

Further questions from the ground water group? Mr. Bromley.

MS. McHUGH: Yes. Oh, is Mr. Bromley going to do it?

THE HEARING OFFICER: Mr. Bromley is standing halfway to the podium.

MS. McHUGH: Okay.

THE HEARING OFFICER: I could ask Mr. Bromley if he wants to yield.

MR. BROMLEY: I've got to take a shot, Director.

THE HEARING OFFICER: Okay.

CROSS-EXAMINATION

QUESTIONS BY MR. BROMLEY:

Q. Hi, Chris Bromley on behalf of the Coalition of the Cities. Matt, I just have a couple questions here.

So Exhibit 300, which is the Fifth Methodology Order, if you could turn to that?

A. Yes.

Q. And let's look at page 18.

A. Did you say 18?

Q. Yes, I did.

A. Okay. I'm on page 18.

Q. Great. And we've got paragraphs 49 and 50. And when I look at paragraph 49, it's talking about predicting natural flow to members of the Surface Water Coalition. And when I look at paragraph 50, I see that it's talking about predicting storage allocations for

each member of the Coalition. Would you agree with that?

A. Yes.

Q. Great. So in Footnote 15, I see that there were a series of meetings held in the winter of '22-'23 with parties' technical consultants to discuss potential updates to the methodology order. And you are looking at trying to better predict Surface Water Coalition water supplies in April. That's what I take from that footnote; is that correct?

A. Yeah, that's accurate.

Q. Did you have any discussions with Water District 1 about how to improve the forecasting?

A. Not about how to improve the forecasting.

Q. How about to improve looking at storage water allocations?

A. We normally in the as-applied process, are talking to them about what they think the reservoirs are going to fill to what rights they are going to fill. And we don't ask them for an official opinion. But we do ask them for what they think is going to happen. And then we factor that into our storage allocations.

Q. Okay. In the as-applied?

A. In the as-applied, yes.

Q. Great. And then let's go back to Exhibit 928.

That was one that TJ was talking with you about. It was a technical working group document. And it was the last page in that exhibit, to make it easier to flip through.

A. So I'm at 928.

Q. The last page of 928; correct?

A. Okay. Page 22 for me.

Q. Correct, that's what I have.

A. Okay.

Q. "SWC Methodology Acres" is the title of the slide?

A. Yep.

Q. And at the bottom, Mr. Budge was asking you about these enlargement acres. And I believe I heard you say, you didn't know what enlargement acres were; is that correct?

A. Generally that's correct, yes.

Q. So do you know has the Department backed out any other enlargement acres, or are these the only ones that have been identified?

A. In terms of the methodology acres that we use, these are the only enlargement acres that I remember. There may be enlargement in the other one. I just listed these, because they were confusing to me about how we got to the 15,924.

Q. Okay. And that makes sense. So you don't

know then how many enlargement acres are within these other companies --

A. I do not.

Q. -- within in an irrigated area?

A. Sorry. I do not.

MR. BROMLEY: Okay. Thank you. I have no further questions.

THE HEARING OFFICER: Any further questions?

MS. McHUGH: Yes, Mr. Director, this is Candice. I just have a couple clarification questions.

THE HEARING OFFICER: Okay. Go ahead.

MS. McHUGH: And I had to switch to my headphones. So can everybody hear me okay?

THE HEARING OFFICER: You are audible.

MS. McHUGH: Okay. Great.

CROSS-EXAMINATION

QUESTIONS BY MS. McHUGH:

Q. Matt, my understanding from your testimony is that you've been involved with two different technical working groups, at least one relative to the Surface Water Coalition methodology orders, one in 2015, and one in 2022; is that correct?

A. Yes.

Q. Has there been any others relative to this Surface Water Coalition delivery call that you've been

involved in?

A. No other technical working groups that I can think of.

Q. Okay. And how are those technical working groups compiled, like who gets invited?

A. I don't remember on the 2015 technical working group. But for, we'll call it the 2022 technical working group, I asked the Director for guidance on who should be invited.

Q. And what were you instructed as far as who should be invited?

A. The response from the Director was to ask the parties who they wanted to attend.

Q. And by the "parties," do you mean the parties that had already been part of the Surface Water Coalition delivery call that dated back to 2008, 2009 time frame?

A. Yeah, I think so. The Surface Water Coalition, IGWA, and the Cities are who I talked to.

Q. Okay. And when does that invitation get sent out, and by what method?

A. My best estimate is in September, the Director at the status -- or at a status conference, said we were going to have a technical working group. So probably early September is when, or late August maybe, I emailed

the attorneys or the legal counsel for the different parties, and asked them who they wanted to attend the technical working group.

Q. Okay. And that was in 2022?

A. Yeah.

Q. Okay. And can you tell me what suggestions from the 2022 technical working group, did you recommend that be implemented in the Fifth Methodology Order, from non-Department employees? I should clarify.

A. I can't think of -- I don't think we used any or implemented any of the recommendations from the technical working group.

Q. And what -- any datasets or any kind of technical information, other than methods, did you recommend from the technical working group?

A. I didn't quite understand that question. Could you repeat it?

Q. I understood you to say that you didn't implement any suggestions as to like a method from the technical working group. And I was following up just to clarify. Did you use any improved data, or datasets, or, you know, that kind of information that was provided from the technical working group?

A. I don't think so.

Q. Okay. In the 2015 technical working group,

what suggestions from the 2015 technical working group, did you implement or recommend be used in the methodology?

A. I don't remember the recommendations from the different consultants at that point.

Q. Okay. But you think that you may have taken some from the outside consultants and incorporated into the methodology?

A. I don't know.

MS. McHUGH: I don't have any further questions.

THE HEARING OFFICER: Okay. Further questions from the ground water group? I don't see any hands raised.

So let's shift. And I think now the Surface Water Coalition, if you wish to question Mr. Anders, you may examine.

Mr. Thompson.

CROSS-EXAMINATION

QUESTIONS BY MR. THOMPSON:

Q. Good afternoon, Mr. Anders, Travis Thompson for A & B, et al. Just a couple questions.

(Exhibit 118 marked.)

Q. (BY MR. THOMPSON) So if you could turn to Exhibit 118. Would you please identify that for the

record?

A. Did you say 118?

Q. Correct.

A. I'm there.

Q. Do you recognize that document?

A. Yes.

Q. And were those comments submitted by consultants for the Surface Water Coalition?

A. Yes, they were.

Q. And did the Department consider those comments and others submitted by other consultants?

A. Yes, we did.

Q. I'm going to go back to a few questions on is it the irrigated land dataset that the Department created?

A. Yes.

Q. And you said they did one in 2011 and 2017?

A. Yes.

Q. And are those different staff that created those?

A. I think it was created by the same staff. But I'm not totally sure on that. They would have been IDWR staff.

Q. And that's a snapshot of a single year; is that correct?

A. Yeah. They are designed to just identify the irrigated, non-irrigated, and semi-irrigated for that year.

Q. And do staff ground proof those estimates with individual irrigators?

A. I don't know.

Q. How about individual canal companies or irrigation districts?

A. I also don't know.

Q. I think you testified earlier that you agreed that certain lands that show up irrigated one year, may not be irrigated the next; is that true?

A. That is true.

Q. And vice versa, non-irrigated lands may not be not irrigated one year, but irrigated the next?

A. Also true.

Q. You said those data land sets --

A. Irrigated lands dataset.

Q. Irrigated lands dataset. Sorry. Three categories, we've got an irrigated, non-irrigated, and semi-irrigated?

A. Correct.

Q. And do each of those categories have specific numbers of acres?

A. I don't understand the question.

Q. I think we talked about at least the example for Twin Falls Canal Company, the 2017 dataset had a number of like 179,000. Do you know if that was the irrigated lands dataset for that year?

A. Each -- we can calculate the acres for each one of those categories. The 179 was what was left, the number of acres, irrigated acres left in the shapefile from Twin Falls Canal Company after we removed the non-irrigated using the irrigated lands dataset.

Q. So it would include semi-irrigated?

A. Yes, that would include semi-irrigated.

MR. THOMPSON: That's all the questions I have. Thank you.

THE WITNESS: Thank you.

MR. FLETCHER: No questions.

THE HEARING OFFICER: All right. Let's circle back again.

Mr. Wood, do you have any questions?

MR. WOOD: Just a couple.

REDIRECT EXAMINATION

QUESTIONS BY MR. WOOD:

Q. Hi, Matt. Do you recall testifying earlier about using Twin Falls Canal Company's irrigated acres dataset?

A. I do.

Q. And do you recall attorneys for the ground water users suggesting that the Department should use Twin Falls Canal Company's irrigation acre dataset rather than the decreed acres?

A. I didn't understand the question there.

Q. Do you recall a suggestion that the Department should use Twin Falls Canal Company's irrigated acres, rather than their decreed acres?

A. I think what they were recommending was we use the irrigated acres after we removed the non-irrigated with the irrigated lands dataset.

Q. That's a better way to put it. In your opinion, what would it take from a staffing perspective to implement the dataset as suggested by the ground water users?

A. Those irrigated lands datasets take about one year of staff time to make, to review and to do the edits. So we would have to dedicate quite -- I mean, if we wanted to do it in the current irrigation season, we would have a lot of staff time trying to get it done in time to be used with the methodology. If we did a year like the previous year, we would still have to exert a lot of effort to get it created.

Q. So are staffing issues one of the reasons that the dataset wasn't used?

A. Yeah. It's one of the reasons we don't have, say, a 2022 dataset, or a 2021. A new one every year, yes.

Q. Switching gears a little bit. Do you recall testifying about Twin Falls Canal Company's regression equation?

A. I do.

Q. And based on the R-2, do you think the regression equation still accurately predicts the natural flow for the Twin Falls Canal Company?

A. We think it accurately is still predicting the natural flow for Twin Falls Canal Company. But we're concerned about the downward trend in the R-squared value, indicating that it may be degrading. That the regression may be degrading. But we still have confidence in it at this point. We want to see it in a couple more years and see what happens.

MR. WOOD: Thank you. No further questions.

THE HEARING OFFICER: Further questions from the ground water group?

Mr. Budge.

RECROSS-EXAMINATION

QUESTIONS BY MR. BUDGE:

Q. Just a couple questions, Matt. I'll take them in reverse order.

First, regarding the regression equation for Twin Falls Canal Company, you were asked whether the current regression formula still accurately predicts the forecast supply? Do you recall that question?

A. I do.

Q. Accuracy is a matter of degree; right?

A. Okay.

Q. So you would agree that the prediction is becoming less accurate over time?

A. I think that's what the R-squared is telling us, that statistic, yes.

Q. So your testimony is, in your opinion, it's not become so inaccurate, that you can't use it at all?

A. Not yet.

Q. Okay. But that time could come?

A. It might come. It might -- we have seen them stabilize. It might stabilize where it is. It might go up a little bit. We don't really know.

Q. Okay. Next, just about the staffing required to create an irrigated lands dataset. When you answered that it takes a lot of work. You are talking about creating a new irrigated lands dataset?

A. Yes, I think they often start with the previous one. But to create a new one, it is a lot of staff time to update the lines, and to do all the

analysis. We are experimenting with ways to automate that. We don't have it to the point where we think we have the accuracy that we want to yet. If we could get to an automated method, we might be able to get one for every year. We don't know yet, but we are experimenting with it.

Q. Okay. And once the 2017 dataset was created, it certainly could have been implemented in the methodology in, say, 2018?

A. Well, I don't know when that dataset was finished. For example, they're working on 2021 right now. So it would have been at some point after. And if it takes a year, it probably would have been a couple of years after when it became available. I'm just estimating. I don't know when exactly they started on that one. But there is a lag there by at least a year and maybe more.

Q. I understand. Are you familiar with the near real-time metric dataset?

A. I am.

Q. And that dataset also, if I understood Ms. Sukow, also can tend to delineate irrigated versus non-irrigated acres?

A. Yeah, it's showing ET, or actual ET on the ground. So, yeah, it can indicate whether something is

irrigated or not.

Q. And that dataset I believe is available annually?

A. The metric dataset or the near real-time metric?

Q. Let's start with the near real-time metric.

A. Right now we're in testing mode with the near real-time metric to see if we can do it on schedule. But we need further methodology. So that one, I don't know if we have 2022. But up to that point, we were getting it like July 5th, August, September, so we had that one real-time, yes.

For metric, I don't know if they've done all the years for metric, because they make that decision after the season is over and based on the cloud cover. Clouds are difficult for, to get a good metric dataset if you've got a lot of clouds. So I don't know what years they have done.

They don't always -- for example, we did real-time metric, but they didn't do metric for all those years that we did near real-time.

Q. So it sounds like there are tools available or under development that are going to enable more frequent evaluation of irrigated acres using metric or the data lands, the irrigated lands dataset?

A. I think there is things, yeah, developing.
Q. And in terms of the staffing, it wouldn't be hard to plug a different acreage figure into the methodology order, that could be done, you know, with a push of the button. The staffing you are talking about is creating a new dataset, or an updated dataset?
A. You are correct.
Q. So the Department could today rerun the methodology with the figures from the 2017 irrigated lands dataset, and that would not take a lot of time?
A. No, you are correct, that would be easy.
Q. And they could do the same with the most recent metric or near real-time metric data?
A. Once we have the number, it's easy to plug into the calculator.
MR. BUDGE: Okay. That's all I've got. Thanks, Matt.
THE WITNESS: Thank you.
THE HEARING OFFICER: Further questions from the ground water group?
And one more chance for questions from the Surface Water Coalition. Any further questions?
Apparently not. Okay. We are finished with Matt Anders.
(Witness dismissed.)

THE HEARING OFFICER: It is 4:30. I don't see Jay Barlogi in the gallery. So I'm assuming that Jay is next; is that correct?

MR. THOMPSON: Yes, Director. I've been in communication with him and have him online if that's an option. I guess depending on what the parties want to do?

THE HEARING OFFICER: What's the preference of the parties?

Mr. Bromley?

MR. BROMLEY: Well, I was going to take the primary lead of questioning of Mr. Barlogi. I do have some physical exhibits. And he's not here to look at those.

THE HEARING OFFICER: Are we expecting Mr. Barlogi in person tomorrow?

MR. THOMPSON: Yes.

MR. FLETCHER: He will be here in the morning.

THE HEARING OFFICER: Well, I think we're on schedule, and maybe just a little ahead looking at the list of witnesses, so perhaps --

MR. ANDERSON: Just as a --

THE HEARING OFFICER: Mr. Anderson?

MR. ANDERSON: Just as a way to save time, I have a matter that I could take up just quickly

regarding the order that you made this morning. It's a little off-the-cuff, but just a couple minutes. If it's okay?

THE HEARING OFFICER: Okay. That would be fine. But as Mr. Anderson is coming forward, it appears to me that we're at a logical breaking point. And maybe we ought to adjourn following Mr. Anderson's presentation.

MR. THOMPSON: Could we move to admit Exhibit 118?

THE HEARING OFFICER: Pardon me?

MR. THOMPSON: Could we move to admit Exhibit 118?

MR. FLETCHER: That was the Surface Water Coalition comments on the recommendations to the technical working group.

THE HEARING OFFICER: Prepared by Dave Colvin and Dave Shaw, I think so.

MR. FLETCHER: I think, yeah.

THE HEARING OFFICER: Yes. Any objection to admitting the document marked as Exhibit 118?

Seeing no objection, the document marked as Exhibit 118 is received into evidence.

(Exhibit 118 received into evidence.)

MR. ANDERSON: Thank you, Director. Just as a

way of utilizing our time wisely, and this is a little off-the-cuff given the order that was this morning. I am just doing a brief, ask the Director to reconsider the order regarding economic benefit, just some really small discussion regarding that. And then in the alternative, just offer an informal offer of proof here, if that's okay?

THE HEARING OFFICER: Go ahead.

MR. ANDERSON: In the Fifth Methodology Order, Exhibit 300, I believe, which we've been talking about. There are conclusions, specifically conclusions No. 6. And it talks about the public interest, full economic benefit and optimum development of water resources for the public interest. It talks about full economic development in the result of the optimum development of water resources. The policy of securing the maximum use and benefit and least wasteful use of the state water resources applies to both the surface water and ground water. And I'm kind of paraphrasing a little bit. But these are all quotes from cases in the sixth finding in the methodology order.

The issue I think is the lack of facts cited to support that finding. I think the lack of facts is what the Department relied on earlier in making an order that the methodology didn't address economic issues.

And so it was beyond the scope to address those at this hearing.

I think the lack of facts cited in making this finding of No. 6 is a reason why economic issues should be permitted into this hearing, to bolster the facts, and bolster the evidence in making that finding. Whether or not the Department gives them whatever weight the Department wants, I certainly think it's within the public interest to do so. I would argue that perhaps the decision of the Department to go with steady state in the first place rather than change of methodology order to be con-transient in itself has some inherent economic aspects. So I would just ask the court to reconsider.

In the alternative, rather than do a formal offer of proof, I think that in this case an informal offer of proof would be streamlined and everyone would appreciate it, just given the fact that we have an expert that would be traveling from out of town to do that formal offer of proof. And I think it was Judge Stegner, when he was a judge said that an informal offer of proof is appropriate when the attorney presenting it is not simply conclusory stating the summary of facts that will be presented, and is not hypothetically stating facts that may be presented.

Here we have a simple expert report. And so I would just like to informally submit that as an offer of proof in the alternative that the Department wouldn't reconsider its decision on excluding economic testimony.

THE HEARING OFFICER: Okay. Thank you, Mr. Anderson.

I'm certain the Surface Water Coalition wants to respond. Mr. Thompson, Mr. Fletcher.

MR. FLETCHER: Director, we agree with the Director's ruling on this issue. We were surprised by the issues people wanted to raise in this methodology. A lot of these issues were raised in the earlier methodology. There is multiple cases dealing with this issue. And it's not a matter of wanting economic harm to the various parties in order to determine who should receive the water under the priority doctrine. And so we agree with how the Director ruled on this issue this morning.

MR. ANDERSON: A 30 second rebuttal.

THE HEARING OFFICER: Sure, Mr. Anderson.

MR. ANDERSON: And I agree, it's not necessarily about weighing the harm between the parties. But when you have such an exorbitant curtailment at stake, it's certainly relevant for the Department to take that into consideration in the public interest and

use of the resource. It has nothing to do with the economic benefit or realization of the two parties and comparing them. It's just something that the Department is within its discretion as the courts' have said to consider.

THE HEARING OFFICER: All right. Well, thanks, Mr. Anderson. I'll at least take the motion, and I'll characterize it as a motion, under advisement. And rule on it tomorrow morning when we start.

I will tell you, though, that I have read the motion in limine, or the motion to limit, and have at least reviewed the citations and the quotes. And have some memory of those decisions that were issued by the court related to whether the Department could consider the economic benefits as part of determining whether a junior, or the holders of junior-priority water rights should be curtailed.

And I thought at least one of those quotes was telling, because the court essentially said that the Department should not be reviewing. And the Director should not be reviewing the respective economic benefits of water use. And delving into the actual financial standing and books of the various parties. And the warning I think from the courts was that it would compromise the prior appropriation doctrine. And the

expected administration of water rights under the prior appropriation doctrine.

So I'll take it under advisement with I guess some reluctance. But I'll look at it, and rule on it in the morning.

Okay. Anything else we need to talk about?

MS. McHUGH: Mr. Director, this is Candice. This doesn't have to be on the record. It is just a housekeeping piece.

THE HEARING OFFICER: Well, go ahead. We're on the record.

MS. McHUGH: Okay. Fair enough. I'm traveling by air tomorrow for the most part, and so just as a courtesy to the Director and the parties, I won't be participating the full day remotely. But just kind of wanted you to know that I'm not missing in action. If all of the sudden I'm off, it is because I'm actually traveling tomorrow.

THE HEARING OFFICER: All right. Thanks for the heads up, Candice.

So what time should we start in the morning? Do you want to start at 9:00? Do you want to start at 8:30? What's the preference? Do you want to start at 7:30?

MS. KLAHN: How about 9:00?

THE HEARING OFFICER: 9:00.

MR. FLETCHER: 9:00 is fine.

THE HEARING OFFICER: All right. Let's start at 9:00 a.m. tomorrow morning. Thanks for the help from everyone here. And we'll adjourn for the night. So let's go off the record and then review the exhibits.

(Hearing adjourned at 4:46 p.m.)

REPORTER'S CERTIFICATE

I, COLLEEN P. DOHERTY, CSR No. 345, Certified Shorthand Reporter, certify:

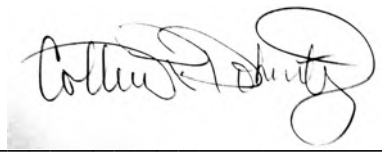
That the foregoing proceedings were taken before me at the time and place therein set forth, at which time the witness was put under oath by me;

That the testimony and all objections made were recorded stenographically by me and transcribed by me or under my direction;

That the foregoing is a true and correct record of all testimony given, to the best of my ability;

I further certify that I am not a relative or employee of any attorney or party, nor am I financially interested in the action.

IN WITNESS WHEREOF, I set my hand and seal this 16th day of June, 2023.



COLLEEN P. DOHERTY, CSR 345
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My commission expires September 7, 2023.

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BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF	**) DOCKET NO.**
WATER TO VARIOUS WATER RIGHTS	**) CM-DC-2010-001**
HELD BY OR FOR THE BENEFIT OF A&B	**)**
IRRIGATION DISTRICT, AMERICAN	**)**
FALLS RESERVOIR DISTRICT #2,	**)**
BURLEY IRRIGATION DISTRICT,	**)**
MILNER IRRIGATION DISTRICT,	**)**
MINIDOKA IRRIGATION DISTRICT,	**)**
NORTH SIDE CANAL COMPANY, AND	**)**
TWIN FALLS CANAL COMPANY	**)**
_____	**)**

BEFORE

HEARING OFFICER: GARY SPACKMAN

VOLUME II

Date: June 7, 2023, 9:02 a.m.

Location: Idaho Department of Water Resources
322 East Front Street, 6th Floor

REPORTED BY:

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I N D E X

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P R O C E E D I N G S

HEARING OFFICER: So we're recording. We have a new court reporter this morning.

Will you introduce yourself, please.

COURT REPORTER: My name is Andrea Check. Good morning.

HEARING OFFICER: I'm sorry, Andrea. I cut you off. Go ahead.

COURT REPORTER: I'm Andrea Check. Good morning.

HEARING OFFICER: All right. Thanks everybody. Let's see. We need to turn microphones on, and maybe I'll turn this one on. I think we just leave these on so that we don't have to worry.

And we have a number of participants who are listening in remotely. I -- because -- well, it shows Candice McHugh is on, at least for a time.

MS. McHUGH: Yes. I'll be here this morning.

HEARING OFFICER: Okay. Thank you, Candice.

All right. And as I scan the room, it looks like everyone else is here. We have at least one preliminary matter to address this morning, and that's an informal offer of proof that was presented or offered late yesterday.

And the offer of proof, Mr. Anderson, I understand, is that you want to have at least what's been marked as Exhibit 400 lodged in the record as an offer.

And this, at least, purports to be a report by Darryll Olsen regarding economic impacts surrounding water right, water supply restrictions.

And so I guess before I rule on this offer of proof, Surface Water Coalition, do you have any objection to this document being lodged but not being part of the record?

MR. FLETCHER: Well, it's my understanding it's being lodged for the purposes of the -- I think the term you used was "informal offer of proof"?

HEARING OFFICER: Yeah.

MR. FLETCHER: And for that purpose, I don't think we really have grounds for objection, but we would object to it being introduced as an exhibit.

HEARING OFFICER: So based on my review and the request for this document to be lodged as an offer of proof, I'll allow it to come in, not as an exhibit, but just as an offer of proof so that at least the document is there. And if there's -- the reviewing courts determine in some subsequent appeal that it should have been considered, then it won't have to come

back.

(Exhibit 400 received for offer of proof purposes only.)

HEARING OFFICER: Now, as part of this ruling, I guess, I think it's important to go back and just excerpt some of the prior decisions by the --

COURT REPORTER: Can you hang on for one second?

HEARING OFFICER: Sure.

COURT REPORTER: My machine just stopped.

HEARING OFFICER: I thought you were struggling with my inarticulate delivery.

COURT REPORTER: No. But I might need -- can we go off the record for one minute?

HEARING OFFICER: Sure. That would be fine.

(Break taken.)

HEARING OFFICER: Back on the record.

Thank you, Andrea.

Okay. Well, the court reporter has said that at least some of what was said she didn't capture, so let me see if I can rehabilitate.

So it's my understanding that there were actually two matters in front of me: One was a motion to reconsider my ruling that I would not accept evidence regarding the economic impacts of possible curtailment

resulting from the -- a delivery call and associated methodology order amendment and also an informal offer of proof.

And probably in the proper order of discussing in this matter, I ought to at least address the motion for reconsideration. And I'd just excerpted a couple of passages from the Clear Springs decision, Clear Springs Foods versus Spackman, issued in 2011 by the Idaho Supreme Court where the Court said that: "A delivery call cannot be denied on the grounds that curtailment of junior appropriators would result in substantial economic harm."

And then, further: "'Full economic development'" -- which was argued yesterday and referenced in the constitutional provisions -- "'Full economic development of underground water resources' does not mean that the groundwater appropriator who is producing the greater economic benefit or would suffer the greater economic loss is entitled to use of the groundwater when there is insufficient water for both the senior and junior appropriators. If that were the basis for allocating water in times of shortage, then water would be allocated among farmers based upon market prices and their respective crops and their expected yields."

And so from my perspective, this particular issue has been addressed by the courts previously. And, furthermore, it's not an issue that is part of the Methodology Order and the underlying facts that were considered in amending the Methodology Order.

So as a result, I'll again verbally deny the motion to reconsider, but I will allow the document to be -- the document marked as Exhibit 400 to be lodged in the -- or at least be lodged with the record but not part of the record if some reviewing tribunal wants to take this up and reverses my ruling on the presentation of evidence regarding economic harm and respective economic comparisons.

Okay.

MR. BAXTER: Director?

HEARING OFFICER: Yes?

MR. BAXTER: Could you turn your microphone on, please.

HEARING OFFICER: Oh, I'm sorry. Thank you. We've been on and off and on and off. Thank you.

Okay. Are there other matters we need to talk about this morning?

All right. We have a witness slated to be called. I think the next witness is Jay Barlogi.

Mr. Barlogi --

Is that correct, Mr. Thompson?

MR. THOMPSON: Yes.

HEARING OFFICER: Mr. Barlogi, if you'll come forward, please. If you'll raise your right hand.

JAY BARLOGI,

called as a witness by the Surface Water Coalition, having been first duly sworn to tell the truth relating to said cause, testified as follows:

HEARING OFFICER: Thank you. You may assume the seat of discomfort.

Mr. Thompson?

MR. THOMPSON: Thank you. Travis Thompson for A&B Irrigation District, et al.

DIRECT EXAMINATION

QUESTIONS BY MR. THOMPSON:

Q. Mr. Barlogi, can you please state and spell your name for the record.

A. Yeah, my name is Jay Barlogi. It's J-a-y, and the last name is B-a-r-l-o-g-i.

Q. And when did you start working for the Twin Falls Canal Company?

A. I started working in 1993.

Q. And what positions have you held since that time?

A. I started out as a ditch rider. I moved up to the East End watermaster, moved from there into the field supervisor position, and then moved from there into the general manager position.

Q. And if you could look behind you, I think there should be a binder of Surface Water Coalition exhibits.

A. Thank you.

Q. If I could have you look at Exhibit 1, please.

Can you generally describe that document for the record?

A. Yes. This is a document that I put together that is titled, "Direct Testimony of Jay Barlogi." It just kind of explains, more or less, how we operate at the Twin Falls Canal Company.

Q. And that's based upon your personal experience and work history with the company; is that correct?

A. Yes, sir.

Q. If you could turn to page 27 on that exhibit, please.

A. Okay. I'm there.

Q. And is there a graph that depicts Twin Falls Canal Company diversions 1988 through 2002?

A. Yes, sir.
Q. 2022. I'm sorry.
A. Yes, sir.
Q. And did you prepare that graph?
A. Yes, sir.
Q. What was the source of the data for that graph?
A. That source was Water District 1 accounting data.
Q. Director, if I might approach. I've got --
HEARING OFFICER: Yes.
MR. THOMPSON: -- a better copy marked as Exhibit 1A.
(Exhibit 1A marked.)
Q. (BY MR. THOMPSON) Jay, can you describe what's been marked as Exhibit 1A for the record, please.
A. Yes. This is a bar graph that I put together. This -- each bar represents an individual year from 1998 -- or from 1988, rather, through 2022. And these are our annual diversions from April 1st through October 31st of each of those years since 1988.
Q. And is that just a larger version of that graph contained in your pretrial testimony at page 27?
A. Yes, sir.
Q. Jay, since 2010, can you just generally

describe how the company delivers water to its shareholders?

A. Certainly. We do it pretty much the same way we always have. We divert water out of Milner Dam. We divert it through our Shoestring Canal down to Murtaugh Lake, which is a recharge -- or not a recharge, but a re-regulating reservoir within the system. It flows out of there into our Main Line Canal around the Hansen Butte, where it hits forks where it bifurcates into the High Line and the Low Line Canal that run all the way to the west end of our system and both expire at Deep Creek.

Off of all of those canals, the Shoestring, the Main Line, the High Line, and the Low Line, there are over 1,000 miles of smaller canals that come off of those larger waterways where we divert water to our shareholders out of over 4,000 different headgates that we measure. As those individuals call in-season and ask for their water to be turned on, our ditch riders take those calls every morning between 7:00 and 7:30, and then they go out and start delivering that water. They go to one meter at a time, measure the appropriate amount out of the gate, lock it up, and go on to the next gate.

Q. And how about your maintenance activities, can

you just generally describe what the company does to maintain its system?

A. Sure. Maintenance activities have really kind of got, I guess, two seasons. Certainly during the irrigation season our maintenance activities are different than they are during the nonirrigation season.

During the irrigation season we have crews out right now with several different mowing tractors mowing weeds along the edges of the canals. As you can imagine, this time of year the weeds are beginning to grow, the grass is beginning to grow. It's important that we maintain that weed and grass growth, as it occludes the channels, forces us to push harder to get the water through to the end.

We also have multiple excavators that spend much of their time this time of year cleaning canals and cleaning sediment out of the bottoms of canals. As we start irrigating -- preirrigating bean ground this time of year, the sediment ponds at the ends of the fields and many of our water quality projects are beginning to fill up or starting to fill up. So those excavators are out right now cleaning canals, making sure the water flows freely through those canals.

As you can imagine, this time of year, it's early in the season, as we bring the water level in the

canals up, there's a leak that shows up here and there, and the excavators are out making those repairs.

Moss growth is beginning to accumulate in the waterways now. Generally, in the middle of June we have to treat the main canals. But certainly throughout the month of June we're putting chemicals in, and we're eradicating moss out of the system before the moss chokes the system up to the point that we cannot shove the water through to those water users at the end.

That's pretty much the extent of the -- well, that's a lot of what we do, anyway, this time of year.

During the nonirrigation season -- we typically have at least a large project or two during the nonirrigation season that can be -- that could be new lining projects, it could be new water quality projects.

And then we also do a lot of work on the bottoms of the canals throughout the year. As you go through the course of the season, as you can imagine, the channel ends up with silt berms here and there that need to get cleaned out, and we need to make sure that the water flows really well through those main canal systems.

We also have an extensive concrete program. We have over 10,000 concrete structures on our system,

so it's really, really important that we replace those on a regular basis. We always say if we replace 100 of those a year, I could overturn our inventory of concrete structures once every 100 years. So we do in excess of 100 concrete structures a year and those concrete structures are --

COURT REPORTER: Mr. Barlogi, can you slow down just a little bit for me, please.

THE WITNESS: Sure.

Those concrete structures are typically measuring devices that we rehab or replace.

Several new ones come in every now and again as water deliveries have changed as the transition from gravity to sprinkler irrigation continues to be ongoing on the project.

Maintenance crews are also -- maintenance -- the maintenance foreman and the field supervisor are also spending a lot of time during the offseason out working with water users. As they put sprinkler systems in, we make sure that the way those sprinkler systems are installed works well with our system and doesn't create adverse impacts.

Q. (BY MR. THOMPSON) So do you have dedicated staff for both maintenance and then water delivery operations?

A. Yes, sir.
Q. And it's fair to say that there really is no offseason for what you do in the canal?
A. No. No, there's not. No.
Q. And can you generally describe any larger projects since 2010 that have been implemented to help canal operations?
A. Certainly. We have -- we have -- since 2010 and prior, we have an ongoing list of projects that we continue to try to identify and implement.
We've put in several different lining projects. We've done lining projects on the Low Line Canal, on the High Line Canal, on the Shoestring Canal.
We've done canal work in the bottom of the Main Line Canal. We've put in multiple different water quality facilities. We've put in several different new automated structures at the heads of some of these waterways, and a few of these have specific diversions within the canal system.
Somewhere around 2010, 2011, we built the Kinyon Pond on the far west end of the system. That's somewhat of a re-regulating reservoir down on the far end of the High Line Canal.
Q. And those projects, would you characterize as

just helping you provide a level of service and delivery to your shareholders as you always have?

A. Absolutely. Yeah. It's all in the interest of providing a high level of service to our water users while operating the system prudently.

Bear in mind, most of these activities are all centered around the total capacity of the canal system. And if the capacity gets compromised, then we're operating with more risk than we need to be operating with.

So we manage the weeds, we manage the moss, we manage the flow in these waterways so as not to put any additional pressure on the banks and cause possible seeps or possible canal breaks throughout the season.

So we do everything we can to provide a high level of service to our water users while operating the system prudently.

MR. THOMPSON: That's all the questions I have, Director. I'll turn Mr. Barlogi over for cross-examination.

Oh, yeah, those two exhibits I would offer, Exhibits 1 and 1A, into the record.

HEARING OFFICER: Any objection to the documents marked as Exhibits 1 and 1A?

The attorneys for the groundwater users have

had a chance to, apparently, review this written testimony of Jay Barlogi and are comfortable with the admission of this document?

MR. BROMLEY: Yes.

HEARING OFFICER: Mr. Budge?

MR. BUDGE: I'm comfortable with it generally, but there's one item of hearsay that I would like to have stricken from it. It's on page 22. And it's lines 17 through 20. And it says, "Somewhere in the archives of historical information about the Twin Falls Canal Company a state engineer was quoted as saying," and then there's a quote. So that component of the prefiled testimony I would move to be stricken; the rest of it I'm okay.

HEARING OFFICER: Mr. Thompson?

MR. THOMPSON: That's fine. I can ask Mr. Barlogi on redirect about that statement.

HEARING OFFICER: Okay. Well, normally, I'm reluctant to accept written testimony because I like to hear the testimony of the witness, but in the interest of time and recognizing that this hearing has been expedited and we're trying to finish as soon as possible, I'll allow testimony into the record with the qualification that the quoted material and the written testimony is excerpted or deleted out of the testimony.

And so with that qualification, I'll accept Exhibit 1 and Exhibit 1A into evidence.

(Exhibits 1 and 1A received.)

HEARING OFFICER: Mr. Budge.

MR. BUDGE: Just logistically, does that mean the Department will take the action of redacting that portion of the exhibit?

HEARING OFFICER: Well, at least right now, I'm anticipating that there might be further questions related to that language. So at least right now, I'll leave it there, and let's see where it goes, Mr. Budge. But please remind me as we go through their testimony, though. Thank you.

Okay. Mr. Bromley.

MR. BROMLEY: Thank you, Director. Chris Bromley on behalf of the Coalition of Cites.

Mr. Barlogi, I took your deposition in Twin Falls. And thank you for being here.

And I do want to say I appreciate both what the attorneys from Surface Water Coalition and Mr. Barlogi, Director, that they prepared the prefiled testimony. It's helped us speed this process up. I know, ordinarily, it's not something we would do, but in the interest of time, it is helpful. And Mr. Barlogi and I discussed all of these topics, really, at his

deposition. So when I read the prefiled testimony, it meshed with, you know, what we discussed at the deposition. So I appreciate that we were able to truncate that, so thank you.

HEARING OFFICER: Good. Thank you.

CROSS-EXAMINATION

QUESTIONS BY MR. BROMLEY:

Q. Okay. Mr. Barlogi, I'd like to talk first about Twin Falls Canal Company's shares. So according to your direct testimony, there are 202,690.93 outstanding shares; is that correct?

A. Yes, sir.

Q. Okay. But Twin Falls Canal Company delivers to fewer than 200,000 acres; isn't that correct?

A. Yes, sir.

Q. Okay. What's the current assessment for the company?

A. Current maintenance fees per share?

Q. Yes, sir.

A. It's $27.

Q. And how often does the company increase its assessments?

A. I would say as needed. I think this last assessment increase was last year. I think -- I don't

know. I would tell you as needed. I don't think we'd had an increase prior to that for four or five years.

Q. What was the prior assessment fee? Do you recall?

A. 26.

Q. Okay. Is that generally what it goes up by, a dollar or so?

A. Yes.

Q. Thank you.

You stated in your deposition that the company operates on a continuous flow; is that correct?

A. Yes.

Q. And you'd agree, however, that every acre within the project isn't irrigated every day; correct?

A. Yes.

Q. You also stated in your deposition that the company doesn't require its farmers to rotate water with one another; is that correct?

A. Yes.

Q. But if Twin Falls rotated, wouldn't you agree that the supply would be extended?

A. No.

Q. Why is that?

A. Well, you suggested that they should be rotating water between farmers.

Q. That's correct. And if I didn't ask that well in the question, that is the question, that having farmers rotate water with one another. So, you know, Farmer A is on a Monday; Farmer B is on a Tuesday. They rotate with one another. So water is moving from field to field.

Do you follow that?

A. I do. And I think you need to understand our project a little bit. One farmer has likely got a field of hay and a field of grain and a field of corn and a field of potatoes and sugar beets, and he rotates within his farm. And that farmer is generally using his water every day throughout the irrigation season. And he's rotating within his own farm. The next farmer has a very similar situation throughout the project.

So, no, they don't rotate between farm -- between farmers. They rotate within their farm.

Q. Correct. And you had said that farmers are not rotating with one another; so, you know, one farm is on, the next farm is off.

I'm asking you, wouldn't it extend the supply of water if Twin Falls Canal Company farmers were to rotate water with one another?

A. No.

Q. And why is that?

A. Well, I would say that on any given day, the diversion is meeting the needs of the farmers every day. So I don't know where there would be a place to rotate that water to.

Q. But not every acre is irrigated every day; correct?

A. Correct.

Q. So if demand is off on one field and demand is on on another field and farmers are rotating with one another, as we see in other parts of the state, it ought to reduce demand; correct?

A. Yeah. I suppose if there was a need to do that, but there is not a need to do that. Again, they rotate within their own farm to do that.

Q. Okay. How does the company track share ownership?

A. Well, it's tracked through the certificates. We have a program in the office, they call it "Magic," who attracts -- who owns all of the shares within the project. As land sells, folks come in, we change the names on the certificates and transfer those shares to the new owners. Water moves from one farm to another. The certificate is changed to reflect the new point of diversion, the new place of use.

Q. Is that important for the ditch riders to

know?

A. Absolutely. Of course.

Q. How does the company track changes in place of use for shares?

A. Well, if the place of use changes, we call that a transfer. There is a transfer policy, and those folks will come in, and they will apply for the transfer. That paperwork then goes to the watermasters first who can look through the paperwork and identify if that transfer and physically moving that water from one place to another is feasible, or does it present a capacity issue? Does it present a flooding issue? Does it present a measurement issue at the headgate?

And if it does, of course, he will put his suggestions in there that this is not a very good transfer; and if it doesn't, then he will sign off on it. And then it goes to the board of directors, who reviews the application, compares it to the transfer policy, and if it complies with all of the parameters of the transfer policy, then they will approve it. If it doesn't, then they do not approve it.

Q. Thank you.

At your deposition, we discussed the percentage increase in sprinklers from 2008 to present.

Do you recall that discussion?

A. I do.
Q. I'll try and do a better job of finishing my question, and look at you.
A. I'll do better as well.
Q. Thank you, Mr. Barlogi.
Okay. So when we were discussing on that point, do you still agree that, in 2008, the percentage of fields that were irrigated by sprinkler was about 25 percent?
A. Yeah. Yes, I do.
Q. Okay. And then in your deposition, we also talked, and I see it as well in your direct testimony, that you state the Twin Falls Canal Company is approximately 50 to 60 percent sprinkler irrigated now?
A. Yes.
Q. So if -- the company's approximately doubled the number of sprinklers on the project in the last 15 years; is that correct?
A. Certainly doubled the percentage, yes.
Q. Okay. And as for conversion to drip irrigation, which we talked about in your deposition, we were discussing a 400-acre field that's now lettuce; is that correct?
A. Well, I think it's multiple different fields, but I think there is about 400 acres of lettuce on the

project this year.

Q. Okay. So Mr. Barlogi, let's look at Exhibit 332.

All right. Are you there, Mr. Barlogi?

A. Yes, sir.

Q. Do you recognize this exhibit?

A. I do.

Q. Okay. This was an exhibit we talked about at your deposition. And my understanding of this exhibit is that it explains what the deliveries are year by year, month by month, and day by day; is that correct?

A. What the rate of deliveries are, yes.

Q. Thank you.

And I notice the way that this exhibit has now been put together, it's kind of out of order in the years, but we've got years from -- oh, let's see -- 1990 to, I think, about the present.

Is that what you see?

A. Yes.

Q. And so we can look at this -- and just to make it easy, we'll be on the first page. In the 1990 -- and I see -- and this was produced -- is yours produced in color?

A. Yes.

Q. Okay. Great.

So the blue represents three-quarters of a miner's inch -- is that correct? -- in 1990?

A. Yes, the .75 blue.

Q. Yes, sir.

And so in 1990, it was a delivery of .75, or three-quarters of a miner's inch, from the beginning to the end of the irrigation season; is that what that shows?

A. Yes.

Q. Thank you.

And so then in a year like 1992, just to keep it simple and we're on the same first page, the company started with a delivery of three-quarters of a miner's inch from April until May 3rd; correct?

A. Yes.

Q. And then shifted on May 4th to 0.625, which is the equivalent of five-eighths of a miner's inch; correct?

A. Yes.

Q. And then on May 18th through the rest of the season, the company then reduced to .5, which is half a miner's inch; correct?

A. Yes.

Q. Okay. And so we could go through that exhibit and look at all of these different years, but I don't

see a reason to do that.

The benefit of the exhibit, as I understood it, Mr. Barlogi, from the deposition, was this helps explain what the company was delivering to its farmers; true?

A. Yes.

Q. Thank you.

Okay. How much is the company delivering this season, today?

A. Currently, we are currently delivering three-quarters of an inch per share.

Q. Let's talk about cropping patterns.

Okay. What have you noticed, Mr. Barlogi, with cropping patterns over the last 15 years?

A. I think the main thing that we've noticed over the last 15 years has been related to the dairy industry. The dairy industry has moved into our area in a very big way, and so high-water-consumptive crops have moved in as the dairies are looking, constantly, for alfalfa and corn to feed the cows. So alfalfa and corn acres have increased significantly.

I would also add that with the sprinklers and the sprinkler ground continuing to convert from gravity to sprinkler has brought the potato market, I think, further into the project, historically.

I think currently there are significantly more potatoes grown on the project than there were historically.

Q. How many acres do you think are planted in alfalfa this year?

A. I wouldn't have any idea.

Q. How about corn?

A. No idea.

Q. How about potatoes?

A. No idea.

Q. But they've gone up, in your estimation?

A. Certainly.

Q. Okay. We talked in your deposition -- you were saying that there are farmers within Twin Falls Canal Company who are now getting five cuttings of hay; is that correct?

A. I think, again, they're trying to meet the demands of the dairy industry. So if they can get it, they will.

Q. And could you explain how that's possible?

A. Yeah, I can, to some extent. I'm not a farmer. I know that very often times as we get into the spring, the dairies have exhausted their supply of feed. So quite often you'll see a hay crop go off when it's not near as high as it used to be, but they'll move in

there with the green choppers, and they'll take off the crop really quick and get it to the dairy industry.

And you'll see the same kind of thing with that last cutting. So often the first and last cutting of those five cuttings aren't real big cuttings.

But, absolutely, the needs of the dairy industry drive the market.

Q. And what we talked about at your deposition was something I believe you were calling a "green chop."

So the hay, it's being cut, and it's being taken off the field almost immediately; is that correct?

A. Yes, sir.

Q. How long has that practice been going on?

A. Well, I would say that -- gosh, I don't know how long. It came in kind of with the dairies.

Q. And the former practice was to cut hay, you'd let it dry, you wouldn't irrigate the field. Eventually, it would get baled, picked up in some way, and then water would be put back on 7 to 10 to 14 days later; is that right?

A. Yes.

Q. And that's changed now with the dairy industry?

A. Yes.

Q. Okay. Do you know how many acres are getting

five cuttings of hay?

A. I do not.

Q. And I believe you understand that the Director is now using the ESP model and what's referred to as "transient" as opposed to "steady state"?

A. Yes.

Q. And that's changed the curtailment date. And currently we have a 1953 curtailment date to produce 75,200 acre-feet to Twin Falls.

Do you understand that?

A. Yes.

Q. Do you think it's reasonable to curtail groundwater rights junior to 1953 so some Twin Falls Canal Company farmers can get five cuttings of hay?

A. I guess I wouldn't prospect to what is reasonable.

Q. Do you think it's fair?

A. I guess I wouldn't argue fairness either.

Q. Let's talk about subdivisions, Mr. Barlogi.

And if you could turn to Exhibit 334.

All right. Do you recall this exhibit?

A. Yes, I do.

Q. We talked about it at your deposition, and you agreed with me that, based on what's shown in the graph, that Twin Falls County has grown by 19 percent since

2010. Correct?

A. Yes.

Q. Okay. And you also stated during your deposition, Mr. Barlogi, that, in your opinion, most of the growth has been in the cities; is that correct?

A. Yes.

Q. So as to subdivisions, wouldn't you agree that rooftops, sidewalks, driveways, patios, and roads can't be irrigated?

A. Yes.

Q. Let's look at Exhibit 171. So you'll need another binder.

A. I'm sorry. Did you say 171?

Q. I did, yes.

Are you on Exhibit 171?

A. I am.

Q. And what's the title of that exhibit?

A. "Estimate of Non-Irrigated Acres Within Twin Falls Canal Company Service Area."

Q. And I'll represent to you, Mr. Barlogi, this was a document that was made an exhibit in the 2008 hearing. It was prepared by SPF Water Engineering on behalf of the Idaho Ground Water Appropriators. And it was looking at exactly what it says in the title; nonirrigated acres.

MR. THOMPSON: Mr. Director, I'm just going to lodge an objection, I guess, to prior exhibits contained in the underlying record in this case. I think it's unduly repetitious to have to go through this again. We did this once, we don't need to go through every exhibit that's already been part of the record and what the Department has considered in developing the methodology.

MR. BROMLEY: If I may respond?

HEARING OFFICER: Sure.

MR. BROMLEY: Well, Director, you know, we heard from the Court that this is an ongoing delivery call. We have heard -- and I'll get to the point with Mr. Barlogi with some foundation -- that he has a belief that subdivisions require more water to be applied.

I'm not talking about specific acres, but we can certainly get to there, Step 1 requires that. But what I'm trying to get at is use of water within subdivisions with an exhibit that's in the record in this ongoing delivery call to establish foundation with Mr. Barlogi about his opinions that subdivisions use as much or more water than an irrigated field.

HEARING OFFICER: So let me understand, Mr. Thompson. This document titled "Estimate of Non-Irrigated Acres Within Twin Falls Canal Company Service Area" is a document that was previously

submitted in a delivery call proceeding for the Methodology Order?

MR. THOMPSON: It was submitted in the 2008 hearing considered by the hearing officer, Justice Schroeder, at that time, part of the record for that proceeding.

HEARING OFFICER: So your objection is that this document shouldn't come into the record because it's already previously been considered?

MR. THOMPSON: That would be my objection.

HEARING OFFICER: Okay. I'll overrule the objection. I don't see harm in this document being in the record again.

Mr. Bromley, go ahead.

MR. BROMLEY: Thank you, Director. It already is part of the record, and we're trying to make it easier by pulling documents that are, in our opinion, helpful.

Q. (BY MR. BROMLEY) So, Mr. Barlogi, let's look at page 36.

MR. THOMPSON: Chris, Bates stamp, please?

MR. BROMLEY: As far as I know, it's 36, Travis. I don't see a Bates stamp on it. I see, at the bottom of Exhibit 171, dash, page 36. And it's page 36 on the PDF, too.

Q. (BY MR. BROMLEY) Are you there, Mr. Barlogi?
A. I am.
Q. And when I look at this, I see what, you know, I would call a typical subdivision with curbed streets and cul-de-sacs and roads.
Is that what you see?
A. I do.
Q. I see at the bottom it's called out as "Figure 6, Urban Subdivision 3 (North Pointe)"?
A. [Witness nods head.]
Q. Okay. So we're on the same page, then.
So in your deposition and in your direct testimony you stated that subdivisions require the same amount of water or more.
Do you recall that testimony?
A. I do.
Q. Is this your opinion as to subdivisions, or has Twin Falls Canal Company done any studies to prove this?
A. I would say currently this is not an opinion, this is a fact. As I told you in the conversation we had last week, if you develop land within the City of Twin Falls, they require that you have a share per acre.
So what my company does is when a water user calls and orders his water on, I'm obligated to turn on

the amount of water that he has, which is a share per acre.

Q. Okay. So have you done any studies that show that use of water in subdivisions -- so looking, again, at this page 36 -- with many fewer acres that cannot be irrigated, as you agreed with me previously, due to rooftops, streets, sidewalks, and such -- what studies do you have that show that use of water in a subdivision is more intensive than on an irrigated farm?

A. I don't think canal company -- this canal company doesn't do that kind of study, no.

Q. Okay. Thank you.

So on page 27 of your direct testimony -- and then Mr. Thompson gave us -- I think it's now marked 1A --

MR. BROMLEY: Travis --

MR. THOMPSON: Yes.

MR. BROMLEY: -- is that right?

Q. (BY MR. BROMLEY) -- which is this graph that Mr. Thompson had marked as Exhibit 1A.

It's now a loose -- yeah, we don't need to go into the binder. Helpful to pull that out.

So looking at Exhibit 1A, it seems to be, in what you were saying, that the company diverts at a fairly consistent rate of 1.1 million acre-feet;

correct?

A. Yes.

Q. And so I'll just represent to you, Mr. Barlogi, that if the company's diverting 1.1 million acre-feet for irrigation of 190,000 acres, the volume of water that's available per acre -- just simple math division -- is approximately 5.8 acre-feet.

Would you accept that as correct?

A. Yes.

Q. Thanks.

So if a subdivision reduces the irrigated area by half and Twin Falls Canal Company farmers are using up to 5.8 acre-feet -- that's what we were just discussing -- you're saying subdivisions are using at least 11.6 acre-feet?

A. I'm saying that they are entitled to the same diversion rate.

No, they are not using that. No, that's not what I'm saying.

Q. So if the irrigated area is half -- let's start it this way, if a 40-acre field is taking 5.8 acre-feet of water, the subdivision has contracted that space by half due to hardening of acres, only half of those acres are receiving the same volume of water, which would be 11.86 acre-feet; correct?

A. Yes.
Q. Let's talk about return flows, Mr. Barlogi. So you stated in your direct testimony, and we also discussed in your deposition, the Twin Falls Canal Company tracks return flows; correct?
A. Yes.
Q. And I'd like to just talk about what that's made up of. So when the company is tracking return flows, does that include local runoff?
A. To some extent.
Q. How about coulees?
A. As they are a part of our system, yes.
Q. Okay. And what about the tributaries?
A. I assume you're talking about Rock Creek, and we do not monitor those, no.
Q. But if those were monitored and water was going into them off of the project, that would be something that would be part of a return flow?
A. We monitor the location where the system spills into the tributary, not the tributary.
Q. Great. Thank you.
So at your deposition, you said you spoke with Matt Anders about the company's return flows to the Snake River below Milner.
Do you recall that testimony?

A. Yes.

Q. And in your deposition, you stated that Twin Falls was returning a significant percentage of water.

Do you recall that testimony?

A. No, I'm going to argue your words. I don't believe I stated that we were returning a significant amount of water. I think I said in my testimony that a pie chart that we had seen suggested that we were, off of our return flows, spilling significantly more water than we feel that we are.

Q. Okay. And thank you for correcting me on that, Mr. Barlogi. That's what I also see in your testimony, that you were having a discussion with Mr. Anders about what, in your words, he was looking at as a significant percentage, and you were having a discussion with Mr. Anders about you didn't think it was that much?

A. Yes.

Q. Whatever it was that Mr. Anders was showing you?

A. [Witness nods head.]

Q. So is it true that Twin Falls is returning in excess of 150,000 acre-feet per season?

A. I don't know. I don't know that I've totaled

it per season.

Q. Okay. And I'll represent to you -- and testimony will come in later -- but would it surprise you that Twin Falls Canal Company is returning in excess of 300,000 acre-feet per irrigation season?

A. Yes, I don't believe that number.

Q. Okay. Do you know if the return flow information that you discussed with Mr. Anders was incorporated into the Methodology Order?

A. No, I don't believe it had anything to do with it.

Q. And how many power plants are within Twin Falls Canal Company's boundary?

A. I would -- I'm going to throw a number out there and tell you ten.

Q. What was the most recent power plant that was constructed?

A. The most recent one is the Midway Power Plant.

Q. Do you recall when that was built?

A. Yeah, I want to tell you 2005, '6, '7-ish.

Q. Okay. And let's turn to Exhibit 338.

MR. THOMPSON: Mr. Director, before we start, I will object to this exhibit. I can explain why if you'd like.

HEARING OFFICER: Okay. Well, it's a

preliminary objection. I'll allow counsel to try to lay a foundation, and then I'll anticipate an objection forthcoming.

Mr. Bromley?

MR. BROMLEY: It was a deposition exhibit. I'll work through this.

Q. (BY MR. BROMLEY) Mr. Barlogi, you recall this exhibit?

A. I do.

Q. And at your deposition, you discussed this exhibit with Mr. Johnson [sic]; correct?

A. Yes.

Q. Okay. And you highlighted the power revenue in yellow; correct?

A. Well, I highlighted what I understand to be the power revenue. Typically, when I look through these documents, I have my accountant beside me.

Q. So you're aware of what this document is? You understand the document?

A. No, not thoroughly.

Q. So the yellow that you highlighted, what did you highlight? We discussed this at your deposition that you were highlighting revenue that the company was realizing from hydropower generation; correct?

A. Yes, that was the attempt, but we struggled as

we went through it and as we highlighted, but that was the attempt.

Q. So what were the struggles?

A. Well, for example, you can see Twin Falls Energy Midway reimbursement. We're not certain that that was revenue or whether that was expense that came back as a result of costs incurred.

Q. And your counsel can clean this up, I suppose, on redirect. We've produced this exhibit previously.

The more water the Twin Falls Canal Company returns, the more power revenue the company will realize; correct?

A. You know, our three big producers are South Forks Hydro, Midway Power, and Lower Low Line. Those are power plants that we own or are partners in. Those are the meat of all the income.

As I told you, there are probably another seven other projects in the system. We don't receive royalties from all of them. Some of them we do. They are privately owned. They are much smaller plants. And, yes, they exist on the tail ends or the returns of those drains. And so, absolutely, if there's more water there, they produce more, which makes our -- I believe we receive about half a percent from a base value as royalty from those.

Q. Thank you.

MR. BROMLEY: I'll offer Exhibit 338.

HEARING OFFICER: Mr. Thompson?

MR. THOMPSON: Yeah, I'll just object to the relevance, I guess. The economic issue has already been addressed by the Director. You know, if we want to get profit and loss statements from every water user, we can certainly do that. It's beyond the scope of this proceeding. Mr. Barlogi testified to the fact that they do receive income from hydropower operations incidental to the irrigation deliveries. Putting this type of exhibit in the record is irrelevant.

HEARING OFFICER: Mr. Bromley?

MR. BROMLEY: It doesn't have anything to do with the economic benefit between how much revenue a groundwater user would realize if allowed to stay on versus the economic benefit that a surface water user realizes by being able to stay on. That's the economic issue that's being discussed at Clear Springs. It's not this.

HEARING OFFICER: Mr. Barlogi, is this document a document from Twin Falls Canal Company records?

THE WITNESS: This document is a document that was created by our accountant; and yes, this is -- comes

from us.

HEARING OFFICER: Mr. Thompson, I agree with Mr. Bromley. The purpose of this is not to compare economic benefits or detriments from possible curtailment. My understanding is the purpose of this document is at least to show that there may be some incentive for additional diversions of water not necessary for irrigation, and, as a result, I'll receive it into evidence.

So the document marked as Exhibit 338 is received into evidence.

(Exhibit 338 received.)

MR. BROMLEY: Thank you, Director. And before I go on to the next topic, let me go back and let's offer and admit the exhibits that we've discussed.

So we had Exhibit 332, which were the headgate deliveries. This was the colorful document that showed three-quarters, five-eighths, half-inch. Offer that for admission.

HEARING OFFICER: Any objection?

Hearing no objection, the document marked as Document 332 is received into evidence.

(Exhibit 332 received.)

MR. BROMLEY: The next one that we talked about was Exhibit 334, which was a population graph of

Twin Falls County, with Mr. Barlogi agreeing with what the graph shows, which is the county has grown by 19 percent since 2020. I would offer that into evidence.

HEARING OFFICER: Any objection?

MR. THOMPSON: Yeah, I'll object to this exhibit. There's no foundation.

MR. BROMLEY: Well, Director, it's a document that's sourced off the internet with what says census data. That's kind of the best that we can do. Mr. Barlogi didn't disagree with me that Twin Falls County has grown.

THE WITNESS: Can I offer a comment?

MR. BROMLEY: No.

HEARING OFFICER: I'll receive the document into evidence. So the document marked as Exhibit 334 is received into evidence.

(Exhibit 334 received.)

MR. BROMLEY: Okay. That brings me up to current, Director.

Q. (BY MR. BROMLEY) Mr. Barlogi, I'd like to talk about irrigated area. So at your deposition, you said you were familiar with government programs like CRP and CREP that pay farmers money to fallow the fields.

Do you recall that testimony?

A. I do.
Q. And you stated that -- in your deposition testimony -- that the company doesn't keep track of acres that are enrolled in these programs; correct?
A. Yes.
Q. Wouldn't it be helpful for the company to know which acres are enrolled in these programs?
A. I am somewhat of the opinion that there are no acres enrolled in those programs on our tract or we would be aware of them.
Q. Okay. But in your deposition, you said that the company doesn't keep track of these acres. I suppose that's a different question than: Are there acres like that enrolled within the tract?
A. Yeah, I suppose it's relative. If there are no acres enrolled, then, no, we don't keep track of them.
Q. So your opinion is there are no acres enrolled in CRP or CREP within your tract?
A. That is my opinion.
Q. Let's say, though, that there were acres enrolled in those programs within the company's irrigation boundary. Don't you think it would be worth knowing that you have fallowed acres within the tract?
A. Certainly, if there were.

Q. And at your deposition, we talked about your familiarity with farmers who irrigate a field for a year or two, and then idle that field in order to rebuild soil health.

Do you recall that testimony?

A. No, I do not. I do not recall talking about fields that laid idle for a couple of years.

Q. You're not familiar with farmers who irrigate a field for a number of years, take the crop off, and let the field rehabilitate itself through nature by not having a crop on it for a year?

A. I am not, no.

Q. Wouldn't it be helpful for the company to know which fields are idled?

MR. THOMPSON: Objection; asked and answered.

MR. BROMLEY: The question I asked was as to CRP and CREP. The question I'm asking now, Director, is as to idling the fields.

HEARING OFFICER: I'll allow the question.

THE WITNESS: Assuming there were fields idled, of course it would.

Q. (BY MR. BROMLEY) So an idled field or a field enrolled in CRP or CREP has no water demand; true?

A. Again, I have no familiarity with lands that are enrolled in CREP.

Q. But if a field is idled, it's not being irrigated, it doesn't have a water demand; correct?

A. It certainly doesn't have a crop water need, yes.

Q. Does Twin Falls Canal Company keep track of strip malls, big-box stores, and industrial parks that have been built within the project boundary?

A. We do not.

Q. And isn't it true that acres that are hardened for commercial and industrial developments have no water demand?

A. No, not completely.

Q. And what is the water demand?

A. Many and most of the commercial developments still have some green space around them that has a water demand.

Q. So a rooftop, a parking lot, sidewalks, they're not receiving water; correct?

A. No.

Q. Mr. Barlogi, it was discussed during your deposition that you're familiar with the Department's requirement and the methodology, which is referred to as "Step 1," that the company state annually how many acres it's irrigating.

Do you recall that?

A. I do.
Q. And in your deposition you stated you didn't know how many acres Twin Falls Canal Company's irrigating; correct?
A. Yes.
Q. At your deposition, Mr. Budge, on behalf of IGWA, provided you with copies of each letter that the company has sent to the Department over the years regarding the company's irrigated area for purposes of the Methodology Order.
Do you recall that line of questioning?
A. Yes.
Q. And Exhibit 337 -- if you could turn to that -- do you recognize those documents?
A. Yes.
Q. And those are the documents that you went through with Mr. Budge; correct?
A. Yes.
Q. So if Twin Falls Canal Company doesn't keep track of the number of acres that it's irrigating, how is it that the company can provide the Department with an accurate count of the number of acres that are being irrigated each year?
A. We are required to represent whether or not our acreage has changed by more than 5 percent every

year. 5 percent of 194,000 is nearly 10,000 acres. It's very easily -- easy to know that we have not changed anything to the tune of 10,000 acres. We very carefully monitor transfers in water that moves within the project.

There are changes, there is development there, but 10,000 acres equates to about 15 square miles. There's been development in our area, but there hasn't been anywhere close to that kind of development in our area.

Q. You told me, Mr. Barlogi, that you don't know how many acres the company is irrigating; correct?

A. Yes.

Q. At your deposition, Mr. Barlogi, I asked you what the company's goals are in the delivery call.

Do you recall that question?

A. Not that specifically, no.

Q. And your answer to my question, Mr. Barlogi, was that the company has no goals.

Do you recall that answer?

A. So I don't specifically remember that specific question.

Q. Okay. I'm going to hand you, Mr. Barlogi, your deposition transcript.

MR. BROMLEY: If I may?

HEARING OFFICER: Yes.

MR. BROMLEY: Thank you.

Q. (BY MR. BROMLEY) Okay. Mr. Barlogi, that is the unsealed -- now-unsealed copy of your deposition transcript. I'd ask you to turn to page 57.

Are you on page 57?

A. I am.

Q. Line 7, I'm going to read.

"What are the surface water -- actually, let me ask it this way: What are Twin Falls Canal Company's goals in this methodology proceeding that we're in?"

That's lines 7 through 10.

MR. THOMPSON: I'll object to that.

Are you reading the deposition, or are you making up the question as you go?

What does it say, Chris?

MR. BROMLEY: I'm reading the deposition, Travis. Do you have the deposition transcript in front of you?

MR. THOMPSON: You said "Surface Water Coalition."

MR. BROMLEY: Travis, do you want to read it with me right here?

MR. THOMPSON: You changed it. I'm just curious --

MR. BROMLEY: No, Travis. I'm reading what the deposition transcript says. Why don't you come here and look at it with me.

MR. THOMPSON: No, that's fine.

HEARING OFFICER: All right.

MR. THOMPSON: I thought you said "Twin Falls Canal Company."

HEARING OFFICER: So do we have --

MR. BROMLEY: Travis --

HEARING OFFICER: -- an objection?

COURT REPORTER: Hey, guys --

HEARING OFFICER: Do we have an objection?

MR. BROMLEY: Come read it.

Q. (BY MR. BROMLEY) Do you see, Mr. Barlogi -- Sorry, Director.

HEARING OFFICER: I'm assuming the purpose of these questions are to either to refresh the memory of the witness or to impeach the witness, one or the other.

MR. BROMLEY: One or the other.

HEARING OFFICER: So let's read directly from the deposition.

MR. BROMLEY: That's what I'm doing, Director.

HEARING OFFICER: Okay. I don't have it in front of me, so I'm just, again, reminding you.

Q. (BY MR. BROMLEY) So, Mr. Barlogi, let's look

at line 7, page 57. And let's read along.

"Question: Okay. That's fine. What are the surface water -- actually, let me ask it this way: What are Twin Falls Canal Company's goals in this methodology proceeding that we're in?"

Would you please read your answer on line 14?

A. On line 14, I said: "I don't believe we have any goals" --

Q. Thank you.

A. -- "I don't believe it's our work."

But that is not the question that you asked me.

Q. So the question I asked you are what are the goals of Twin Falls Canal Company, which is --

A. In the surface water delivery call, that's the question you asked me here today.

Q. I'm asking you what Twin Falls Canal Company's goals are in this proceeding.

You just stated to me that you did not recall me asking you that question.

A. Because you didn't ask me -- you asked me what are the Twin Falls Canal Company's goals in the Surface Water Coalition call -- or in the -- you didn't ask me the same question that's in my transcript.

Q. So let's ask you that same question again

that's in the transcript.

What are your goals?

A. We don't have any goals. The methodology is not our product.

Q. Okay. So since Twin Falls Canal Company has no goals in the delivery call and since Twin Falls Canal Company doesn't know how many acres it's irrigating, how is it reasonable for Twin Falls Canal Company to curtail groundwater rights?

MR. THOMPSON: Objection; argumentative.

HEARING OFFICER: This is cross-examination. I'll allow the question to stand.

THE WITNESS: Again, you said we don't have any -- in the delivery call -- we do have goals in the delivery call. This is the methodology. That's not the question that I answered. The question is related to the surface water delivery call.

Q. (BY MR. BROMLEY) I would say it's one and the same.

Let's move on to the --

A. I would disagree.

MR. FLETCHER: I object. That's not a question, that's a statement. This is getting argumentative.

HEARING OFFICER: Okay. Well, let's move on.

MR. BROMLEY: I was moving on, Director.

HEARING OFFICER: Good.

Q. (BY MR. BROMLEY) Mr. Barlogi, I'd like to talk about Murtaugh Lake. You had mentioned that in your direct testimony again, with Counsel, this morning about how the system works.

Do you recall talking about Murtaugh Lake in your deposition?

A. I do.

Q. And you mentioned this morning -- you called it a "re-regulating reservoir." You also mentioned that -- some "recharge."

So when did Twin Falls Canal Company begin recharging in Murtaugh Lake?

A. So I'm going to guess. I think -- I think last year was, I want to tell you, maybe our eighth or ninth year of recharge. So I would say somewhere around, yeah, 2015-ish.

Q. Okay. So after we talked at your deposition, I went back and looked at the water right records of the Department just to see what the water right was that was going to go along with this recharge project. And what I found was a filing in 2020 that's numbered 45-14537. And that's an application filed by the company for recharge.

Does that sound about right?
A. Yeah. That's over my head. I don't --
Q. So let me hand you, Mr. Barlogi --
MR. BROMLEY: Director, if I might?
HEARING OFFICER: Yes.
MR. BROMLEY: So I think we're at Exhibit 363. Andrea, is that --
MS. KLAHN: 362.
MR. BROMLEY: 362?
MS. KLAHN: I don't think that -- yeah.
MR. BROMLEY: Okay. That one was -- you attempted to --
MS. KLAHN: Yeah, it wasn't in.
MR. BROMLEY: Okay. Should we mark this 362, then?
Let me mark this as 363.
(Discussion off the record.)
(Exhibit 363 marked.)
Q. (BY MR. BROMLEY) Just take a moment to familiarize yourself with that document, Mr. Barlogi.
A. Okay.
Q. All right. So I see when I look at this that it's an application for groundwater recharge. I see that in line 5.
Do you see that?

A. Yes.
Q. Okay. And it's from a source of Dry Creek, a tributary to the Snake River, in line 3?
A. Yes.
Q. Okay. And is this what we were talking about? This is likely the recharge right that you're using?
A. I think this recharge right came into play with it. I think we used Idaho Water Resource Board water right to recharge with.
Q. Okay. It's a document you filed with the Department for recharge, though; correct?
A. Yes.
Q. And I see on page 2 that you signed it?
A. Yes.
Q. That's your signature?
Do you know how much water is lost to seepage at Murtaugh?
A. I do not, off the top of my head, no. I mean, it is -- it is accounted for every year with the Idaho Water Resource Board recharge program.
Q. Okay. And I know, from experience with the board, that they're pretty particular about where they recharge. So I would assume it's probably a good amount that's lost, do you think?
A. Yeah, I think it's significant or they

wouldn't support it.

Q. So I see Dry Creek is listed as the source for this right; correct?

A. Yes.

Q. And I looked on a map, because I wasn't real familiar with the area, but what I was seeming to see is it looks like there's another source that comes in which is called Big Cottonwood Creek?

A. News to me.

Q. Okay. Yeah, the map had something coming in called Big Cottonwood Creek. If you don't know about it, I don't either.

Okay. And at your deposition, Mr. Barlogi, you said that since you've been recharging and when Twin Falls turns on for the irrigation season, you haven't had to fill Murtaugh in some years.

Do you recall that?

A. Yes.

Q. So Murtaugh, then, is -- it's filling with water from Dry Creek, some of that water is for irrigation, but then because Murtaugh Lake is filled when the irrigation season is starting in some of those years, that Dry Creek water is being used for irrigation; correct?

A. Yeah, I suppose so.

Q. There isn't a bypass channel around Murtaugh Lake from Dry Creek, is there?

A. No.

Q. So let's turn to page 2 of this document.

And I see in line 11, you say "see Attachment A" in a few places; and line 12, you see "Attachment A" in a few places.

Do you see that?

A. I do.

Q. Great.

So then when I go into Attachment A, and I go to the page that has some -- it's the second page in, so the first page of Attachment A looks like a legal description table. And then the second page, I see No. 10, "Supplemental Information," "11a & c, Supplemental Information."

Do you see that?

It would be on page 4 of the paper.

Yeah, there you go.

A. Okay.

Q. So in "11a & c Supplemental Information," three lines down, I see that it stated, "Twin Falls Canal Company as part of Carey Act filing 1900 that allowed for construction of these facilities."

Do you see that?

A. Yes, 11a & c.
Q. And then the page after that, there's a map of Murtaugh Lake; is that what that is?
A. Yes.
Q. And then the page after that, I see a document that's called "Contract."
Do you see that?
A. Yes.
Q. Okay. And this was attached by you to this document seeking a recharge water right at Dry Creek.
So on the -- and read to me what it says at the top of that document.
A. Of the contract?
Q. Yes.
A. It says: "Between State Board of Land Commissioners and Twin Falls Land & Water Company dated January 2nd, 1903."
Q. Thank you.
So I see a few headings on this first page. And then when I turn to the second page, I see some more headings -- the "Price of Water Rights" is one, "Water Right Dedicated" is another -- and I'd like to talk about the "Water Right Dedicated" piece.
And because that's pretty small font -- my eyes are getting worse the more of these that I do -- I

made a copy of -- trying to increase this so that people can read it.

HEARING OFFICER: So, Mr. Bromley, I'm trying to manage time a little closer today. How much longer do you have with Mr. Barlogi?

MR. BROMLEY: This is my last set of questions.

HEARING OFFICER: Okay. All right. Great.

MR. BROMLEY: Just five minutes, maybe.

HEARING OFFICER: Great.

(Exhibit 364 marked.)

Q. (BY MR. BROMLEY) Okay. Do you have Exhibit 364, Mr. Barlogi?

A. I do.

Q. Is that easier to read?

A. Yes.

Q. It is for me, too.

So let's look at this "Water Right Dedicated," and let's break it into parts. So starting at the word "Ninth."

Do you see that?

A. I do.

Q. And then from "Ninth" there's a colon, and then there's another colon after the word "to-wit."

Do you see that?

A. Yes.

Q. Okay. So at that second colon right after "to-wit," let's read from there. So starting with "One eightieth."

A. Okay.

Q. And would you read starting at "One eightieth"?

A. [As read] "One eightieth of a second foot allotted to each acre represented thereby, and carrying capacity of the canal sufficient thereof."

Q. Okay. So I'll represent to you that one eightieth of a cfs is the equivalent of five-eighths of a miner's inch.

So right after, then, you ended at "therefor." That was a perfect place to stop. Would you read from "the water to be delivered"?

A. "The water to be delivered from the canal during each and every irrigation season, said amount to be measured at or within one half-mile of the place of intended use in such quantities and at such times as the condition of the soil, crops and weather may determine but according to such rules and regulations based upon a system of distribution of water to the irrigators in turn and by rotation as will be best" -- "as will best protect and serve the interests of all users of water

from this canal system."

Q. Okay. And then read that last sentence, and that's the last of it I'd like you to read.

A. "It is agreed that said system of distribution by rotation shall be devised by the said party of the second part and used by it during the period while it retains the management of said system, and that it shall meet the approval of the State Engineer."

Q. Okay. Thank you, Mr. Barlogi.

So is the company measuring from one half -- or I should say at or within a half-mile of the place of intended use? Is that where you measure?

A. Yeah. Yeah. I would say by and large, yes, almost exclusively, yes.

Q. Great.

And then as to this system of rotation that you've stated and that you read in the last sentence, the company is not rotating; correct?

A. Well, I believe we are rotating. I would say this document was prepared in 1902. In 1902, a typical farm was 40 or 80 acres. That's not the case anymore. These farmers have all bought up the neighbors' farms and bought up the neighbors' farms to where the typical farm is now 800, 1,000 acres of those farms that, historically, per this document, were 40-acre farms, and

they are now rotating amongst all of those 40-acre farms. But it does all exist within one farm.

Q. And when we looked at -- well, let me say it this way: When we started at the beginning, maybe a little ways in, when I asked you how much water Twin Falls Canal Company is delivering this season, you said three-quarters of an inch; correct?

A. Yes.

Q. That's more than five-eighths?

A. Yes. I would also suggest that the time that this document was prepared, the system was envisioned to encompass 240,000 acres. That didn't come into fruition, but that's what we were decreed for, was the water for the 240,000. Since then we are down to 194; so, arguably, there's some balance there between five-eighths and three-quarters.

MR. BROMLEY: We could have some further discussion about the contract, but I'm going to leave it there, Director.

I would then move for the admission of these last two exhibits that we've discussed --

363 and 364, Andrea?

HEARING OFFICER: Any objection to the admission of these documents?

The documents marked as -- and, again, correct

me -- 363, is that correct, and 364, Mr. Bromley?

MR. BROMLEY: That is correct, Director.

HEARING OFFICER: -- are received into evidence.

(Exhibits 363 and 364 received.)

MR. BROMLEY: And then the one other one that I have on my list, just to clean up, is 337.

These were the letters, Mr. Barlogi, that we looked at that your counsel has sent in to the Department over the years as the irrigated area under Step 1 of the Methodology Order.

Director, I would offer those at this time.

HEARING OFFICER: Any objection to the admission of these documents?

Okay. The documents or document marked as Exhibit 337 is received into evidence.

(Exhibit 337 received.)

MR. BROMLEY: I have nothing further. Thank you.

HEARING OFFICER: Thank you, Mr. Bromley.

MR. BROMLEY: Thank you, Mr. Barlogi.

HEARING OFFICER: Let's break for 15 minutes. Let's come back at five to the hour.

(Break taken.)

HEARING OFFICER: We're back recording.

Okay. Next examiner, Mr. Bricker. Go ahead.

MR. BRICKER: Thank you, Director.

CROSS-EXAMINATION

QUESTIONS BY MR. BRICKER:

Q. Hello, Mr. Barlogi.

A. Hello.

Q. Nice to meet you -- or to see you in person.

I want to begin with some return flows. So does Twin Falls Canal Company track the entirety of its diversions that return to the Snake River above ground surface; in other words, spill back into the river?

A. Yes, in a manner of speaking.

Q. And the amount of the company's spills haven't significantly changed since 2010, have they?

A. No.

Q. Now, if the company were to take measures to reduce the amount of spills, thus, using that water before it leaves the system, couldn't the company thereby reduce its diversions?

A. Well, I think we do take measures to limit the amount of water that goes over those spills to the best extent possible. Operational spill is required at the ends of all of those laterals.

Q. Are there further measures that could be taken

to reduce them further?

A. If there are and we haven't already undertaken those measures, it's because we haven't identified them yet, and we certainly would if we saw them. We do everything we can to minimize the amount of spill.

Q. Fair enough.

All right. Does Twin Falls Canal Company want the Fifth Methodology Order to accurately represent its reasonable in-season demands?

A. Well, certainly, I would think so.

Q. Can we pull up Exhibit 1, that's your prefiled testimony. And while we're at it, also Exhibit 300, which is the Fifth Methodology Order.

So beginning with your prefiled testimony, can you please turn to page 27 of Exhibit 1.

A. Okay.

Q. On lines 8 to 14 therein, you state that the company's diversions have stayed around 1,100,000 acre-feet per year over the last 30 years; right?

A. Yes.

Q. But that's not consistent with the data presented in the Fifth Methodology Order on page 12, is it?

MR. THOMPSON: I guess I'll object to the form

of the question as those two pieces of information representing the same time periods. I don't think they do.

HEARING OFFICER: Well, I'll at least sustain the objection.

Mr. Bricker, just asking for more foundation, looking at the information in the Methodology Order.

MR. BRICKER: Sure.

Q. (BY MR. BRICKER) So isn't it true that the company's diversions from 2000 to 2021 averaged 1,062,098 acre-feet?

A. I assume so. I haven't done that math myself, but that's what the document says.

Q. And that number is, roughly, 38,000 acre-feet less than what you claim the company's annual diversions to be around?

A. No, I don't believe that's accurate. I believe I clearly state that it is right around 1.1 million. Some years a little less; some years a little more.

Q. Okay. But the Fifth Methodology Order states that the average diversions are 1,062,098 acre-feet?

A. Okay.

Q. Thank you.

Now, isn't it true that the Department uses

the company's 2018 diversions as the baseline in predicting the company's reasonable in-season demands?

A. You've got to restate that. Say it again.

Q. Isn't it true that the Department uses the company's 2018 diversions as the baseline for the company's reasonable in-season demand?

A. I believe that's accurate.

Q. Isn't it true, on page 12, that the company's baseline year demand under the Fifth Methodology is 1,121,717 acre-feet?

A. That's what it says in the book, yes.

MR. BRICKER: Can we pull up Exhibit 306, please.

Q. (BY MR. BRICKER) Do you have it?

A. Yes, sir.

Q. Also on page 12, please.

Isn't it true that the company's baseline year demands under the Fourth Methodology Order were quantified as 1,060,011 acre-feet?

A. Yes, sir.

Q. Isn't it also true that the company's baseline year demands under the Second Methodology Order were quantified as 1,045,382 acre-feet?

MR. BRICKER: And I realize this is not in an exhibit before us, but I would ask the Director to take

official notice of that Second Methodology Order.

HEARING OFFICER: I don't have it in front of me, Mr. Bricker. It certainly is part of the record. So whatever numbers are there, you know, I'll review if there's a need to do it.

Q. (BY MR. BRICKER) Well, I will represent to you that under the Second Methodology Order Twin Falls Canal Company's baseline year demands were quantified as 1,045,382 acre-feet.

Do you have any reason to deny that?

A. No.

Q. So isn't it true that the Department has increased Twin Falls Canal Company's baseline year demand by over 76,000 acre-feet since the Second Methodology Order?

I can read the numbers to you again if you'd like.

A. Well, I mean, I'll agree. That is somewhere around where the difference between those two numbers is, yes.

Q. Great. And the Department -- excuse me. Let's turn to Exhibit 301, page 3.

Isn't it true that the Department is predicting a shortfall for Twin Falls Canal Company in the magnitude of 75,200 acre-feet in 2023?

A. Yes.
Q. Isn't it also true that under the Second Methodology Order there would not be a shortfall predicted in this year, assuming that same baseline year demand?
A. I assume so. I have not done that math, I guess. I assume so.
Q. Great. Now, you've stated in your deposition that everything Twin Falls Canal Company does is in the interest of efficiency; is that correct?
A. Yes.
Q. And you've also stated that Twin Falls Canal Company's operations have absolutely become more efficient in the last two decades; correct?
A. Yes.
Q. And that's because the company has undertaken many projects, including lining canals and implementing automation into its operations; right?
A. Yes. Among other things.
Q. Turn back to Exhibit 300, please.
And I don't know if it's possible, but could you also have Exhibit 306 side by side?
MR. WOOD: What is the one that you want?
MR. BRICKER: Exhibit 300 and Exhibit 306.
MR. WOOD: What page?

MR. BRICKER: Page 14 in both.
MR. WOOD: Page 14?
MR. BRICKER: Correct, in both.
MR. WOOD: So here will be 306.
Q. (BY MR. BRICKER) Have you got those, Mr. Barlogi?
A. I do.
Q. Okay. So isn't it true that your assertion that Twin Falls Canal Company's project efficiencies have increased is not consistent with the difference between Twin Falls Canal Company's project efficiencies shown in the Fourth Methodology Order and the Fifth?
A. No, I don't, necessarily, believe that is true.
Q. If you look at those two tables, is Twin Falls Canal Company's project efficiency .35 in both?
A. Yes, it is.
Q. Thank you.
As we discussed a few minutes ago, the Department has predicted that the canal company will experience a shortfall in 2023; correct?
A. Yes.
Q. And the Department has predicted shortfalls in past years as well; correct?
A. Yes.

Q. Now, in your deposition, isn't it true you stated that it is not common for Twin Falls Canal Company shareholders to forgo planting crops because of a lack of water supply?

A. Yeah, I don't know if I said it quite that way or not. I would say that, typically, we have -- in my lifetime at the canal company, we have had more good water years than bad ones.

So, yeah, certainly. Typically, they don't forgo planting the crops that they would like to plant because, typically, we have a decent water supply.

Q. And, similarly, you've stated that you are not familiar with crops perishing within the canal company's project area because of inadequate water supply; correct?

A. No, I'm not.

Q. Could you turn to Exhibit 314, please. That's going to be page 224.

A. Okay.

Q. Do you see line 18 says, "I'm not familiar with crops perishing"?

A. Yes.

Q. Thank you. A few more questions.

You have stated that you haven't experienced Twin Falls Canal Company shareholders idling their land;

correct?

A. Yes.

Q. You also stated that there's typically a zero percent change in TFCC's irrigated acreage; correct?

A. Yes.

Q. So that must mean that the company must be -- the project area of the company must be planted wall to wall, then, each year; right?

A. No.

Q. Can the company ascertain when certain lands are not irrigated in a given year?

A. Well, certainly, I think -- I think we would know, yes.

MR. BRICKER: Thank you.

No further questions, Director.

HEARING OFFICER: Okay. Thank you, Mr. Bricker.

Further questions, Mr. Budge?

MR. BUDGE: Thank you, Director.

CROSS-EXAMINATION

QUESTIONS BY MR. BUDGE:

Q. And thank you, Mr. Barlogi, for being here today.

Do you mind if I call you "Jay"?
A. No, that's fine.
Q. Jay, I'm going to try to avoid duplicating other questions you've been asked, but I do have a little overlap just because I want to clarify a few items.
First, you testified earlier about different delivery rates of the company, three-quarters of an inch per share and five-eighths-inch delivery.
I just want to clarify, that's per share of stock?
A. Yes.
Q. Twin Falls Canal Company does not deliver water on a per-acre basis; it's a per-share basis?
A. Yes.
Q. And I understand from your direct testimony, there's 202,690 total outstanding shares in the company?
A. Yes.
Q. And if we've got somewhere between 180- and 194,000 irrigated acres, we end up with somewhere around 1.1 share per acre on average?
A. Okay.
Q. In your prefiled testimony, you discussed the challenges that development is causing for your company, specifically the changes of farmland from ag into

residential, commercial, and industrial use.

Do you remember that part of your testimony?

A. Yes.

Q. This is something I'm sure you've witnessed firsthand during your time with the company?

A. Yes.

Q. And you're personally familiar with farmland that used to be irrigated that now has got commercial or industrial development on it?

A. Of course.

Q. Has this transition happened relatively continuously during your time with the company?

A. No -- well, yes, at some level there's always been something going on. Certainly, in the earlier years very little. In the last couple of years, as the economy has been so fluid, a lot more.

Q. Okay. So probably fair to say it's accelerated in the last decade or so?

A. Fair.

Q. I understand Twin Falls Canal Company has three irrigation water rights. The water right numbers on file with the Department are 1-209, 1-4, and 1-10.

Are you familiar with those water right numbers?

A. No, I'm not.

Q. Maybe what I'll have you do, Jay, is turn briefly to Exhibit 184.

A. Okay.

Q. And you can take a moment just to briefly review that document and the attachments.

Jay, have you had a chance to review that?

A. Yeah, briefly.

Q. That's a document filed in the Snake River Basin Adjudication. There's a joint stipulation to withdraw objections, and then there's some water right recommendations for Water Right Nos. 1-4, 1-10, and 1-209.

A. Okay.

Q. Do you recognize those as Twin Falls Canal Company's irrigation water rights from the Snake River?

A. These are our natural flow water rights from the Snake River, yes.

Q. Okay. And you understand that, collectively, those three water rights authorize the irrigation of 196,162 acres?

A. No, I don't know that, but...

Q. Okay. If you'll look at the second page of the exhibit, which is part of the stipulation, there's paragraph 3(a), and it reads, "Evidence relating to water right use after November 19th, 1987, was not at

issue in the adjudication. These water rights are decreed in the Snake River Basin Adjudication based on the extent of beneficial use that existed prior to or at the time of the commencement of the Adjudication on November 19th, 1987.

Do you see that?

A. I do.

Q. Do you understand that the decrees issued by the SRBA are based on the extent of irrigation in 1987?

A. Yes.

Q. And you would agree that there's been a significant number of acres removed from irrigation since that time?

A. No -- well, yes, significant is somewhat relative, but I would say that certainly for some of these industrial complexes, they retained 25 percent of their water shares, and the other 25 -- or the other 75 percent were transferred to otherwise drylands.

Q. Okay. So as development has occurred, some land has been taken out of production, and some shares have been transferred to other farmers?

A. Yes.

Q. I understand.

I think you went over some of this with Mr. Bromley, but I just wanted to make sure it's clear

for me in the record. Twin Falls Canal Company does not maintain a record of the number of irrigated acres that it delivers water to annually?

A. No.

Q. So when farmland is developed or removed from production, there's not some book or other database that the company maintains to, you know, reflect that land being taken out of production?

A. Say that again, TJ.

Q. When farmland is developed and taken out of production, the company doesn't maintain any type of database where it keeps track of that land being taken out of production?

A. You know, I would suggest that some of that is likely in the Magic program that I talked about before. I'm not intimately familiar with the Magic program, but I do know that, you know, section-township-range information is there. So if we transfer water from one area to another, that certificate reflects that new section, township, and range. I believe you will find that in the Magic program as well.

Q. So you've got something that shows that -- if shares move from one delivery point to another?

A. Certainly, we track the shares.

Q. But you're not tracking the acres being taken

out of production?

A. No.

Q. Some Surface Water Coalition members maintain a GIS shapefile that they update annually with irrigated acres. That's not something that Twin Falls Canal Company does?

A. No.

Q. If you could turn to Exhibit 300 -- that's the Fifth Methodology Order -- and when you get there, flip to page 9.

A. Okay.

Q. Jay, have you read the Fifth Methodology Order before?

A. Yes.

Q. On page 9, there's a heading near the bottom titled "Irrigation Practices"?

A. Yes.

Q. And below that, there's a paragraph 19 referring to the baseline year, and it says, "A baseline year must be recent enough to represent current irrigation practices. Current conditions should be represented by (a) the net area of irrigated crops," and then I won't read the rest.

Do you understand that the methodology utilizes irrigated acreage to calculate water demand for

Twin Falls Canal Company?

A. Yes.

Q. You understand that if Twin Falls Canal Company reports to the Department more irrigated acres than are actually irrigated, then the methodology will calculate more water demand than if the correct number of acres were used?

A. Yes.

Q. And that this will result, in turn, in additional curtailment of groundwater users or additional mitigation being required of groundwater users?

A. Yes.

Q. So you understand that having -- the Department having accurate acreage figures is very important to ensure that the Department does not impose excess curtailment?

A. Yes, I do.

Q. Okay. And you understand that groundwater users don't have access to Twin Falls Canal Company's water delivery database?

A. Yes.

Q. Okay. So you understand that groundwater users have to trust that Twin Falls Canal Company will provide accurate acreage data to the Department?

A. Yes.
Q. And I believe you testified earlier that you don't think the irrigated acres within Twin Falls Canal has varied by more than 5 percent since the 2013 figure?
A. Yes.
Q. But there's not a mechanism in place to track total irrigated acres with the company?
A. No.
Q. So in the future if it exceeds that threshold, the company won't really know when that happens?
A. Well, I disagree with that. I believe we would know. It's a large enough number that we certainly would know. The reason we haven't created shapefiles in recent years is because we know for certain that we are within the 5 percent very, very easily.
Q. And how do you know that for certain?
A. Again, as I represented earlier, 5 percent of 194,000 is nearly 10,000 acres, nearly 15 square miles. Nothing close to that has happened.
Q. Let me reference -- I'm going to switch gears here and reference a portion of your prefiled testimony that talks about crops grown within the company's service area.
And you mentioned there's wheat, barley,

alfalfa, sugar beets, potatoes, dry beans, and corn.
I assume those are the primary crops?
A. Yes.
Q. Anything else would be on a small scale?
A. I'm sorry, I wasn't tracking everything that you said.
Q. Yeah. There may be some other greenhouse-type crops or something grown, but they would be very small?
A. Yes.
Q. What's your best estimate as to the percentage of the company's service area, on average, that's used to grow wheat and barley?
A. I don't have any idea.
Q. Is it a significant portion?
A. Yeah, yeah, I would say so.
Q. And I'm not a farmer, but I understand those crops are typically harvested in early August?
A. Yeah, I'm not a farmer either, but, yeah, I think you're right.
Q. And so when those crops are harvested, there would be a drop in irrigating acreage within the company's service area?
A. Not necessarily.
Q. Do those acres that were growing barley and wheat continue to be irrigated after they're harvested?

A. To some extent they do. A lot of times, the guys will irrigate the stubble to assist in the soil health to help the stubble break down. In recent years, we've seen some double cropping going on on the project. Furthermore, those acres that were under barley, that water has probably now been moved off of those acres and rotated around to the sugar beet crop or to the alfalfa crop or to the corn crop.

Q. Is it fair to say that the amount of irrigation that was occurring -- that occurs on wheat and barley acres declines on those acres collectively after those crops are harvested?

A. Yeah, I would say after a period of time, you know. Commonly during that time of year, every crop out there is needing water. So when the grain crops are done, it's very, very common for two or three weeks to see water users attempt to get caught up in areas where they were behind.

Once they begin to get caught up, if they had enough grain on their farm, you will see them reduce their delivery.

Q. And you explained earlier that the company doesn't do rotations, but individual stockholders can rotate their water supplies among their different fields on their farm?

A. Yes.
Q. Do most farmers take their diversion rate continuously through the irrigation system but have that type of rotating you discussed earlier?
A. Yes, more or less.
Q. And I understood from your deposition that the company, typically, delivers water from mid-April to mid-October?
A. We, typically, have water available for delivery from mid-April through mid-October, yes.
Q. And I understood from your deposition testimony that stockholders tell you in the spring when they're ready to turn on, and they tell you in the fall when they're ready to turn off?
A. Yes.
Q. I understand that Twin Falls Canal's water supply depends primarily on natural flow?
A. Yes.
Q. And when natural flow is sufficient to divert the full authorized diversion rate, I assume the company's going to take its full rate?
A. Well, likely. Likely -- I say that because, you know, 170 -- 170 cfs of our water right is a 1939 water right. And that water right is never available when you get into July, which leaves us at 3,600 cfs

with a 1915 of 600 and a 1900 of 3,000. So, typically, our system maxes out at 3,650. So throughout the June, July, and August period, you can expect to see those kinds of numbers with our diversion; and if the natural flow will sustain that, absolutely, we will divert it and need it.

Q. Yeah. Okay.

I assume from a canal management standpoint, it's easier to manage the system and get water to everybody with the full 3,600 cfs diversion than if you had to cut back to 3,000 or something like that?

A. Yeah, certainly. Yes.

Q. You testified a little bit today and in your deposition about all the work Twin Falls Canal Company has done to make its system more efficient.

A. Yes.

Q. In your deposition, you explained that you've installed a lot of automation. I think you mentioned there were 60 automated sites now within the company?

A. Yes, ballpark.

Q. You explained that the Kinyon Pond was constructed in 2012 or '13, which enables you to manage the water supply more efficiently?

A. Yes.

Q. You described a large canal lining project on

the High Line Canal in 2019?

A. Yes.

Q. And two large-scale projects -- lining projects planned for 2023 and 2024?

A. I think we have one planned, not two.

Q. Oh, one planned. Okay. I may have misunderstood that.

And you also explained that if funding were available, Twin Falls Canal would develop additional project efficiencies?

A. We are always looking for opportunities.

Q. And so if groundwater users were willing to fund an engineering study to identify additional efficiencies available to the company, is that something you would welcome?

A. I wouldn't say we would at this point, no.

Q. If groundwater users were to fund actual improvements that had been identified, would you welcome their support?

MR. THOMPSON: I'm going to object to this line of questioning going beyond the scope of this proceeding, relevance.

HEARING OFFICER: Mr. Budge?

MR. BUDGE: I think it's well within the scope of the proceeding.

HEARING OFFICER: Well, I'm torn, but I think I'll sustain the objection, Mr. Budge.

Q. (BY MR. BUDGE) Let me ask just a few follow-up questions about sprinkler efficiencies.

I think we covered some of this, but if I understood correctly, the company's gone from about 25 percent sprinkler to 50 to 60 percent sprinklers in the last 10 or 20 years?

A. That's our current estimate, yes.

Q. And when shareholders irrigate with sprinklers, they divert less water from the canal?

A. No.

Q. They apply just as much water per acre with sprinklers as they did with flood irrigation?

A. As I mentioned earlier, I'm not a farmer, I don't really know how they apply at all. I know that we continue to deliver the same amount.

I think on-farm efficiencies are certainly there. I think they have the ability to water their crops more efficiently, make better use of the water on the farm, and then move that water around to other crops.

Bear in mind, on our system one farmer is not growing just one great big hayfield. He's got hayfields. He's got cornfields. He's got grainfields.

So he may be able to more efficiently move his water around on his farm, but he still has a right, and we still deliver the same amount.

Q. You testified at your deposition that with the conversion from flood to sprinkler, there's less water that's accruing to waste ditches throughout the company?

A. Yes. Actually, I -- yeah, you know, the on-farm improved efficiencies, I believe, are there. The on-system efficiencies suffer.

Q. So when you say you deliver the same amount, what you're saying is you're making available to the stockholder the same amount of water, the three-quarters of an inch or five-eighths of an inch?

A. Yes.

Q. Does the company maintain meters at each delivery point to regulate how much water is diverted at each diversion point?

A. Yes, sir.

Q. And do those have totalizers on them?

A. Our meters are in the form of a concrete headgate that's measurable. They're not -- they're not electronic meters.

Q. You've got measuring devices, but not something that's keeping track of the total volume delivered --

A. No.
Q. -- each year?
Okay. But -- well, let me ask you this: In your prefiled testimony, you have a statement that there's less return flow into the system from flood irrigation, and as a result -- and here's a quote -- "We simply have to bring more water into the system to supply those needs."
Do you remember this part of your testimony?
A. Yeah, I remember that conversation and multiple parts of my testimony.
Q. And I'm referring to your prefiled testimony that's been admitted as Exhibit 1, I believe. And that's page 22, line 20.
A. So I would say that following that I believe there's a sentence that says that's simply not possible to just go get more water. We look at efficiencies and canal capacities as virtually synonyms. Our canal capacity doesn't allow us to just continually go to the head and get more and more water.
So we've had to become more and more efficient in order to meet with those needs and meet with the deficit that we now experience because we don't receive that wastewater to redeliver time and time again.
Q. Now, your testimony is that when somebody

converts from flood to sprinkler that wastewater diminishes, but they're diverting just as much onto the fields as they did with flood irrigation?

A. Yes.

Q. Okay. So with flood irrigation there's water that would discharge into waste ditches. Some of those waste ditches return to the company's system, and others just discharge out of the system; correct?

A. Yes.

Q. So when somebody converts from flood to sprinkler, and there's less wastewater discharging out of the system, there's no water savings there for the company?

A. No. There's a water shortage that exists as a result of that.

Q. So converting to sprinkler -- what you're saying is it actually takes Twin Falls Canal Company more water for its patrons to irrigate their crops with sprinkler than with flood?

A. No. I'm saying it takes the company a higher level of efficiency to operate with sprinklers versus flood.

Q. So less water?

A. The same.

Q. The same water? No difference?

A. Right. 1.1 million.
Q. Diverts the same at the head, is what you're saying?
A. Yes.
Q. So if the whole company was in sprinkler, you would still want to divert the full 1.1 million acre-feet at the head?
A. We will strive to improve our efficiencies so that we can do that. As we lose that wastewater, it becomes a challenge.
Q. Let me ask you a few questions about subdivisions.
You mentioned that subdivisions use as much water as the farmer used before the subdivision went in?
A. Yes.
Q. In your testimony, your prefiled testimony, you reported that most subdivisions divert most or all of their water between 5:00 and 10:00 a.m.?
A. No. I think they use most of their water between that. They divert it constantly.
Q. Where does it go when they're diverting it but not using it?
A. Back into our system or back into its historical waste path.
Q. Okay. So they divert it, they just don't use

it to grow landscaping and sod and stuff like that?

A. Right.

Q. So when you say subdivisions continue to divert just as much as before, the diversion hasn't changed, but the amount of crops grown -- considering sod a crop, that goes down. The amount of -- I'll do it this way: The amount of acres irrigated goes down, but the diversion stays the same?

A. Yes. There's hard-surface areas in there that aren't growing a crop.

Q. And then additional water comes back into the system through a waste ditch or whatever?

A. Yeah, it either comes back into the system or it goes back into a historical waste path and wastes beyond our system into the Snake River Canyon, the Rock Creek Canyon. Or in many cases they have built large storage ponds to store that capacity so that when the sprinklers all fire up at 5:00 o'clock tomorrow morning, there's been capacity built in order to sustain that need.

Q. Okay. Very good.

I've just got a few more questions, and it's about the hydropower facilities, and you covered some of this with Mr. Bromley.

I understand there's three facilities that

Twin Falls Canal Company is an owner and part-owner. It's Midway Power, Lower Low Line, and Twin Falls Energy.

Are those the three?

A. No. It's Midway Power and Lower Low Line we fully own, and we're partners in the South Forks Hydro.

Q. That's right. You explained that in your deposition, and I didn't get it straight. I apologize.

And then there's another seven plants that are owned by third parties?

A. Yes.

Q. You testified earlier today that most of these are at the tail end of drains?

A. Yes.

Q. And on some of the plants that Twin Falls doesn't own, they receive royalties from the third-party owner?

A. Yes.

Q. And I believe in your deposition you testified that Twin Falls has budgeted $1.8 million from hydropower revenue in 2023?

A. There is that kind of revenue expected, and there are expenses associated with that as well.

Q. Okay. And that's just for the three plants that the company has ownership interest in?

A. No, I believe that's all of it.
Q. That includes the other plants as well?
A. I believe so.
MR. BUDGE: That's all the questions I've got. Thanks.
HEARING OFFICER: Thank you, Mr. Budge.
Further questions from the groundwater group?
Redirect, Mr. Thompson.
MR. ANDERSON: Director, may I ask just one quick question? I'm sorry.
HEARING OFFICER: Of whom?
MR. ANDERSON: Of Jay. Sorry.
HEARING OFFICER: Sure.
MR. ANDERSON: Just real quick.
HEARING OFFICER: Yep. Come forward.
MR. ANDERSON: And I just will be quick.

CROSS-EXAMINATION

QUESTIONS BY MR. ANDERSON:
Q. I understand the objection and the sustaining of relevance on the question that was asked about technologies and efficiencies.
So my question is not what you would do or what you would allow groundwater districts to do, but I want to ask the question this way: Is there currently

factors or barriers to putting in new technologies into your system if those technologies existed?

A. No. We explore and entertain any new technology that comes along.

That being said, it's not all based -- all that it's cracked up to be.

Q. So other than the limitations of the technology itself, probably, there's no other factors, that you can think of, that would limit those technologies going in?

A. No.

MR. ANDERSON: Thank you. No further questions.

HEARING OFFICER: Thank you. Mr. Thompson.

REDIRECT EXAMINATION

QUESTIONS BY MR. THOMPSON:

Q. Mr. Barlogi, just a couple of questions on redirect here.

Can you turn to Exhibit 1. It should be in our small binder there in front of you.

A. Okay.

Q. Can you turn to page 22, please.

A. Okay. I am there.

Q. It's -- in lines 18 to 20 we have an objection

from the groundwater users as hearsay.

Can you just describe what you're discussing there?

A. Yes. I was just discussing the situation that we're talking about. As Twin Falls Canal Company has the opportunity to reuse each drop of water time after time after time as much of our -- all of our High Line ground, about 73,000 acres, wastes back into the Low Line. So all of that wastewater we get to recapture and reuse again. And then we deliver it, then, again, onto Low Line grounds that typically waste off of one farm back into our system. And we get to use it again and again and again.

It's part of our efficiency number within the company. And I was just citing a historical statement in one of the old documents of the canal company where a state engineer had made the comment that a drop of water is thoroughly exhausted by the Twin Falls Canal Company by the time they are done with it.

Q. So I guess you wouldn't have to rely upon that engineer's statement to know how that operation works?

A. No. Of course not, no.

Q. And do you also receive water from seeps and drain tiles?

A. Yes, sir.

Q. And what have you witnessed in regards to those flows, over time?

A. Well, seeps and drain tiles were installed originally between, I want to tell you, 1915 and 1930. We captured a huge amount of subsurface water and redirected it back into our system.

In recent years, certainly, that water supply has gone down, down, down. And the trajectory is still currently downward. We've seen a reduced amount of that water coming out of those seep tiles and tunnels.

Q. You heard some questions this morning about the hydropower projects within the canal company.

Does the canal company divert water from the Snake River only for hydropower purposes?

A. No. It's explicitly understood amongst all of our stockholders and amongst all of the power folks that those facilities exist incidental to irrigation demand.

Q. Can you turn to Exhibit 338.

A. I'm there.

Q. It's your testimony that these are annual income statements prepared by your accountant?

A. Yes.

Q. And would you agree that these statements do not show the company's annual expenses?

A. Yes, I would agree.

Q. And what are the company's annual expenses as far as an amount?
A. An amount?
Q. Yes.
A. Oh, for our total annual budget?
Q. Correct.
A. It is right between 7 and $8 million this year.
Q. Mr. Bromley went through the attachment to the company's groundwater recharge water right application; it was a 1903 contract.
Do you remember that testimony?
A. Yes.
Q. You talked with Mr. Budge about the water rights the company has decreed, 1900 right for 3,000 cfs.
So if that contract identified a water right for 3,400 cfs, what did the company actually get decreed over time?
I guess if there's a difference between your decree and that contract, what do you understand is your water right today?
A. Well, I understand my water right to be 3,780 cfs of natural flow in the river with various states with my 245,000 acre-foot of storage water

stacked on top of that.

Q. And I'll just focus on the 1900 water right. Is it your understanding that the 1900 priority right is for 3,000 cfs; is that correct?

A. Yes.

Q. So if that contract identified 3,400, that would be inconsistent with your water right; is that true?

A. Yes.

Q. Can you turn to page Exhibit 314. I think that's your deposition transcript.

A. Okay.

Q. Page 224.

A. Okay.

Q. I think Mr. Bricker asked you about crops perishing, and you read, I think, that answer on line 18; is that correct?

A. Yes.

Q. Can you read the rest of that answer, please.

A. From line 18: "Answer: I'm not familiar with crops perishing. I am familiar with complaints of reduced yields. Again, an inability to plant the crops that they would like to plant because they know it's going to be a short water year, so they go heavy on the grain, heavy on the wheat, heavy on the barley, and

forgo the corn and the high-priced alfalfa."

Q. I guess one last question, Mr. Barlogi. In terms of canal operations and efficiency, would you agree that the irrigated acreage within your project is not the only variable that affects that efficiency?

A. Absolutely.

MR. THOMPSON: That's all the questions I have. Thank you.

HEARING OFFICER: Thank you, Mr. Thompson.

Recross by anybody in the groundwater users group?

Mr. Budge?

RECROSS-EXAMINATION

QUESTIONS BY MR. BUDGE:

Q. Mr. Barlogi, Mr. Thompson was just talking to you about how farmers utilize their water. You testified earlier that you're not a farmer and not intimately familiar with their irrigation practices?

A. [Witness nods head.]

Q. And your testimony just given a moment ago was that the farmers go heavy on the wheat and barley until they're harvested and then move that water to the corn and the sugar beets and things like that?

Was that your testimony?

A. Just now?
Q. Yeah.
A. No, I don't think that was the intent of that conversation. Are you talking about the conversation I just had with Mr. Thompson?
Q. Yes.
A. No, I don't think -- I think that's out of context.
Q. Okay. I must have misunderstood.
Is it your testimony that while a farmer is growing their barley and wheat, they irrigate their corn and sugar beets and potatoes less, and then once the grain and wheat is -- the barley and wheat is off, then they irrigate them more at that point?
A. That is not the -- that is not the conversation that Travis and I just had, no.
Q. Okay. So just so I understand -- and you would agree that the cash crops are the corn and the hay and the sugar beets, things like that?
A. [Witness nods head.]
Q. And so it's not your testimony that the farmers are, you know, shorting those crops' water until the wheat and barley is off; you're just saying once the wheat and barley's off, there's just that much more water that they can put on their other crops?

A. My testimony was that farmers forgo the planting of corn and potato acres because they know it's a short water supply year, and they plant more grain and more barley and forgo those acres of going into the more valuable crops of alfalfa and corn.

Q. You don't really know what the individual farmer's rotations are on Twin Falls Canal's system because you're not involved in their farming practices?

A. I know from a general perspective, but not intimately with each farmer, no.

Q. You know from hearsay?

A. Well, from hearsay and from -- I mean, you can see it from the road. When it's a big grain year because it's a short water year, you can see noticeably more grain on the project, noticeably less corn and alfalfa.

MR. BUDGE: Yeah, Director, I would move to strike the testimony about farmers' crop rotation practices. This witness is not qualified to testify why farmers grow one crop versus another.

HEARING OFFICER: I'll deny the motion to strike. My impression is that Mr. Barlogi man ages and observes what's happening out there. He may not know exactly field to field because he's not a farmer, but, nonetheless, he has sufficient exposure that his

testimony should be considered. Thank you.

Q. (BY MR. BUDGE) Mr. Barlogi, you understand that commodity prices vary from year to year?

A. Certainly.

Q. And that commodity prices may drive farmers' decisions to grow one crop versus another?

A. Certainly.

Q. Do you understand that certain types of crops must be rotated with other crops to maintain soil health?

A. Certainly.

Q. And certain crops are grown based on contractual obligations to food producers?

A. Certainly.

Q. And you don't know why a given farmer may grow one crop versus another crop from year to year?

A. Not from those perspectives that you just mentioned, no.

Q. Okay. And then just one follow-up question about the conversion from flood to sprinkler, which I'm still struggling to wrap my mind around.

Do you understand when somebody irrigates with flood irrigation, there's excess water on the field and that excess water either sinks into the aquifer or it drains off into a waste ditch?

A. Yes.
Q. And when somebody irrigates with sprinkler, there's much less or maybe no excess water that runs off or sinks into the ground?
A. Yes.
Q. But your testimony is that the sprinkler farmers in your company's service area divert just as much water from the canal as happened under flood irrigation?
A. Yes.
MR. BUDGE: Okay. Nothing further.
HEARING OFFICER: Further questions by the groundwater group?
All right. Our timing seems to be very good again today. It's noon. Are we finished with Mr. Barlogi, then?
Mr. Barlogi, you can go back to --
MR. THOMPSON: Yeah, just a quick question on that. I'd like to release him. We did have certain parties identify him as a witness. I assume all of his testimony has been taken this morning; he can go home?
THE WITNESS: Okay. Thank you.
HEARING OFFICER: So the question is whether Mr. Barlogi can be excused?
MR. THOMPSON: Yes.

HEARING OFFICER: So you're excused, Mr. Barlogi, to go back to managing and delivering water, an important thing to the patrons of Twin Falls Canal Company.

I think we have one matter pending. Mr. Budge, you asked if the Department would redact a portion of Mr. Barlogi's written testimony.

MR. BUDGE: Yeah. And then I didn't object when he quoted it, so we're going to let it slide.

HEARING OFFICER: So you want to let it go?

MR. BUDGE: I think the objection is still appropriate, that it's based on hearsay, but --

MR. FLETCHER: It's in the record.

MR. BUDGE: It's not that critical at this point.

HEARING OFFICER: All right. That simplifies the operation of a black pen.

Okay. We'll come back at 1:00. Thanks, everybody.

(Lunch break taken.)

HEARING OFFICER: We are back on the record after a lunch break.

Mr. Sullivan, you're next. Will you stand and raise your right hand, please.

///

GREGORY K. SULLIVAN, P.E.,
called as a witness by the City of Pocatello, having been first duly sworn to tell the truth relating to said cause, testified as follows:

MS. TSCHOHL: Can you guys make sure the microphones are on?
(Discussion held off the record.)
HEARING OFFICER: Now, is that better, I hope?
MS. TSCHOHL: Yes, we can hear you loud and clear.
HEARING OFFICER: Okay. Good. Thank you, Sarah.
All right. Mr. Sullivan has been sworn in.
Ms. Klahn?
MS. KLAHN: Thank you.

DIRECT EXAMINATION

QUESTIONS BY MS. KLAHN:

Q. Good afternoon, Mr. Sullivan.
A. Good afternoon.
Q. I'm Sarah Klahn. I represent the City of Pocatello, and we're here to put on your expert report in this matter.
Could you start by stating your name and

spelling it for the record, please.

A. Gregory K. Sullivan, G-r-e-g-o-r-y, S-u-l-l-i-v-a-n.

Q. And are you a consultant engaged by the Cities to present opinions in this matter?

A. Yes.

Q. What's your present professional position?

A. I'm the president of Spronk Water Engineers.

Q. And do you have any professional registrations?

A. Yeah, I'm a licensed professional engineer in Colorado, New Mexico, and Idaho.

Q. And I believe the parties have stipulated to your admission as an expert in this matter, so I don't want to go over all the things we normally would go over in that context.

But can you describe, in just a couple sentences, your general work experience?

A. For my entire career I've been working in water rights and water resources engineering; for my present company since 1990, and then for a different company for the five years prior to that.

So I've been working in this area of water resources, water rights, modeling groundwater for my whole career.

Q. And have you participated in the -- in prior delivery calls?

A. Yes, I have.

Q. Which ones?

A. I was -- I've been involved in the Surface Water Coalition delivery call since its beginning. And then I was also heavily involved in the A&B delivery call and the Rangen delivery call.

Q. And you have experience with the SRBA as well?

A. Yes. I've assisted numerous clients in filing for their claims and reviewing the claims, helping them get them adjudicated.

Q. Can tell us about your modeling experience in Idaho.

A. I've been a member of the Eastern Snake Hydrologic Modeling Committee since its inception and, actually, prior to that, the Idaho -- ITCH, the Idaho Technical Committee on Hydrology, that was the predecessor group.

And both of those -- one of the major tasks of both of those groups has been to sort of oversee and provide peer review on the development of the Eastern Snake Plain Aquifer model over the years.

Q. Thank you.

Who exactly are you representing in this

matter?

A. The City of Pocatello, the City of Idaho Falls, and the Coalition of Cities, which is 15 smaller ESPA cities.

Q. And you mentioned that you've been working on the Surface Water delivery call for a number of years.

Were you involved in the original 2005 Surface Water delivery call?

A. Yes.

Q. Can you describe, in a general way, the investigations you conducted at that time?

A. Well, we compiled data, reviewed the voluminous data that was submitted by the parties, and then, importantly, we conducted a pretty thorough investigation of all of the Surface Water Coalition members. And that included reviewing, you know, a lot of their historical information, historical records.

We spent, like, three weeks in the field, you know, going through all of their systems, observing them and observing their water conveyance and delivery facilities involved, looking at their irrigation practices. It was quite extensive.

And that culminated in an analysis that was summarized in my original expert report of their operations during the period from -- I think it was 1990

to 2006.

Q. Okay. And have you produced an expert report in this matter?

A. Yes, I have.

Q. Okay. And that would -- is that Exhibit 347? Could you find that?

Now, Mr. Sullivan, I understand that you were out of the country immediately before the start of this hearing; is that right?

A. Yeah. I was in Spain and Morocco.

Q. And I believe that when you returned, you had a chance to review the report, which you had largely completed before you left; is that right?

A. Yes. I had a little bit of opportunity to work on it while I was away, but spotty internet connections and stuff like that. And so, yeah, I looked -- I was able to look at it in some more detail when I got back.

Q. And when you got back, did you discover that there were some errors -- editorial errors, primarily, in the report.

A. Yes, there's some things I would like to correct.

Q. Okay. And are you looking at Exhibit 347 that has the pages of errata? I just want to make sure we

have the current version in the exhibit binder.

MR. FLETCHER: Is this 347?

MS. KLAHN: 347A. Sorry.

THE WITNESS: I don't think it is.

MS. KLAHN: 347A, is there such a thing up there?

No, I know, but did we make a copy of it?

THE WITNESS: My copy has that.

MS. KLAHN: I know yours does.

MR. BROMLEY: I can get it printed.

MS. KLAHN: Let's just go off the record for a minute.

(Discussion held off the record.)

MS. KLAHN: Back on the record.

Q. (BY MS. KLAHN) So the conversation we just had off the record was about replacing 347 with 347A at the conclusion of your testimony.

However, Mr. Sullivan, did you have something to explain about the -- some of the errors maybe not being completely editorial?

A. There was a handful that were -- you know, I just missed a word. And, like, for example, the word "not" was in there and something -- in one of the statements; and that "not" should not have been there.

So that's substantive.

Q. Well, do you want to take a minute now and identify where that is so people can get in, if they have a paper copy of the old version, and change that?

A. I don't think I can do it thoroughly with what I have right here. I have, like, a redline on my computer.

Q. Well, we'll just keep going, then.

A. I'll try to remember if I see something.

MR. FLETCHER: Just to clarify this issue, the page numbers changed when you changed exhibit numbers. So it's going to be very -- is there anybody that has an extra copy or a copy of 347A that the witness can --

MR. WOOD: I can print one off if somebody emails it to me.

MR. BROMLEY: Yeah. So Max has it right here. Can he send it to you, Pete?

MR. WOOD: Okay. Email it to me, and I'll go print it.

MR. FLETCHER: Because otherwise this is going to be confusing.

MR. WOOD: Yeah, it's fine.

MR. BRICKER: What's your email?

MR. WOOD: pete.wood@idwr.

MS. KLAHN: Shall we take a five-minute recess maybe?

HEARING OFFICER: That would be fine.

(Break taken.)

(Exhibit 347A marked.)

HEARING OFFICER: All right. Back on the record.

Ms. Klahn.

MS. KLAHN: Thank you, Pete, for your help with that.

MR. WOOD: No problem.

Q. (BY MS. KLAHN) We're back on the record.

And, Mr. Sullivan, you've been presented with Exhibit 347A. And in that report, could you identify -- we were just talking before we broke to get a copy of this, we were talking about your involvement in the other delivery call matters.

Does this 347A -- Exhibit 347A show the -- have a list of the reports you've prepared in prior delivery call matters?

A. It does.

Q. Could you identify where that is?

A. It's on page 4. This isn't all the other delivery call matters, it's just the reports, like, related to this delivery call -- or the Surface Water Coalition.

Q. Yes, that's what I meant, in the Surface Water

Coalition delivery call. Okay. Thank you.

Do you still stand by the opinions in the prior reports?

A. I do.

Q. Do you still stand by the methods you used in the prior reports?

A. Yes.

Q. Have you updated any of those analyses?

A. I would have liked to, but there wasn't time.

Q. And then as far as your work in this case, you said you haven't updated your work from the last case, but have you identified changed conditions since you prepared the prior reports?

A. Yes.

Q. And what page is that on in your report?

A. It's the series of bullets near the bottom of page 2.

Q. And then one more sort of foundational question.

Were you involved in the 2022 technical work group process?

A. I was.

Q. How were you involved?

A. I received an invitation to that. And there was a series of meetings -- half a dozen meetings, I

think, that the Department hosted that I attended remotely. And then I presented some information at a couple of the meetings on a couple of the subjects. And then, ultimately, when the staff recommendation was issued, I reviewed that and submitted written comments to that.

Q. Okay. And just for the record, I'd ask you to take a look at Exhibit 316.

Is this the staff recommendation that you referred to?

A. Yes.

Q. And Exhibit 326, could you take a look at that? Is that the comments that you submitted in response to the staff recommendation?

A. 326, it looks like Sophia's comments.

Q. How about 327?

MR. BRICKER: I think it's 322.

MS. KLAHN: 322. Sorry.

THE WITNESS: Yes.

Q. (BY MS. KLAHN) So 322 are the comments that you and your colleagues at Spronk Water Engineers submitted in response to the technical work group?

A. Yeah, in response to the staff recommendation memo.

Q. I apologize. Yes, that's right. In response

to the staff memo.

Did you receive any feedback on your written comments from anybody at IDWR?

A. I did not.

Q. Now, let's take a look at Exhibit 300, which is the Fifth Methodology Order, and Exhibit 301, which is the As-Applied Order.

A. Okay.

Q. Have you previously reviewed Exhibit 300?

A. Yes.

Q. Were your comments submitted to the technical work group incorporated into the Fifth Methodology Order?

A. Not that I could tell.

Q. And as far as the hearing today on the two orders reflected in Exhibit 300 and 301, in your professional estimation, did you have adequate time to review the Fifth Methodology Order and the As-Applied Order to prepare for the hearing?

A. No. I mean, I did what I could, but there wasn't time to do all I would have liked to have done.

Q. So let's just -- for a high-level summary, let's talk about what work you were able to do.

And I believe if you turn to the table of contents in Exhibit 347A, that might be a guide for

your -- if you can give us an overview of what work you were able to do.

A. Yeah. So in addition to just reviewing the order and the Fifth Methodology and the As-Applied Order, then there was a number of issues that I identified that I ended up focusing on. And they're, basically, the subject of my expert report.

So that was looking at the new baseline year; looking at the updated project efficiencies for the Surface Water Coalition members; looking at the irrigated area that is used in the methodology; considering the supplemental groundwater as a potential source to the Surface Water Coalition members, which is a provision of the methodology; looked at the change from steady state to transient groundwater modeling for determination of the priority date of curtailment. So those are the main things I focused on.

Q. Okay. Could you identify the work you would have done if you'd had more time?

A. Well, I would have liked to have, you know, looked at the -- taken another -- a relook at the operations of the Surface Water Coalition members because there's been 15 years, roughly, since -- have elapsed since I last looked at them, and I know, anecdotally, there's been continued conversions to

sprinkler and canal lining and other automation, those things that we heard Jay Barlogi talk about today.

So I'd like to understand the extent of those things that have gone on. And then, you know, that would give me a good -- a better context, I guess, to then look at the records of what they've been using over that time and consider the sort of the reasonableness of their operations given what their efficiencies are. So that's one thing I would have liked to have done.

Q. Okay. The -- it has been 15 years since the 2008 hearing, exactly 15 years almost.

How does the changes during that time -- how would the changes during that time inform your, I guess, opinions if you'd had the time to look at those changes, potentially?

A. Well, you know, for example, these updated project efficiencies, you know, I think by analyzing the Surface Water Coalition numbers, it would give me -- operations over the last 15 years, that would give me a better ability to judge the reasonableness of those efficiencies and whether they're -- the revised efficiencies are consistent with the kind of facilities that they have and if the general, you know, industry standard of large -- of the operation of large irrigation systems.

MS. KLAHN: Now, I'd like to offer Exhibit 347A at this point just so I don't forget to do it.

HEARING OFFICER: Any objection?

MR. FLETCHER: I have an objection just to a couple of comments made by Mr. Sullivan where he's delving into the realm of judicial review. And, basically, I'm asking that certain portions of the report be stricken. They're very small, but one is on the bottom of page 6 and continues to page 7 where he talks about the findings of the Director to be arbitrary and no clear and convincing evidence.

On page 7, paragraph 2, he talks about the actions of the Director being arbitrary and capricious.

And in page 27, bullet point 3, he makes reference to Director's actions being arbitrary.

And those are standards for judicial review. They're really not an expert's standard dealing with data and data interpretation.

HEARING OFFICER: Ms. Klahn?

MS. KLAHN: Well, I would say what's sauce for the goose is sauce for the gander, and Mr. Brockway has similar statements in his report. I think that expert s, especially in the water realm, routinely make those kinds of statements. And I'm assuming the Director has

seen that before and will take it for what it's worth and that it's certainly not going to control any appeal that might be filed and heard by Judge Wildman. So I would say they're not the sort of thing that should be stricken, but if they are, then the same thing should come out of Dr. Brockway's report.

HEARING OFFICER: Well, and of course, I don't know what Dr. Brockway's report even says.

MS. KLAHN: Oh, I think all I'm asking for is a global rule, not just a groundwater-specific rule.

HEARING OFFICER: I'll overrule the objection. I don't think these references will affect my decision-making in any way. Overruled.

MS. KLAHN: So is the exhibit accepted, then?

MR. FLETCHER: I don't have an objection.

HEARING OFFICER: So the document marked as Exhibit 347A is received into evidence. Thank you, Ms. Klahn.

(Exhibit 347A received.)

MS. KLAHN: Thank you.

Q. (BY MS. KLAHN) Mr. Sullivan, let's start with baseline year investigations that you had time to do.

Could you describe your review of the baseline year that was selected for the Fifth Methodology Order?

A. While there was some discussion of that at the

technical working group, it was one of the things that was brought to us. And the basic proposal was -- or the information that they submitted to us and is described in their -- I think in the Fifth Methodology Order was that the previous baseline year, which was an average of diversions during 2006, 2008, and 2012, was no longer representative of a year of above-average diversions, and that's because there had been -- they recomputed the average with an additional six or eight years, so the average changed, and now that baseline year, which -- '06, '08, '12 -- which was above average before now is just a tiny, tiny bit below average.

And so I endeavored, then, to just review that pretty simple data of the diversion data in relation to the new baseline year that was selected and just kind of verify or understand the math that went involved -- that was involved.

Q. Do you have a recollection of how much below average the post -- I'm going to call it '06/'08/'12 baseline year was?

A. Yeah. Well, based on the information that was provided by the Department, the '06 -- I'll call it '6/'8/'12.

Q. Okay.

A. The '6/'8/'12 baseline year was

5,666 acre-feet per year less now than the average. So that's, you know, 5,600 acre-feet out of 3.2 million. So just a very, very small amount, .18 percent less.

Q. So was there a problem with the backup spreadsheet for the '6/'8/'12 change that IDWR provided?

A. Well, I did note that when I looked at the information that was provided where they computed the new long-term average, which was now using data from 2000 to 2021, looking at the data within that spreadsheet, it looked like some of the numbers during the earlier part of the period had changed from what was used to compute the original '6/'8/'12 baseline, and I don't know why. Maybe that was provisional data that they updated, and it wasn't extensive, but there was some changes.

But, curiously, the Department was still using the original '6/'8/'12 value as the benchmark for comparison of the new average. That '6/'8/'12 benchmark was still from the old data, the uncorrected data, and I thought that was kind of -- I don't know if it was an oversight or intentional. But, anyways, when I plugged it -- I tried to recompute the '6/'8/'12 baseline with the new data, new diversion data, and it changed a little bit.

And now with the new '6/'8/'12 baseline -- or

with the updated diversion data, you know, is only now 40 acre-feet less than the 2000 to 2021 average. So just a tiny -- the tiniest bit less.

Q. So is 40 acre-feet pretty small in comparison to the total diversions?

A. Yeah, very small. I mean, it represents -- I put this calculation -- it represents about five minutes of diversion of the Surface Water Coalition members' total diversions on average. So it's a tiny, tiny amount. But to be sure, it's still below average.

Q. So the -- did IDWR include 2022 data when they were calculating the comparison for the '6/'8/'12 baseline year?

A. No, they didn't. And so that -- so that was something I thought might be interesting to look at, so I added on the data -- diversion data from 2022 and recomputed that long-term average, 2000 to 2022 now, instead of 2000 to 2021. And then when you compare that average to the updated '6/'8/'12 baseline year, then it turns out that '6/'8/'12 is still above average now.

Q. So based on your understanding of the Department's methodology for selecting a baseline year, if the average that's being compared to the old baseline year is greater, would it be appropriate to pick a new baseline year based on your understanding?

A. Well, I'm not sure if you -- maybe I misunderstood your question.

Q. Did I turn it around?

A. You might have turned it around. But I think if you include 2022 and then do that comparison, '6/'8/'12 will still qualify as a baseline year.

Q. That's what I was trying to get at. Thank you. Well, but a new baseline year was selected as 2018.

Do you recall what the total diversions were associated with 2018?

A. Yeah, it's 3,341,939 acre-feet.

Q. And what kind of increase is that over '6/'8/'12?

A. It's roughly 142,000 acre-feet more. So that tiny amount, you know, either 40 acre-feet or 5,000 acre-feet, that the old baseline year fell below the average, resulted in this huge increase in the baseline year, 142,000 acre-feet. And that was kind of eye-opening.

Q. Did you analyze whether the surface water -- well, let me ask you first: What was the diversion averaging period used in the Fourth Methodology Order?

A. I think it was 2000 to 20 --

Q. '14 sound right?

A. 2014, yes.
Q. Did you look at whether Surface Water Coalition member diversions increased since 2015?
A. I did, yes.
Q. And what was that amount?
A. Yeah, their diversions have increased on average by about 143,000 acre-feet.
Q. Which is --
A. So the diversions during the later period were 143,000 acre-feet greater than the 2000-to-2014 period.
Q. And the 143,000 is pretty close to the 142,000 increase in the baseline year from '06 -- '6/'8/'12 to 2018; correct?
A. Yes, uh-huh.
Q. Did you find any analysis in the materials provided by IDWR or Exhibit 300 that suggested that IDWR had analyzed why Surface Water Coalition member diversions increased?
A. I haven't seen anything like that.
Q. Okay. Were you surprised that the diversions increased from 2015 forward?
A. Yes, I was.
Q. Why?
A. Well, I mean, just my -- as I mentioned earlier, you know, the continued sprinkler conversions,

these efficiency improvements, those kinds of things would suggest that, if anything, the diversions should have gone down, anything -- that they should have been able to get by with less, but they've been diverting more.

Q. Do you have any concerns about the process that's used to develop the baseline year given these findings?

A. Yes. It seems like there's this positive feedback loop, I will call it, that exists in the process, whereby, essentially, the more they divert, the higher the baseline year needs to be to keep the baseline year as a year above average, and so there's really a disincentive to become more efficient because, you know, the more they divert, the higher the baseline year, the more the groundwater users have to come up with mitigation water.

Q. Thank you.

Let's move to project efficiencies. Were you here yesterday when Mr. Anders testified?

A. I was, uh-huh.

Q. Did you hear his testimony about the calculation used in the Methodology Order to calculate project efficiencies -- I'm sorry, to calculate -- about the use of project efficiencies to determine monthly

crop water demand?

A. Yes.

Q. Do you agree with how IDWR uses the project efficiencies in that calculation Methodology Order?

A. No.

Q. Why not?

MR. THOMPSON: I'd like to lodge an objection here. Just briefly, I think the methodology itself, these calculations Ms. Klahn is talking about, have been established, have been subject to judicial review. I don't think they've changed in the Fifth Order to the extent that we're opening up the methodology to redo it. So to the extent that she's asking for testimony about a separate methodology, I think it's beyond the scope.

HEARING OFFICER: Ms. Klahn.

MS. KLAHN: Mr. Director, our intention is to offer some suggestions about how to use the existing process that the Department has to make it more reliable. And the ground that was plowed in 2007 -- Mr. Sullivan will spend a little bit of time talking about why that was a good idea, but understanding, also, that that's not the direction the Department chose to go.

So when I ask if he agrees with how IDWR uses project efficiencies, it's to set up the testimony about

the improvements that he's proposing for the current approaches.

HEARING OFFICER: I think consistent in all of the discussions has been a theme that the Methodology Order was and is intended to be a dynamic document that would be subject to change and would change with better information, better data, and better analysis. And so as a result, I'll overrule the objection.

MS. KLAHN: Thank you.

HEARING OFFICER: Ms. Klahn -- or Mr. Sullivan, you may answer the question, if you remember it.

Q. (BY MS. KLAHN) I think the question was: Why don't you agree with how IDWR uses project efficiencies in the Methodology Order, generally?

A. Well, generally, it -- this is another one of these kind of feedback-loop things, that the historical diversions are used in determining the project efficiencies, and then the project efficiencies are used to determine the demand.

So it's kind of a self-fulfilling prophecy that the methodology that -- that the method will predict a demand that's equal to what they've been diverting. And so there's really no opportunity to interject and look at: Is what they're diverting

reasonable and consistent with industry standards, or do you never get to look at -- behind the curtain at the efficiency and the operation of the members?

So that's generally my concern.

And then, also, as I'll get into a little bit later, it presumes that crop water need is a good predictor of what they need to divert. And while, in theory, that is -- that would be true, and it's true of most systems, it doesn't seem to be true in this situation a lot of times, as we'll see, that they -- a lot of times these Surface Water Coalition members kind of divert what they divert no matter what the crop water need is.

So their diversions are kind of flat in relation to -- instead of going up with the crop water need.

So we'll get into that a little later.

Q. Okay. Well, I'm going to ask you to get into some of it a little bit right now.

First of all, when you talk about the IDWR calculation for project efficiency -- which, as Mr. Anders talked about yesterday, is crop water need times acres divided by diversions -- what kind of an efficiency is that, in your professional understanding?

A. Well, I've always called that an actual

efficiency.

Q. What's the result of an actual efficiency when you try and use it for administration?

A. Well, it does what I just talked about earlier. If you use the actual efficiencies, divide it into the crop water need, you're just going to get what they historically divert, more or less.

Q. And if you divert more, what happens to the efficiency number?

A. Then the efficiency goes lower, and then -- and then you get back to the same diversion.

Q. How did you analyze Surface Water Coalition member efficiencies in your first expert report in 2007?

A. Well, I applied what I would characterize as an industry standard approach for assessment of irrigation systems -- that I've done myself in a lot of situations and I've seen done in a lot of other situations -- in terms of both analysis of the historical use of irrigation systems for purposes of water rights transfers.

You know, I've done a bunch of those. And the procedure for doing that -- well, let me back up.

There's been hundreds or thousands of those kind of transfer analyses -- historical use analyses done for transfers in Colorado where I've done a lot of

my work, and that is the basis. Analyzing the systems in that way and the way that I did here for the Surface Water Coalition is what is done for those transfers.

And so those are very, you know, high -- you know, high-value or involving, you know, very important decisions about historical use. And a lot of money is at stake and all that.

And these are the methodologies that are used to do that -- you know, figure out how much water is being consumed and how efficient, you know, these systems are.

And then also in modeling, too, I've used these kinds of methods to evaluate the operations of irrigation systems.

Q. So in those calculations that you've done in those other situations, did you calculate a monthly or a seasonal efficiency?

A. So when I do those kinds of analyses -- and the standard is typically to calculate a seasonal efficiency. And the reason for that is that if you're trying to vary the efficiencies monthly, then it brings into question some other things that may be going on, particularly -- which is water moving in and out of soil moisture to help meet the crop demands. And if you don't accurately account for that, then you can get some

kind of misleading or monthly efficiencies.

And so, typically, to overcome that we will use a seasonal efficiency. Even when we're doing a monthly calculation, the input to that will still be a seasonal efficiency. And it helps to round out some of those curious-looking results that you get.

And we've seen in the methodology here where you've got, like, these very, very low efficiencies in some of the shoulder months that make the method real sensitive to -- you know, a small change in a crop water need divided by a low efficiency all of a sudden results in a large change in the diversion demand.

Q. Is the method you're describing one that's been used by IDWR in any prior delivery calls?

A. Yes. You know, the method that I used in my original analysis of the Surface Water Coalition ended up being, essentially, what the Department used in evaluating the delivery call of the -- for the B unit of the A&B system. And, in that, they were looking at, you know, whether -- the supplies of water that they were able to pump from the wells in the B unit and deliver to the farms, whether that was a supply that was adequate to meet the demands for those lands.

And so in that situation, the Department determined what the conveyance losses were in getting

water to the farms. And those are all real short conveyance systems because they're only delivering water down some laterals from a well. So in that situation I think the conveyance losses were on the order of 3 percent, say.

And then they looked at the on -- what the on-farm application efficiencies should be under a reasonable operation, and I think in total they ended up using a system efficiency -- or a project efficiency in A&B of about 75 percent. And that was, basically, the combination of the on-farm and the conveyance efficiency.

And that was used, then, to determine whether what they were able to deliver to the farm was enough to meet the crop water demand. And based on -- I think that was part of the reason that delivery call was denied was because there was a determination that they did have enough water.

Q. And the determination you're talking about, is that contained in an Idaho Department of Water Resources order dated January 29th, 2008?

A. That sounds right.

MS. KLAHN: Mr. Director, we'd ask you to take judicial notice of that Department document.

HEARING OFFICER: Any objection?

It is an order of the Department, so I'm willing to look at it. I'll take notice.

Q. (BY MS. KLAHN) Mr. Sullivan, let's go to figure -- let's go to your figures in Exhibit 347A. I'd like to start with Figure 3-1.

First of all, just let me just ask you: Does Figure 3-1 illustrate some of the testimony you've been giving about the concerns you have with the Department's use of the project efficiency crop water need determination?

HEARING OFFICER: What page are you on, Ms. Klahn?

MS. KLAHN: There's no page numbers at that point. If you go all the way through the report, it's right after the map. It's the first page of figures.

HEARING OFFICER: I found it. Thank you.

Q. (BY MS. KLAHN) Are you there?

A. Yes, I'm there.

Q. Do you remember my question?

A. You should read it again, if you wouldn't mind.

Q. Does Figure 3-1 illustrate some of the testimony you've been giving about your concerns with the Department's incorporation of project efficiency -- the Department's methods of incorporating project

efficiency into the Methodology Order?

A. Yes.

Q. Could you talk about what we're -- what Figure 3-1 shows?

A. Okay. So this is just showing a -- project efficiency information that was provided by the Department and that was used as the basis for the -- developing the monthly efficiencies -- project efficiencies that are used in the Methodology Order.

So on this page there's a -- several graphs. There's one graph for each of the Surface Water Coalition members. And the graphs depict project efficiency. That's the y-axis on each of these graphs. And it depicts monthly project efficiencies, at least for some of the data on here. So that's the months along the bottom.

And then the solid black line with the connecting -- the open white-and-black dots represents the monthly project efficiencies for each of the members that are used in the Methodology Order.

And then I also put on here, for reference purposes or comparison purposes, the dotted black line, which is the average of the monthly efficiencies used in the Methodology Order. And it's the same average number that I think is at the bottom of the table of monthly

efficiencies in the Fifth Methodology Order.

And then one more comparison I put in here is the blue line, and that's the -- what I term the "reasonable annual efficiency" or -- that I had previously determined for the Surface Water Coalition members based on my earlier work in my 2007 expert report.

Q. And what do you conclude from the figures we see -- the graphs we see on Figure 3-1?

A. Well, there's -- one thing is that, you know -- you can see the shape of these monthly efficiency curves are, you know -- with some exceptions, the efficiencies start out relatively low in the spring and then peak up in the middle of the irrigation season and then fall off quite a lot in some cases, in September and October.

The other thing I would note and just -- and compare in looking at -- comparing the dotted black line to the blue line is that in some cases the actual -- the actual efficiencies -- the actual project efficiencies represented by the average of the monthlies for some of the members it's pretty close to the number that I came up with previous ly.

So -- like for A&B, for example, they are operating at the level that -- near the level that I

thought they should be able to operate.

And -- but others -- you know, in cases where the dotted black line is quite a bit below what I had previously determined, then I think there's some room for improvement in some of those systems.

Q. Okay. Thank you.

Let's turn now to the next page, which is Figure 3-2. And would you talk about what we're seeing in Figure 3-2, please.

A. So this is just a depiction of some of the same information that was on Figure 3-1, and, specifically, the monthly project efficiencies for each of the members. And I just plotted them all on one graph here so that we could kind of see them next to -- or on top of each other.

Q. So would some of these differences in project efficiency be related to the nature of the -- nature and size of the canal system?

A. Yeah, it would. Because, you know, as I talked about earlier, this project efficiency is, basically, the -- has two components, there's a conveyance loss component, or a conveyance efficiency, and then there's an on-farm efficiency. And the product of those is the project efficiency.

And so for the conveyance efficiency piece of

that, you know, it's -- it makes sense, and it's true, that for long -- for very long and large conveyance systems that have more miles of canal, they're going to have more seepage loss in delivering water. So you'd expect them -- those kind of systems -- like an AFRD2, for example, they're going to have a lot larger conveyance efficiency -- oh, wait, conveyance loss than would be a smaller system like A&B, for example.

So you would expect that these monthly efficiencies wouldn't be the same, necessarily, but I don't think all of the differences between these are due to conveyance efficiency. I think that some of -- and we'll get into this, I think, a little bit later -- but some of this difference is due to some of these systems in pulling up, basically, a higher level of management and so that they're able to just generally be operating more efficiently both, you know, in delivering water to the farms with less waste and then also the farmers taking -- you know, having to operate more carefully, you know, to meet their crop water needs.

For example, because some of these -- some of the Surface Water Coalition member systems set an annual allotment so the user has to operate within that allotment, and so there's kind of a built-in incentive to only take the water and use it when you need it.

But other systems that are more on demand, like Twin Falls, for example, they don't have an annual allotment, so, you know, they can take up to a rate of flow whenever they want to order it. So in those systems, there's not as much incentive to conserve water, and I think that kind of thing plays into the reason why some of these efficiencies are different.

Q. Thank you.

Let's look at Figure 3-3, please.

This is titled, "Reasonable and Actual Project Efficiencies 2008 Hearing vs. Fifth Methodology Order."

What is this showing us?

A. This is some more of that information that I had on the previous page with some additional information as well.

So in this graph now, and then this graph at the top, and then the numbers in the table below, it's -- you know, they're both the same information. I'm graphing the numbers. And what the graph shows is the annual project efficiencies or seasonal project efficiencies for each of the members and different depictions of that.

And then along the bottom, I just have -- there are the members called out themselves.

And so the Fifth Methodology efficiency -- or

average -- the average efficiencies in the Fifth Methodology Order are the black dots joined by the black line.

And then the efficiencies that the average project -- actual project efficiency, so the comparable number that I determined for the Surface Water Coalition members for the 1990-to-2006 period that I analyzed earlier for the -- my 2007 expert report is shown with the red line.

And then I've also -- related to the red line is this pink area, and that pink area represents the range of annual efficiencies that I determined for each of the Surface Water Coalition members for that 1990-to-2006. So they vary from year to year, so I've got the range reflects the minimum and the maximum, and I've shaded the area in between.

And then, finally, I have shown on here what I've termed the reasonable efficiency, and that's that -- the reasonable project efficiency that I had previously determined from that -- from my work in the original Surface Water Coalition delivery call.

Q. What conclusions do you draw from Figure 3-3?

A. Well, one, is when I compare that -- the red line to the black line, that shows that for -- you know, most of the Surface Water Coalition members, that black

line is less than the red line, and so that indicates their actual efficiencies have gone down since 1990 to 2006. So I thought that was interesting.

That's going the opposite direction from what I would expect given these continued conversions to sprinkler, canal lining, better irrigation system operation technology, and that sort of thing.

The other thing that I would note from this is that my blue line, the reasonable efficiency line, is -- you can see that the -- that red-shaded area, which is the range of efficiencies, kind of butts up to that blue line for most of the users. And so that -- that indicates that during 1990 to 2006, most of the -- or at least, roughly -- well, five of the seven members were shown an ability to operate at a reasonable level that I had determined previously and determined independently.

And so this is kind of a validation, I think, of the method that I used previously. But then, you know, the exceptions here are over here for North Side and Twin Falls, whose operations -- you know, historical operations during 1990 to 2006 fell well below what I thought they should be operating at.

Q. Have there been -- I think you've already answered this question, but just to close the loop here: Had there been time, would you have updated the

reasonable project efficiencies for the Surface Water Coalitions based on your -- based on their operations during the last 15 years?

A. Yes, I would have liked to have updated that blue line.

Q. And if you had updated it, what would you have done with that?

A. Well, I would have -- I would expect that, you know, with -- just for the simple issue of the continued conversions to sprinklers, they should have a higher on-farm efficiency. So just for that reason alone, I think the blue line should be going -- ticking up a little bit, and there may be other reasons that the -- you know, for other efficiency improvements that the blue line ought to tick up a little.

Q. Now, in 2007 you were recommending that the Department incorporate efficiencies -- the reasonable project efficiencies as a way to -- as part of the administration of the Surface Water Coalition delivery call; correct?

A. That's right.

Q. And I want to just talk about that for just a second because, as I recall, there's a lot of hostility to that idea, and I wonder about whether you could explain how would you operationalize something like

that?

Are you talking about an army of Department of Water Resources employees going out and checking on Jay Barlogi when he decides to open a headgate, or are you talking about something different?

How would -- whether your old efficiency approach is used or whether the Department's current one is used, how would you operationalize that in context of the delivery call?

A. Well, you know, by -- back then and now, I'm not suggesting that the Surface Water Coalition members must operate at these levels. What I'm proposing under this methodology that the project efficiencies be evaluated as to whether they're reasonable and adjusted, if necessary -- or I think it would be necessary to adjust them. But even if you did that, it just becomes part of the analysis to determine whether they're short or not and then whether that shortage requires mitigation.

So if they want to continue to operate at a lower efficiency level because it's easier to operate their systems and they want to continue their customary ways, I have no objection with that. But it does bother me when junior groundwater users are forced to curtail in order to maintain that continued less-than-efficient

operation.

Q. Well, in your report, did you prepare an alternate approach to propose to the Department to determine project efficiencies for the Fifth Methodology Order?

A. I did. And so I developed an alternate approach. My preference would still be to -- my number one preference would be to use the -- you know, use these reasonable efficiencies or approach the problem in that way and consider the reasonableness of efficiencies and apply some industry standard techniques to determine efficiencies that are potentially more reasonable.

But if the Department doesn't want to go there, then I've developed an alternative that would kind of work within the current framework but apply some additional sort of analysis and checks for how those monthly efficiencies are used.

Q. Is that described on -- or does that start -- that discussion start on page 14 of Exhibit 347A?

A. I think it's on 13.

Q. Page 13. Okay. I just wanted to note that for the record.

And then do you have some illustrations of the discussion that you have starting at page 13, maybe starting at Figure 3-4 in the back?

A. Yes. I prepared a series of graphs, so there's -- it's all the way from 3-4 to 3-18, 3-19. But within those, there's basically two sets of graphs. So in this first set of graphs that we're going to talk about, I've plotted the annual diversions of the Surface Water Coalition members during 2007 to 2021 against the annual crop water need.

Q. So this is -- we're looking at Figure 3-4 right now; is that correct?

A. Yes.

Q. So what do you conclude from the plots that you created in Figure 3-4?

A. Well, so what I'm showing in Figure 3-4 is these are annual -- so it's the annual diversions plotted against the annual crop water need in a -- what I call a scatter plot, XY plot. And those are the dots that are shown for each of the Surface Water Coalition members.

And then I've also drawn a trendline, best fit line, through the points, and that's the colored, dotted line that's the same color as the dots.

And then for just comparison purposes, I also plotted this black line. What the black line is is taking the annual crop water need divided by the average annual efficiency in the Methodology Order.

So this depicts on an annual basis what you would compute as an annual diversion demand from the annual crop water need and the annual efficiency. And you can see, even -- we'll look at this on a monthly basis, too, in a minute -- but even on an annual basis, you can see that the black line for -- is, in all cases, steeper than the trendline, and in some cases much more -- some cases much more steep.

And so what that indicates is that this calculation involving crop water need and efficiency is, basically, predicting a diversion demand, and it's predicting a relationship between the diversion demand and the crop water need that is different than what is actually present in the data.

So the data shows -- you know, you can see this in an extreme way, you know, under AFRD2, for example, that their diversion -- and that's with the purple dots in the upper right -- that those purple dots and the line drawn through them are relatively flat. And so, you know, even when the crop water need is changing, they're just diverting, more or less, the same -- a similar amount every year; whereas, the black line would -- you know, and the Methodology Order suggests that it ought to be going up and down, and that's sort of an implied part of the Methodology Order.

Q. Okay. Do we need to look at each of the individual companies, Figures 3-5 through 3-11, or can you kind of maybe highlight a couple of them that are --

A. Yeah, we might do that, you know, flip through some of them.

One thing I would also say about Figure 3-4 and point out is the amount of scatter in those dots. And so, you know, that as the crop water -- for the same crop water need there might be a diversion, you know, even for just using -- like, I don't know, what's a good one? -- Milner, for example, you know, with a crop water need of 30,000 acre-feet, we see that they diverted 50,000 acre-feet in one year and then as much as 65,000 acre-feet in another year. So you just have a lot of scatter in this data.

So then moving on --

Q. Why don't you pick out a company or a canal and let's --

A. Well, I think like A&B, for example, that's the next one, there's a -- you know, you can see that -- and this is the same information on these next set of charts as I was just talking about, only in this case, it's annual -- I mean, it's monthly data for each of the users.

Q. And so you're starting with Figure 3-5?

A. Figure 3-5. So this is A&B. So here I'm plotting the monthly crop water need versus the monthly diversions, and I've got a graph for each month. So the graph in the upper-left is April, and then to the right is May, and then going down to the left is June, July, August, September, and October, finally, at the bottom. And each of those, again, I'm plotting, with the dots, the crop water need -- monthly crop water need versus monthly diversion and plotting a trendline through it.

And for A&B, you know, which is a user that I think operates pretty efficiently, you can see that there is a pretty good correlation between what they divert and the crop water need. And those trendlines are, you know, not too far off the theoretical line, which is the black line, you know, the crop water need divided by the project efficiency.

Q. Basically, the black line shows what is being administered --

A. Yes.

Q. -- correct?

Okay.

A. But for other of the users it's not -- it's different. And it can vary by month. And some months it line s up pretty good, and other months it could be way off.

So, like, for example, on the next one, the next graph, 3-6, when you look at May for AFRD2, you've got those orange dots, and the trendline through them has a much flatter slope than the black line would suggest.

And then just flipping through the rest of these BID, Milner, you see a similar looking situation where you've got -- sometimes the trendline lines up with the black line, but at other times it doesn't. And in a lot of cases you still have a lot of scatter, too.

Q. So does this -- what does this tell us about the crop water need divided by project efficiency term as a predictor of diversion demand? Or does it tell us anything?

A. Well, it doesn't -- it tells me that it's not a great predictor. It's not the -- you know, the crop water need divided by efficiency is not the only thing that's going into what they're diverting.

Q. So can we move now to Figure 3-12?

A. Well, I would just note, then, with the last couple of them, North Side and Twin Falls, you can see --

Q. And those are Figures 3-10 and 3-11? I apologize --

A. Yes, 3-10 and 3-11 where -- you know, and for

these users, you know, you see that -- quite a lot of mismatch in many or most of the months where what they divert is -- seems to be a lot less -- what they divert is a lot less sensitive to the crop water need than the relationship in the Methodology Order would suggest it ought to be, a black line.

Q. Now, I do have a question for you.

At the top of each of these graphs from 3-5 to 3-11 there's some blue text that says: "Exclude Project Efficiency Outlier Months (>+/-2 Standard Deviations)."

What does that refer to?

A. Well, that's a filter that the Department had put on when they were -- when it was evaluating these monthly efficiencies, that it was excluding the outliers. So I follow that same procedure to also exclude those.

But that's a good point, in that there's values that are straying even further -- historical values that are straying even further from the data that I have plotted on here that aren't plotted.

Q. Okay. So can we move on to this next group of graphs starting at Figure 3-12?

A. Yes.

Q. So this is titled -- these are a series, I think, by company -- or member, rather, titled, "Annual

Project Efficiency v. Annual Crop Water Need."

What are we seeing in Figure 3-12 through 3-19?

A. So this is a comparable set of graphs. So this first graph, 3-12, is one where I'm plotting the annual project efficiency versus the annual crop water need for -- and this is back on a graph where I've -- this graph where I've got a separate graph on this figure for each of the Surface Water Coalition members, the seven members.

So I'm plotting their annual project efficiency computed from the data against the annual crop water need.

Q. Okay.

A. And then similar to the last discussion or the last set of figures I was discussing, then I have some additional figures where I show the monthly values for each of the Surface Water Coalition members on separate pages.

Q. So can we pick out some of the monthly graphs that have strong correlations between project efficiency and crop water need?

A. Yes, I can do that.

And then also I would note that for each of these trendlines drawn through the data, I've got the

equation for the trendline and also the R-squared value for how good of a fit that trendline is through the data.

And so when I -- I considered a good relationship is when the R-squared was at least -- was above .5.

Q. Okay.

A. And so you can go through these and --

Q. Why don't you pick one or two, based on your professional understanding, then, of which ones would be significant. And then --

A. Well, there's, you know -- like, on A&B you can see that, you know, there's -- like, April and June there doesn't seem to be much relationship.

Q. Tell us which figures you're looking at. Sorry.

A. Oh, sorry. Figure 3-13.

Q. Okay.

A. Like, when you have a lot of spread in here, and there's not a good relationship, that suggests to me that they're operating probably at a higher level of efficiencies. And actually some of them vary -- the scatter that you're seeing in this plot, it reflects water that's going either into or coming out of soil moisture to meet the crop water need. And that's not

part of the calculated efficiency, and that would be a reason you'd get more scatter. If you could build that into the analysis, I think some of this would tighten up.

Q. So, actually, a poor R-squared in these graphs, 3-12 through 3-19, is an indicator of, potentially, good operational efficiency?

A. Probably operating at higher -- closer to the higher end.

Q. Okay.

A. Or at a more reasonable level.

Q. So if we go through these and find the graphs that have low R-squared, that would be an indication, in your professional opinion, that the operations are what?

A. Tend to be more efficient than not.

Q. So then if we go, for example, to 3-14, and we see AFRD No. 2 in July, R-squared .86, what does that tell you?

A. Well, so that tells me that their project efficiency is changing with the crop water need, which that, just by itself, doesn't make a whole lot of sense to me, that -- if you're operating at a reasonably high level of efficiency, your efficiency should be roughly the same or near the same regardless of what the crop -- the variation in the crop water need has been in that

month.

And if the crop -- if the efficiency is going up as the crop water need or the crop consumptive use increases, that suggests to me that they're diverting an excess of what they need. And the reason the efficiency is going up is because the enumerator is just getting larger and larger with the higher crop water use.

Q. Okay. Well, before we tie a bow on this, what else -- is there anything else that you would like to mention about these tables, 3-12 through 3-19 -- I'm sorry, Figures 3-12 through 3-19?

A. Well, just -- I mean, just because -- you know, I did note, like, for some of the users like North Side and Twin Falls, who we've been talking a lot about, you know, turning to the Twin Falls page, Figure 3-19, you can see that there's a pretty strong relationship now for them -- for Twin Falls and an R-squared much greater than .5 in all of the months but April. That -- that suggests to me that Twin Falls is probably, you know, operating at -- diverting more water than they need, and the only reason their efficiency is changing is because that numerator is changing.

Q. And remind us what the numerator is again?

A. When you're computing the efficiency, it's the -- the crop irrigation requirement, the CIR, times

the acres, and that's the crop water need.

And so as -- you know, in a hotter, drier year, that -- the crop water need will be greater, so that numerator becomes greater.

But you can imagine -- just for a simple example, then, if they divert the same amount of water every year, just in a hypothetical, and the crop water need is different every year, and you're always diverting enough water that the numerator stays the same and -- no, wait -- the denominator stays the same and the numerator, the crop water need, is changing from year to year, then you'll get that perfect relationship; that the computed efficiency will go up in lockstep with the crop water need.

And that's a reflection of the actual efficiency, but it's also a reflection that they're not operating at a reasonably high efficiency level, at least in those years where the efficiency -- the computed efficiency is lower.

Q. Okay. Well, what would you propose that -- what would you propose for the Department to do with all of this information?

A. Well, I guess, for one, I wish they would just consider it, you know, and apply some sort of -- take this information and think about what it reflects and

whether the efficiencies that are used in the methodology are reasonable or can be modified to consider this information.

And I have -- I've proposed a couple of alternatives as a couple of many potential things that you could do.

So what I propose, then, is based on this information that I was just talking about. It appears that at least for -- you know, for many of the members and in some or many of the months, there is a good relationship between the monthly project efficiency and the crop water need and -- even though I think it would be better to use that relationship just as a small fix than to just use a fixed average value in the Methodology Order.

And so what I propose, then, as one small fix would be that for the situations where we have an R-squared that's more than .5, that you would use that regression equation to compute the project efficiency.

Q. And what regression equation is that?

A. It's the regression equation that's shown on each of these -- in figures --

Q. So give us an example.

A. Yeah.

Q. Let's look at Figure 3-19, for example.

A. Okay. So let's go -- let's say for June -- this is Twin Falls. So for June we have a -- that's the second graph down on the left. It's with the green dots.

So that -- the trendline, that's the regression line I'm talking about. It has -- the equation for that line is over on the left with the R-squared of .781. So I would propose that you would use that line -- or that regression equation to compute the Twin Falls efficiency in June and for all of the other months that the R-squared is greater than .5.

But I would also propose that in addition to that, that you would establish a floor, and you would allow -- the efficiency that you would compute would be no lower than the average. And so that would prevent, then, you from using, in the methodology, these very, very low efficiencies on the lower end.

Q. So give us an example of one that you think is too low?

A. Well, let's go to, like, September, for example. September has efficiencies that are ranging from -- you know, that's the -- with the purple dots ranging from, you know, roughly, 12 percent up to 40 percent.

So I would propose that you would use that

regression line, but you would have the floor for what you would compute, from that regression line, be the average, or at about 25 percent.

Q. Oh, the average of the purple dots in September --

A. Yeah.

Q. -- would be the floor?

A. Would be the floor.

And then you would go up on that line from there.

Q. Okay. And so if you use -- and the regression business is beyond me, I'll admit.

So if you're using the regression to compute the efficiency, what are you not using?

A. Well, you're not using just a fixed monthly value, average value, all the time.

Q. Which is what IDWR does now?

A. Yes. And so this would result in -- in months with a higher crop water need, you would use a higher efficiency. And that is -- you know, that's actually reflected in the historical data. So in that case, I'm not applying any of my reasonableness test or anything, I'm just working within the historical data.

Because what happens in the methodology now is that if you get -- if you use the average efficiency and

it's a year with a -- or a month with a relatively high crop water need, you compute that average efficiency into the crop water need, and you end up with a diversion that's actually greater -- a diversion demand that's greater than what they actually diverted in that year.

Q. Oh, I see.

A. So it inflates it to more than what they historically diverted.

Q. Okay. I see.

Now, did you prepare any kind of -- I'm going to call it a hindcast to evaluate this proposal?

A. Yeah. Well, there's one more piece that we didn't talk about, and that's what to do when the R-squared is less than .5.

Q. Oh, right. I'm sorry.

A. So when the R-squared is less than .5, then I'm proposing that -- well, let's not use a regression equation, but we can just use a fixed value -- but I would propose that we would -- rather than using the average value, we should use like a -- and I'm proposing the 75th percentile value. So it's a value on the, you know -- well, at the 75th percentile, so it's not the highest they've shown they can operate at, stepping back down, right in between the average and the highest

values.

Q. So could we look at Figure 3-16 for a minute, that's Milner. Milner has a mixture of months that are -- for which the R-squared is below .5 and above .5.

So using Milner as an example, would it be -- would that mean that, for example, April where the R-squared is .13, what would you do in that month for purposes of an efficiency for the Methodology Order?

A. Well, in all of these when the R-squared is less than .5, you would just pick a value that's at the 75th percentile level; so in other words, excludes the upper one-quarter of the highest efficiencies.

Q. So pick one of the blue dots that's between the 50 percent and the 100 percent?

A. Yeah. I mean, April is not -- April is sort of -- let's not talk about April. April is kind of a weird month, and particularly for some of these users, where the reason we get these efficiencies that are greater than 100 percent is in -- some of the -- in the early months is that you can have a situation where they're only diverting for part of the month. So you've got a partial month diversion compared to a full month crop demand, so when you do that division, you can end up more than 100 percent.

Q. Oh, I see.

A. And that's because, you know, some of the crop demand is being met by soil moisture that's stored over the winter or from the previous season. So that's why --

Q. Well, can we talk about June, then?

A. Yeah, June. So, you know, just eyeballing what the 75th percentile here might be through those points would be, you know, maybe 60 percent, 65 percent or something like that. So higher than the average but not as high as, you know, the 75 or 80 percent that they've shown they have operated at in the past.

Q. So the 75th percentile not the 75th percent?

A. Yeah, the 75th percentile.

Q. Okay. Can we move to Tables 3-1 and 3-2 to talk about the hindcast?

A. Yes.

Q. Okay.

A. So --

Q. Let's start with 3-1.

A. So I did a -- I did this hindcast analysis, but I just picked out -- I did it for two examples. I didn't have time to do it for all of the Surface Water Coalition members. So Table 3-1 is a summary of the results of the hindcast analysis that I did for the Twin Falls Canal Company.

Q. And let me just stop you and ask you to go through the columns, but when you get to Column 5, talk about how this matches up with past orders.

A. Okay. So what -- this table represents an annual summary of the analysis that I did. But the analysis is done on a monthly basis, so this is just adding up the monthly results into annual values.

Excuse me. So this was done for -- this analysis was done -- the hindcast analysis for 2007 to 2021.

So in the first column is the annual, the sum of the monthly crop water need values or the annual crop water need, so that's the acres that the Surface Water Coalition members have reported times the CIR, crop irrigation requirement, for that month based on the crops that were grown and the like. So that's the same value that that reflected. These are the values being used by the Department.

The next column, which I guess is also Column 1, "Adjusted Historical Diversions." So these are the historical diversions that the Department used in their analysis. It says "adjusted" because they've been adjusted for the rentals and things for water that was diverted but not actually used for irrigation.

And then there's the -- this is the -- I have

the November 1 forecast supply so that -- the other thing that you should understand, and this reflects the hindcast analysis that would be done in November. So it's -- you're looking -- the forecast supply -- I mean, the supply is based not -- this is -- sorry.

Q. It's actual for the year?

A. It's actual for the year. And I'm using the term -- the column headings that the Department uses, so it's not really a November 1 forecast. Earlier in the year, it's partially a forecast. In the beginning of the year, it's wholly a forecast. But at November 1, you're using what they actually -- their actual natural flow diversions plus what their storage allocation was for that year, and that's their supply.

Q. So just to make sure it's clear, this 3-1 is based on an analysis that the Department does?

A. In part --

Q. Yeah.

A. -- and these first three columns I'm talking about is the Department's data.

Q. Okay. Thank you.

A. So then the next set of columns is titled -- it's under the combined heading of "Annual RISD," or reasonable in-season demand, and so I computed that three different ways. So the first column, it's -- it's

the column with the "2" above it -- "CWN Divided By Methodology Order 5 Project Efficiencies." That's where I've computed the -- you know, on a monthly basis, I computed the diversion demand based on the crop water need divided by the Department's average monthly project efficiencies, and I did that for each month and then added them up in this table.

And importantly, though -- and I'll talk about this more in a little bit -- I'm using the current 15-year average monthly project efficiencies that are in the Methodology Order in every year.

Q. Okay.

A. And that's a little different than what the Department did in its hindcast analysis, so keep that in mind.

And then under Column 3, this is one of the two alternative formulations that I had -- that I had proposed. So in this Column 3-1 is where I computed the monthly diversion demands based on the crop water need divided by the efficiency, and the efficiency was computed using that reference -- I'm sorry -- that regression equation. And then when the R-squared was less than .5, I used the Department's average monthly project efficiency.

Q. So Column 3 implements part of the discussion

we just had about the R-squared values on the Tables 3-12 to 19?

A. Yeah.

Q. Okay. Thanks.

A. And then Column 4 is the same except rather than -- in the months where the R-squared is less than .5, then I used the 75th percentile.

Q. More than .5, you mean?

A. No, when the R-squared is less than .5, I used the 75th percentile project efficiency instead of the average project efficiency. That's just the little difference between those two.

Q. Okay.

A. So then when you get -- the results, then, are shown over in the next set of columns. It's the "November 1 Reasonable in-Season Demand Shortfall." And here I've just calculated the shortage, which is based on Columns 2, 3, or 4 minus the forecast supply, which is the November 1 forecast supply column.

Q. I see. Okay.

A. And so in Column 5, this is what I get from the Methodology Order, and this is -- if you compare these numbers to the numbers that were in the Department's hindcast analysis, you'll see that they're the same, actually, in 2021 -- that shortage, the

179,066 -- but the Department has some different numbers in the above rows, and that's because the Department was -- used -- rather than -- the Department in their hindcast analysis didn't use the current methodology average efficiencies in every year.

They computed a new rolling average in some of the years, and then in the earlier years, they were using a fixed number that was based on a -- some prior number, prior average. So suffice it to say, anyways, that that's the reason why so many shortages -- the shortages that I have here are a little different than what the Department had computed.

Q. Okay. And --

A. And then just for -- then, for comparison purposes, then I've got the shortage for those two alternatives that I picked out -- that I had identified. And you can see that, in these cases when there's a shortage, by implementing just those very, like, modest changes to how you compute the efficiencies and, you know -- and those modest changes are still working within the efficiencies that the Surface Water Coalition members have been operating at. But just making some small changes, you can see that you get some, you know, fairly big swings or changes in some cases in what the shortage is.

And that's -- you know, that's indicative of just an overall observation that I have, is that this method is very sensitive to what you use for the project efficiencies just as a general matter because we're operating on the margin here when computing these -- you know, comparing this forecast supply to what their diversion demand is. So, you know, at that margin small changes in the efficiencies can make or break whether you have a shortage or not.

Q. Let's go on and look at Table 3-2. This is titled, "Summary of Annual Reasonable in-Season Demands and Shortages for AFRD2."

What is this showing us, Table 3-2?

A. It's the same thing that I was -- for AFRD2 that I was just talking about for Twin Falls. I went through the same analysis only this is for AFRD2.

And, again, it shows that by implementing these modest changes that you can have some effect on the computed shortages.

Q. So do you have a summary opinion here about the modifications you've offered for the Department's use of the project efficiency values in the Methodology Order?

A. Well, you know, again, as I said earlier, my preference would be to apply a reasonableness test, as I

talked about, but maybe we're -- maybe we take baby steps. So at least it's just a small step in the right direction. I think the methodology would be improved by using -- employing the proposal that I have regarding the progression equation and 75th percentile efficiencies, to use those in the methodology rather than the averages that are currently being used.

Q. Let's switch gears and talk a little bit about irrigated area.

This probably is old news by now, but just remind us what are the irrigated acreage values used for in the Methodology Order?

A. Well, they're used in two different ways actually. They're used to compute the crop water need, like I was just talking about. So in each month in the methodology, you take the irrigated area times the CIR for that month, you know, based on the actual climate conditions, weather conditions in that month, to compute what the crop needs for each of the members. And that's -- that's part of determining the demand for the members.

And then the irrigated area is also used in the derivation of those project efficiencies because the historical project efficiencies are based on crop water need divided by -- historical crop water need divided by

historical diversions.

Q. So we've heard testimony from several witnesses about the irrigated acres numbers that are used by IDWR.

Is it your understanding that IDWR scrutinizes the acreage figures that are provided by the companies?

A. No. Based on what we heard, they really don't provide any scrutiny.

Q. And we've heard testimony that the acreage numbers are based on either a permanent place of use or shapefiles that were created some time ago; correct?

A. Yes.

Q. At the technical work group, did IDWR present their own analyses of irrigated areas?

A. They did. As kind of incidental to some of the information they were showing us, they had provided some analysis of irrigated area for each of the Surface Water Coalition members based on aerial imagery and remote sensing analysis of the members.

Q. Do you remember what years they were -- presented their own data for?

A. It was 2011, 2017, and 2021.

Q. Okay. And do you recall how the Fifth Methodology Order acres compare with what IDWR's irrigated land set determined for 2011, 2017, and 2021?

A. Well, for some of them, they were -- you know, the methodology acres were, you know, close to or even less than the remote sense data. And I think that's because some of the remote sensing includes some additional areas or double-counted areas and all.

But for three of the users in particular, the methodology acres were significantly greater than the acreages that the Department had presented in their analysis. And those users are Burley, Minidoka, and Twin Falls.

Q. So -- and let's take Twin Falls as an example because we've talked a lot about Twin Falls the last few days.

What would be the effect if the Methodology Order incorporated IDWR's irrigated lands set acreage instead of the shapefile Twin Falls provides?

A. Well, it depends. Because if you -- if you insert the revised acres, keep everything else the same, then you can easily see that you compute a lower crop water need. Take CIR times the lower acres divided by the same efficiency, you get a lower demand.

And I say "it depends" because if you actually -- if you took the lower acres and then multiplied it by the CIR divided by the historical diversions and go recompute your efficiencies, then

you'd end up in the same place. Because if you took your lower acres, computed the lower efficiencies, and then stuck those lower efficiencies back in order, you'd end up with a diversion demand that's exactly the same.

Q. So it's kind of a feedback loop?

A. Yeah. And so that's why I say it depends.

And, to me, I mean, to put in lower acres and then to suggest, well, we'll just lower the efficiencies and move on, that doesn't make any sense to me.

Q. That's what the Surface Water Coalition expert, Chuck Brockway, suggests, though; right?

A. Yes.

Q. As the fix for all of this?

A. Yes.

Q. Just reduce the acres, but also recalculate the project efficiency.

But then they end up with the same demand --

A. Yeah.

Q. -- correct?

A. Yeah.

Q. Do you -- despite that problem, which you've talked about, I think, at some length related to your recommendations on how the Department could use project efficiencies differently, what would be -- would it be preferable for the Department to use its irrigated lands

dataset?

A. Yes. I mean, I think that data is far more reliable than what they're getting from the -- from the Surface Water Coalition members based on those old shapefiles with no scrutiny applied to it.

And I'd be reasonably certain that the acres that are determined by the Department are acceptable for -- to use in the methodology.

Q. So if there was to be a -- I mean, in the context of a challenge to the reliance on the shapefile, as an expert, then, you'd be comfortable relying on the IDWR dataset rather than the shapefile file dataset as far as showing acres that are actually irrigated?

A. Yes. And we heard some discussion that, well, maybe there's some examples in IDWR analysis that there'd been some acres that were misclassified or -- well, I mean, you could fix those. Right?

I mean -- and if you were going to use the IDWR analysis, well, then provide it to everyone, and everyone can look at it and suggest where it be fixed, and we end up with a much, much better irrigated acres dataset to use in the analysis.

Q. So the Department runs the Methodology Order every year. Would they need to update the irrigated area dataset every year?

A. No, I don't think so.
Q. Why not?
A. Well, I mean, acres do change a little bit from -- can change from year to year. But, I mean, in my experience, and particularly for these and for large irrigation systems, there may be some long-term trends in acreage because of urbanization and things like that.
But for these particular members that all have excellent water supplies that they generally are irrigating, you know, largely as much as they can and -- but not -- in all systems there's some lands that get fallowed for various reasons, but in my experience, while it's different lands that are going in and out of the fallowing, the overall amount of fallowing is roughly consistent from year to year.
Q. And, in fact, isn't that what we see in the 20 -- comparing 2011, 2017, and 2021 irrigated lands datasets? They're pretty similar, aren't they? 179,000, 187,000 for Twin Falls?
A. Yeah, they're all kind of in that same range, plus or minus a thousand acres or so. So that suggests to me that what the Department's doing is reliable and repeatable and should be used.
Q. Okay.
MS. KLAHN: Mr. Director, it's 3:00 o'clock,

and I have probably 30 minutes more. We can push through or we could take our afternoon break.

HEARING OFFICER: Thanks for the suggestion. I think we should break. We've been at it two hours. Let's break for 15 minutes. Come back at quarter after.

(Break taken.)

HEARING OFFICER: Back on the record. We're recording again after afternoon recess.

Ms. Klahn.

MS. KLAHN: Thank you.

Q. (BY MS. KLAHN) All right. Mr. Sullivan, let's switch gears and talk about your opinions related to the incorporation of supplemental groundwater considerations into the methodology.

How does the Fifth Methodology Order -- how does the Fifth Methodology Order consider supplemental groundwater?

A. Well, I think it's one of the -- supplemental groundwater uses is one of the things that can be considered in the methodology in terms of a supplemental supply or in the acres that are irrigated with supplemental groundwater.

So there's a framework to allow that to be -- that sort of information to be utilized, but, to my knowledge, it never has.

Q. And supplemental groundwater is one of those things that the district court has said could be incorporated if the standard is clear and convincing evidence; correct? Is that your understanding?

A. Yes.

Q. Okay. Do you have an understanding of why IDWR hasn't attempted to incorporate supplemental groundwater use into the demand determinations?

A. Well, I think they've said that they just -- they don't have an ability to do that or good enough information to do that. And I mean -- and they've been saying that for 15 years. And, you know, we've been, you know, asking about it and suggesting that it ought to be incorporated.

In fact, in a -- that was one of my specific comments that I gave in the 2015 technical working group, is that they consider that. And I suggested that again in the latest one, the 2021 technical working group.

And they keep saying they don't have enough information. And I think -- I mean, we've heard some testimony earlier that -- or based on some questioning earlier suggesting that -- I mean -- and I agree with this, the Department has water rights information -- detailed water rights information, they have pumping

information. They have an ability to use that information to come up with reasonable estimates of supplemental groundwater use.

And, you know, it's not going to be perfect, but in this business nothing's ever perfect. And you can make reasonable estimates. And there's -- the problem is, now, by completely ignoring the supplemental irrigation we know there's a bias one way. We're not even attempting to correct that bias by considering the supplemental groundwater use that we know is occurring.

Q. And during the original Surface Water Coalition delivery call hearing in 2008, did the Surface Water Coalition members submit supplemental pumping information in relation to a request from the Director?

A. Yes. Director Gray requested a bunch of information from the Surface Water Coalition members; one piece of which was how much supplemental groundwater acreage they had or within their boundaries. And so the -- most of the members or all of the members did submit that information.

And I had tabulated that in my expert -- my original expert report. And that was information from them, so it seems like that would have been easy to use the information they submitted, but it wasn't used.

Q. Let's move on to talk a little bit about --

well, let me just close the loop on that.

Did you have time to do an evaluation of the supplemental groundwater use from the Surface Water Coalition?

A. No, I did not.

Q. Okay. So let's talk a little bit about the change in the Fifth Methodology Order from steady state to transient modeling.

How would you characterize the shift from steady state to transient groundwater modeling in the Fifth Methodology Order?

A. Well, it's a sea change in procedure, and it results in a drastic change in the priority date for curtailment compared to what was being done previously.

Q. Do you have an understanding of why IDWR made the shift in 2023 from steady state to transient?

A. Well, I think they gave three reasons. There were at least three reasons. One of which was that they had a better understanding of transient and steady state modeling and how they could be used in the methodology.

That struck me as kind of curious because -- and I didn't quite understand that reasoning, because everyone is well aware of the difference between transient and steady state modeling and the use of the modeling and -- in the methodology. So it didn't seem

like there's anything new there.

I mean, so -- and then a second reason they gave is that now we have -- the ESPAM model is a monthly model, it has monthly stress periods, and so now it can be used in a transient way. But we've had a monthly model for a long time, and -- so why all of a sudden it should be now used for transient instead of steady state, that didn't -- I didn't quite understand that.

And then the last one was also one I questioned, I guess. And that was that they needed to determine curtailment dates with the steady state -- or the transient model so that curtailment would provide a backstop in providing wet water to the seniors in the event that the juniors don't mitigate -- don't mitigate enough -- and don't mitigate enough to meet the shortage.

And, I mean, to me, I didn't -- I don't know -- that doesn't make a -- well, I don't agree with that, I mean, for a number of reasons. I guess one is that I think if there's -- I mean -- and I'm not a lawyer, obviously, but if there's a mitigation order, there should be an expectation that the juniors will comply with it, and if they don't, there should be penalties for not complying with it, or curtailment. And that's the way it works where I come from in

Colorado.

And then, further, it's -- curtailment as the mechanism for conjunctive administration is horribly inefficient. You know, especially for an aquifer as vast as this, you have to curtail so much pumping to produce relatively little amounts to the seniors, you know, where they divert it, so...

Q. So in the Fifth Methodology Order, which I'm sorry -- I'm sorry, in Exhibit 301, which is the April 1st As-Applied Order, the curtailment date, I believe, is sometime in 1953; correct?

A. Yes.

Q. And so how much -- if curtailment was the reason for imposing the transient model approach, how much curtailment would it require to produce the 75,000 -- approximately 75,000 acre-feet of shortage by curtailing to 1953 priority date?

A. Well, if I'm --

Q. Approximately?

A. Yeah. What I recall is that for that -- the curtailment run that Jennifer made to determine the 1953 curtailment date, she was curtailing, roughly, 700,000 acres of groundwater use and 1.7 million acre-feet of groundwater consumptive use. So curtailing 1.7 million acre-feet of consumptive use to produce

75,000 acre-feet to the near Blackfoot to Minidoka reach. So I didn't do that math, but that's a very, very small percentage of the water that's curtailed that's going to reach that reach this year.

Q. So if you curtailed 700,000 acre-feet in order to achieve 75,000 acre-feet in the Blackfoot to Minidoka reach and the total CU curtailed is 1.4 million acre-feet, what happens to the other 1.325 million acre-feet of curtailed consumptive use? Where does that show up?

A. I think those numbers -- those are -- the numbers we talked about, that's not the right numbers. They're actually curtailing 1.7 million acre-feet.

Q. Okay. So 1.7 acre-feet, sorry.

A. So they're curtailing 1.7 million acre-feet, so 75,000 acre-feet will show up in the reach this year, and the other -- was it 1.625 million acre-feet? -- will either come back to different reaches this year, different reaches of the Snake River, or it will come back this winter, or the majority of it is just going to come back in future years.

So that 1.7 million acre-feet will come back to the river, and so -- you know, just -- then it sort of begs the question, well, what's going to happen with that water? And it seems to me that that, potentially,

just provides a windfall to all these other reaches and users and later in time, and so you -- and that doesn't seem a very good use of the resource. And that's why curtailment as a mechanism of conjunctive administration is not done.

Q. So what is the alternative? Is steady state the alternative to curtailment -- I'm sorry -- is curtailment based on steady state the alternative to curtailment based on transient modeling?

A. Well, I think you can use the steady state model to get there, but ultimately the solution is, you know, what is done routinely in Colorado and some other places, too, is you allow the juniors to keep pumping and then you require them to mitigate for their impacts.

And, you know, to be -- and, like, in places like Colorado when they come up with those replacement plans that are either judicially or administratively approved, those replacement plans need to be, you know, tested and proven that they can operate in wet years and dry years and all in order to be approved.

And if they don't -- if they can't function that way or don't have a way to get them -- reliably get the mitigation water they need, then they're not approved and those water users don't get to pump. So that's the safety net. You know, that prevents the

seniors from being injured and is way more efficient of the resource.

Q. Is the impact from curtailment under a transient model run disproportionate because of the moratorium on new wells in the ESPA?

A. Well, I think the moratorium provides -- the fact that there's been a moratorium in the ESPA since the early '90s presents some additional facts that make -- that are compelling to the use of the -- continued use of the steady state modeling to determine the curtailment date. And that's because since that -- because of the moratorium, you know, there's been, essentially, no new wells approved that -- since that time that -- and if they have been, then they have to mitigate for their impacts.

So, essentially, all of the wells that, you know -- prior to the moratorium order have been operating for at least 30 years and most of those wells for much longer than 30 years. So you have a situation where the current and prior pumping of virtually all of the wells in the Snake River Basin has reached a near stead y state; and so, therefore, we can use steady state modeling to evaluate the current -- the impact of the current and prior pumping from the wells on the Snake River. And that, to me, is a -- would be a better

way to establish or determine the curtailment date, is going back to using the steady state modeling, because I think that is the correct way to do it.

Q. Can I ask you to turn to page 24 in your report, please.

A. Okay.

Q. And I believe this is a graph that Jennifer Sukow produced but that you incorporated; is that right?

A. Yes. I just cut and pasted this from one of her presentations that she gave to the -- during the November 28th, 2022, meeting in the technical working group.

Q. And this was actually something that was discussed in Jennifer's testimony, too, wasn't it?

A. Yes.

Q. Let's see here.

A. Is there a question about this?

Q. Yes, there is.

A. Oh.

Q. I'm just trying to find it in my notes.

A. Oh.

MR. FLETCHER: No pressure.

MS. KLAHN: Yeah, right.

Q. (BY MS. KLAHN) So based on this graph, the curtailment of pumping from wells junior to sometime in

the mid-1980s for steady state would produce 75,200 acre-feet of water in the --

A. Which graph are we looking at? Sorry, I might be looking at the wrong one.

Q. I thought it was on the graph on page 24 of your report. I'll withdraw that question.

A. I think that question you were asking me was about --

Q. Page 26?

A. Yeah.

Q. All right. Let's go to page 26 of your report. Explain what's shown here on the graph on page 26 related to how you could produce -- how one could produce 75,200 acre-feet of water in the river from curtailment under the steady state approach.

A. Well, okay, so what this graph shows -- and when I talk about this graph, I'll be talking mainly about the yellow line and the orange line. So the yellow line represents the results of the steady state runs that Jennifer made. And so what this graph shows is that along the bottom -- the axis is labeled "Water Right Priority Date," and that's basically the curtailment date that she simulates, and each one of these dots is a separate run that she made.

And then the -- so -- and then on the y-axis,

that's the amount of water that's produced at the near Blackfoot to Minidoka reach resulting from curtailment.

And so the orange line is -- for the transient run -- represents the amount of water that's represented in the first year, I think May 1 to September 30 from curtailment in the first year. And so that's when -- kind of squint a little bit. If you go to around 1953, and that -- the dot there is at about 75,000 acre-feet, and so that's where you go and you can figure out how much -- you curtail back to 1953, and in the first year, you'll get 75,000 acre-feet at the key reach.

And then -- and when you look at the steady state line, the yellow line, you can see that you only need to curtail back to sometime in the mid-'80s to get 75,000 acre-feet. And that -- that will be -- that would produce 75,000 acre-feet at steady state, so after 30, 40, 50 years it would take to get that much.

But that also represents -- that 75,000 -- another way you can look at that is that the current and -- the current effect or the current depletion to the near Blackfoot to Minidoka reach today caused by wells junior to the mid-1980s is about 75,000 acre-feet. That's their -- the impact of those wells' current and prior pumping. And so had those wells not pumped, there would be 75,000 acre-feet more in the river.

So I think that's sort of an easy way -- that's why I think the steady state modeling should be used, because with that way of thinking, you can say that, well, the -- that last 75,000 acre-feet of depletion is what created the shortage, and the users that are, you know, junior to the mid-'80s are the ones responsible or the ones that caused that and they should be the ones responsible for the mitigation. And, again, that's why I think steady state modeling is the right way, particularly in this situation, for determining the curtailment date.

Q. Okay. Thank you.

Let me switch gears and let's cover some responses you might have to testimony we've heard.

MS. KLAHN: Mr. Director, we're assuming that you prefer we put on rebuttal testimony to the extent we can in the case in chief, and so I just have a couple questions to him to react to other witnesses.

HEARING OFFICER: That's great. I think it will contribute to efficiency.

MS. KLAHN: Well, efficiency is what we're after.

Q. (BY MS. KLAHN) One of the discussions we had at some length yesterday, I believe it was, was the nature and extent of Twin Falls Canal Company return

flows.

Do you recall that?

A. Yes.

Q. And I think we talked to both Department witnesses about whether they were aware of the Twin Falls Canal Company return flows and how much they were, and there was not really anything conclusive, I think, from that questioning. But the Department maintains a database of return flows for Twin Falls Canal Company?

A. Yeah, I mean, for all of the return flows to the river that's -- you know, they've -- over the years, they've -- they or other agencies have instrumented some of these return places to the river, draws or places where water collects and gets back in the river, because that information has been used in the groundwater modeling. It's good data. It helps you differentiate how much of the reach gains are due to water coming on, you know -- reaching the water -- river from the surface versus water that's coming through the underground and back to the river. And that's helpful information for the modeling.

Q. For purposes of determining what's attributable to reach gains from the aquifer versus other sources?

A. Yeah, for calibration particularly, yeah.
Q. I want to hand you this and ask you to identify it. Mr. Sullivan, would you identify this.
First of all, have you seen this before?
A. Yes, it was prepared under my direction.
Q. Okay. And what are -- what's the source of the information on here?
A. It's listed in footnote 5 there. It's daily data that's downloaded from IDWR's Aqua Info database. There's the URL code there. And so we had heard testimony from Jennifer Sukow --
Q. Well, wait. Let me just lay the foundation here so we can offer it.
So the data on here was from IDWR's database. This document was prepared at your direction.
MS. KLAHN: Mr. Director, I'd like to offer this as a demonstrative exhibit showing the -- summarizing the data in IDWR's database related to Twin Falls Canal Company return flows since we've had so much testimony about that for purposes of clarifying the record.
HEARING OFFICER: You want to mark the document?
MS. KLAHN: Yes, please.
MR. FLETCHER 365?

MS. KLAHN: 365.
HEARING OFFICER: We'll mark the post exhibit.
COURT REPORTER: I'm sorry, what?
MS. KLAHN: Can we mark this as exhibit --
HEARING OFFICER: Mark it with an exhibit sticker.
(Exhibit 365 marked.)
MS. KLAHN: So I'd like to offer Exhibit 365.
HEARING OFFICER: Any objections?
Hearing none, the document marked as Exhibit 365 is received into evidence.
(Exhibit 365 received.)
Q. (BY MS. KLAHN) All right. Mr. Sullivan, you started to describe what 365 shows.
Could you do that now, please.
A. Yeah, so these are the annual summaries of the daily data that we downloaded from the IDWR database for the places where return flows are measured, you know, all along the Twin Falls service area from top to bottom. So they're all measurement points that are at or near the river at the bottom -- the lower end of Twin Falls near the river.
And they're color-coded, just for informational purposes, as the blue represents gauges that are on the coulees, or the kind of gullies that

intersect or go through or depressions that bisect -- or intersect a bunch of the canal service area for Twin Falls.

And then there's also -- the orange represents measurements that are actually on some of the tributaries that come through the Twin Falls area.

And then the gray is some other lines that are identified.

And then -- and for each of those in the footnotes there, we've identified specifically which gauges are in each of those different categories.

Q. So what's the difference between a coulee and a tributary gauge?

A. The tributary is, like, a known -- mainly a -- what I identify as a tributary.

Q. Like a live stream?

A. Well, yeah. Or a creek or something that actually comes through.

And so there are return flows that improve to these creeks that go into the river. And then there's other of these coulees that are really not, like, a main tributary, but just a low spot in the Twin Falls area where water collects and comes out.

Q. Okay. And then one more question.

This morning Mr. Barlogi testified that the

conversions to sprinklers in the Twin Falls Canal Company had not changed demand, I believe. And he had some testimony about how losses couldn't be reused, and that's why the conversion to sprinklers didn't change demand.

Do you have a professional reaction to that?

A. Yeah. I disagree with that characterization. Because, in my experience, anytime you can improve the on-farm efficiency, you can make due with less water.

Now, it is true that with less efficient use you can have more runoff that can be reused in lower parts of the system. And there is some of that that does happen in Twin Falls.

But the issue is: I've never seen a system where you can reuse everything. So inevitably some of that -- you know, the return flow from the first use gets away from you, you know, through the groundwater or otherwise, and it can't be reused.

So in that process, yes, there's use and reuse and maybe a third use, but you're losing water every time that cycle happens.

And you're always going to be much better off making more efficient use and basically -- than delivering more first-use water and less reuse water. That will always be more efficient.

And, yeah, there will be less overall delivery to the users, but that's the way it should be. They don't need as much water if they're more efficient.

And so, you know, from a consumptive use basis, you can meet the same consumptive use with more efficient on-farm operations and, therefore, less water being diverted at the river heading.

Q. Okay. I think that's all the questions I have for you right now.

HEARING OFFICER: Thank you, Ms. Klahn.

Cross-examination?

MR. FLETCHER: Yeah, I guess. I hadn't thought of that.

Would it be better to see if there's any other groundwater questions first before I cross-examine?

HEARING OFFICER: Well, I was assuming that Ms. Klahn's -- this was Ms. Klahn's witness, and there wouldn't be follow-up, but I'm willing to ask that question.

Are there any of the groundwater user groups that want to question Mr. Sullivan further?

I see heads shaking no.

Mr. Fletcher, are you examining?

MR. FLETCHER: Yes. Thank you.

///

CROSS-EXAMINATION

QUESTIONS BY MR. FLETCHER:

Q. Good afternoon, Mr. Sullivan.

A. Good afternoon, Mr. Fletcher.

Q. Nice seeing you again.

A. Likewise.

Q. We have participated in several of these hearings over the years.

You mentioned in your direct examination that you've been involved in this water call since 2005, I guess; right?

A. Yes.

Q. And in 2007's hearing before the hearing officer, you rendered several opinions in your expert report; isn't that correct?

A. I did.

Q. And one of those opinions was that there was no injury occurring to the senior users; isn't that correct?

A. Not quite. I think I'd identified some limited instances where there was some shortages.

Q. You gave written direct testimony in that proceeding; is that correct?

A. Yeah, I think we did that.

Q. What's that?

A. Yes.
Q. And I believe the very last question you were asked -- I'll read it to you and see if you remember this -- was: "Did the Surface Water Coalition suffer injury during the 2005 and 2006 irrigation seasons?"
And your answer was: "No. The water budget analyses that are summarized in Exhibit 3023, together with the deposition testimony of the SWC managers, shows that the SWC members were not short of water in 2003 and did not suffer injury" -- or excuse me -- "2005 and did not suffer injury in 2005."
Do you recall that opinion?
A. Not specifically, but I'll take your word for it.
What I was referring to, I think, was I did an analysis over that longer period, and there were a handful of small shortages during that time.
Q. So your opinion in that case, ultimately, was not accepted by the hearing officer; is that correct? Your opinion concerning injury.
A. I don't recall.
Q. Well, did the hearing officer find that there was no injury?
A. No. No, he didn't. He didn't find any --
Q. He found there was injury; correct?

A. Right. Well, he found -- I don't remember the details, but he found that they needed to institute a methodology to address impacts and shortages.

Q. And you also rendered an opinion that the Department should use some sort of achievable farm efficiency formula; isn't that correct?

A. Yes.

Q. And that was rejected as well; correct?

A. At that time, yes.

Q. And you rendered an opinion that there should be no minimum carryover requirement in the Methodology Order; isn't that correct?

A. I think for purposes of -- well, in fact, yes. Yep.

Q. And that was rejected as well; correct?

A. Yes.

Q. And you also -- in your opinion, Twin Falls Canal Company's diversion rate should have been five-eighths of an inch per share; correct?

A. I think that's what it was at the time. Right?

Q. Well, the hearing officer accepted that.

Do you recall this?

A. Yes.

Q. So if you don't remember this, I'm not trying

to stump you here.

A. I know.

Q. But that was overruled by Judge Melanson in July 24, 2009; correct?

A. I'll take your word for it.

MR. FLETCHER: I'll just direct the Director toward the July 24th, 2009, order on petition for judicial review issued by Judge Melanson, page 31.

Q. (BY MR. FLETCHER) You also advocated for an industry standard when it came to determining whether the projects were being efficient; correct?

A. Yes.

Q. And that was rejected as well; correct?

A. Is that the same question you just asked me before?

I was advocating for using industry standard efficiencies and the -- as I recall, the hearing officer decided he didn't have the ability to differentiate that information.

Q. So you agree that that was rejected by the hearing officer?

A. Ultimately, it was, yes.

Q. So in all of these call proceedings, you have been representing groundwater pumpers, correct, the cities?

A. Yes.
Q. And you feel that it's your position to minimize the amount of mitigation that's required by a groundwater pumper?
A. No. My -- I feel like I have a role here to help assist the Department in determining that if mitigation is required, that it's required in amounts that are really needed to alleviate real shortages.
Q. Well, let's talk about that for a minute.
One of the things you talked to your counsel about was the change by the Fifth Methodology Order As-Applied Order using transient analysis to determine a curtailment date versus steady state; correct?
A. Yes, we talked about that.
Q. Right. And you agree, I mean, in principle, that all groundwater rights on the Eastern Snake River Plain are junior -- or substantially all of the groundwater rights on the plain are junior to all of the surface water users; is that correct? Junior and prior?
A. Well, with that -- with that "substantially" qualifier.
Q. Okay. So your opinion is that steady state modeling should be used to determine the priority date of curtailment?
A. Yeah.

Q. Does steady state modeling for a curtailment date mitigate in-season demand shortfall?

A. Yes, if -- I mean, the modeling itself doesn't, but the modeling identifies the user -- the groundwater users that are responsible for causing the shortage, and it's those users that should mitigate the shortage.

Q. Well, let me ask my question a different way: If steady state is used in the modeling to determine a curtailment date, will the amount of shortfall determined by the order be fulfilled in that year?

A. If you are using curtailment for the mechanism for conjunctive administration, it would not.

But that is not the way you conjunctively administer groundwater. The use of the model to determine the curtailment date should be determining -- the purpose of that should be determining the pool of users that are responsible for mitigating the impact. And the mitigation is what should be alleviating the shortage, not curtailment. Because, for the reasons I just talked about, curtailment is a very inefficient way of administering groundwater, and that's why it's not done in the West.

Q. That's a long answer to a "yes" or "no" question.

But the real point here is that steady state use will not provide water in-season to the injured party, the amount of water, the amount of injury?

A. Not if -- it would not if you only curtail back, like, to the mid-'80s. In the example I was giving, in the first year it won't.

Q. Do you agree with Jennifer Sukow's information that was on the chart that you referenced in your report, that only about 15 percent of the shortfall would be realized in the first year of mitigation?

A. I think the percentage is actually smaller than that. Because I think that 15 percent refers to the percent of water that ultimately will show up in that reach.

But if you look at that -- at the percentage as the percentage of the water curtailed, it's actually a much smaller percent.

Q. Well, I'm talking about the amount of injury that's determined.

According to her chart, 15 percent of the injury will show up in the first year of curtailment using steady state; correct?

A. Well, that's another way of asking the question you asked me before. Yeah, it won't -- the full 75,000 acre-feet would not show up in the first

year.

Q. About 15 percent will show up in the first year; correct?

A. If you only curtail back to 1980 -- the mid-'80s.

Q. Okay. So, in your opinion, an injured senior is only entitled to receive about 15 percent of the shortfall resulting from injury in one year in time, location, and amount.

MS. KLAHN: Objection; mischaracterizes testimony.

HEARING OFFICER: This is cross-examination. Overruled.

THE WITNESS: I think you mischaracterized my testimony.

Q. (BY MR. FLETCHER) What a surprise. Whose testimony, I'm not sure whose testimony?

A. Well, if I may explain.

Q. Sure.

A. In my mind, the proper way of conjunctive administration is to determine who has to mitigate, and we shouldn't be using curtailment as the way to mitigate, as the way to deliver the water to the seniors. We deliver them storage water, you know, the other kinds of mitigation that have been determined

previously. That is more targeted and more efficient, and it allows for a better use of the resource, it keeps the senior whole. And the curtailment analysis is just to determine who has to -- who has to provide the mitigation water, but the Surface Water Coalition gets their water.

Q. Yeah, I'm not disagreeing with you, and I don't think anyone is that if someone has a mitigation plan in place and it's effectively operating, then we're not talking about those people in this hearing; correct?

In fact, your client, the City of Pocatello and the other cities, have an effectively operating mitigation plan; correct?

A. They do.

Q. Right now?

A. Yes, they do.

Q. They've never breached that plan, have they?

A. No.

Q. They're not facing curtailment as a result of this hearing?

A. Well, they could ultimately if the curtailment -- or the shortage requirements become so much that it strains their mitigation supply. And so that's why it's in everyone's interest to make sure that the mitigation amounts that are necessary are truly

necessary to meet real shortages.

Q. Well, their obligation in their plan is capped at 9,000-some acre-feet; correct?

A. Yeah, but the plan doesn't last forever.

Q. So 30 years from now, or whenever that plan runs out, that's your concern for your clients?

A. That's one concern. I think our clients are interested in the viability of agriculture in the whole area, and so, you know, part of that viability is enhanced by maximizing the use of the resource.

Q. So I'm going to get back to the question you were working around earlier.

In your opinion, a senior should only receive 15 percent of the injury at the time of injury by using steady state; correct?

A. I absolutely disagree with that characterization.

Q. But that would be the result if steady state was used for curtailment?

A. If that was used and you didn't require those users to mitigate, you just were relying on curtailment alone, you would be right. But that's not what would happen. And if those users can't mitigate, then they should be curtailed and not allowed to operate at all.

And that whole -- I mean, in my experience in

Colorado, that whole -- that creates an incentive for these users to develop these plans and mitigate, and that's what I've seen happening in Idaho for the most part. I mean, most users are on a plan; right?

Q. Isn't every user in this room in a mitigation plan?

A. Well --

Q. Every groundwater user in this room is a party to a mitigation plan; is that correct?

A. Yes, but those plans aren't necessarily forever, and some I understand are being renegotiated; and so, I mean, there's changes afoot.

Q. So as I understand your testimony, if they breach those plans, then they should be curtailed?

A. Yeah. Well, and even those plans -- yes, if they breach the plans, they should be curtailed, and those plans should be -- you know, should be reliable plans so that the risk of breaching is very low and doesn't fall on the shoulders of the seniors.

Q. A steady state use of the model does not predict an instantaneous response to the reach in question; correct?

A. Well, no run does.

Q. Now, as I understand your testimony about the 1980s wells, first of all, none of those wells from the

1980s have been curtailed; correct?

A. Today.

Q. Today.

A. I don't know. I thought the -- I mean, I was out of the country for a while, but I thought that the Director had -- there was an order that he was going to curtail as of sometime in May. And maybe I just -- I don't know what happened since then.

Q. I missed that order the Director issued curtailing people to the mid-1980s.

The bottom line is that no one that's had a mitigation plan in place, none of the parties to this proceeding, have been curtailed; correct?

A. I think that's right.

Q. So for you to talk about if pumping had never occurred since 1980s, then 75,000 acre-feet would be in the reach this year and there would be no injury, that's just fantasy, isn't it?

A. No. That's just a different way of saying that the last 75,000 acre-feet of depletion that created the shortage was caused by the wells junior to the mid-'80s, and, therefore, they should be the ones responsible for mitigating it because they caused the problem.

Q. So your position, then, is only those wells

since the 1980s should be required to furnish all of the injury determination this year?

A. For this year. And next year if the shortages is more than -- maybe the curtailment date goes to, say, 1970, then that pool of users should have to replace in that year.

Q. And if they can't furnish the water or won't enter into a mitigation plan, then what?

A. I think -- well, the way that -- I don't want to get too far out in front of my client or anything, but in Colorado, you have -- you can't pump unless you have a mitigation plan. So I don't know if that's -- that's a solution, maybe there's other ways, too, but that's the way it works in Colorado.

Q. Yeah, I'm not disagreeing with that idea of yours. Trust me. I like it. But it's not what Idaho uses; isn't that correct?

A. That's correct. But my understanding also is that there's -- the amount of users that are operating without a plan is relatively small.

Q. So the -- under your 1980s theory, the 19 -- for that water to appear in this reach, the 75,000 acre-feet injury, the 1980s water rights and junior to that would have to be permanently curtailed; correct?

A. No. They would have to provide mitigation.
Q. Or provide mitigation?
A. Well, yeah, provide mitigation is --
Q. And if they don't provide mitigation, they would have to be permanently curtailed for that amount to appear in the reach?
A. The threat of curtailment is the stick to keep them mitigating.
Q. You know, you just won't answer the question.
The question is: If they don't mitigate, if they don't mitigate, your theory is they would be permanently curtailed so that that 75,000 acre-feet would show up in the reach; correct?
A. The point of curtailment is that they're not mitigated, and I'm not really looking at later stuff as when the water shows up or anything like that.
Q. Let's talk about your Colorado plan that you suggest to the Director in your report on pages 24 and 25.
You've explained this two or three times that, under Colorado, the water user -- groundwater user is required to have a plan in place before the season ever starts; correct?
A. Yes.
Q. And it has to be approved?

A. Well, and I should say, not everywhere, but in most places in Colorado, they have to.

Q. And what are those plans called in Colorado? They're not mitigation plans, they're augmentations?

A. There's augmentation plans that are approved by the court, and then they have substitute supply plans that can be approved by the agency in some limited instances.

Q. And our conjunctive management rules don't talk about augmentation plans or substantive water plans; correct?

A. Yeah, but I've always viewed a mitigation plan as functionally the equivalent.

Q. So as I understand -- the way they do it in Colorado, those plans have to be in place before the irrigation season. Not only the plan has to be in place, but the supply of mitigation water has to be in place before the irrigation season; correct?

A. Yeah, or, you know, reasonably certain that it can be there.

Q. And that depletion caused by that groundwater user has to be delivered in time, location, and place under that replacement plan or whatever it's called?

A. Sufficient in time, location, and amount to -- and such that it prevents injury. So it doesn't have to

exactly match the depletions, but it needs to get to the user before they're injured.

Q. And those plans do not cover 100 percent of the depletion?

A. Right. Because at times when there's -- the seniors have enough water, then there's not a mitigation plan.

Q. So it -- how is it determined each year how much should be covered under the replacement plan?

A. Well, there's routine accounting that's performed by these plans that is submitted, and it depends on, you know, how much water is available, how much the seniors are diverting, what the shutoff date is of the water rights and who's short and that sort of thing, and what depletions the juniors are creating. And it's become routine.

Q. Okay. When you say it's routine, who's doing that accounting?

A. Well, the accounting is done largely by the users and, you know, standard mechanisms have developed for reporting that information, and so the users do most of the work. It's submitted to the agency in a certain format so that it's relatively easy for the agency to review it, and it's also transparent because the users can review each other's accounting and make sure it's

all kosher. And it ends up working -- it's working very well, actually.

Q. So in addition to that requirement of having the water in place before the season starts, under the Colorado model that you're talking about, or method, those groundwater users are required to have telemetry on their meters or some sort of way to measure their diversions?

A. Well, similar to Idaho, there's -- in most areas, there's -- well, the groundwater users have to measure their use for -- sometimes they're allowed to calculate it, you know, with our data, but, yeah, there's typically measurement requirements.

Q. How often is it measured in Colorado?

A. Well, I mean, they're typically like a continuous meter, totalizing flowmeter, so it's measuring continuously. And then the reporting for these plans, it's typically monthly or annual.

Q. Yeah. Aren't there plans that require daily reporting?

A. For -- maybe a few, but not -- I mean, they may submit daily data, but ultimately, that's part of the -- you know, as input to the accounting. But ultimately, it's rolled up into sort of a balancing period that may be monthly or annual that they have to

balance --

Q. So monthly is more common than daily; is that what you're saying?

A. Well, it kind of -- it depends on the situation, you know, that -- yeah, it's kind of situation specific.

Q. To your knowledge, are the groundwater users in Idaho required to report, monthly, their diversions?

A. I don't think so, but I don't know.

Q. And aren't those meters calibrated every two years by a certified inspector?

A. In Colorado.

Q. In Colorado?

A. I think that that varies by basin.

Q. But, overall, those components of the Colorado plan, that's what you're recommending the Director adopt, that you've just talked about?

A. I mean, maybe some components. I haven't really thought that far ahead, but I think the -- there could be a mechanism developed that protects the senior and has, you know, accounting based on measured use and those sorts of things that could work here.

Q. Are all groundwater users in compliance with their replacement plans?

A. Where?

Q. In Colorado.
A. For the most part, yeah, or they get curtailed.
Q. So when you say they're curtailed, how are they curtailed?
A. That the sheriff comes out and tags their well and enjoins them from pumping.
Q. Okay. Does that have -- before that curtailment takes place, do you have to go through some kind of administrative proceeding?
A. Yes.
Q. I'd like to talk to you about your acreage just for a minute.
I'd like you to open page 19 of your report.
Exhibit 347A, I think; is that right?
And as I understand your recommendation to the Director, you're recommending that he use those acreage numbers that are in the column labeled, "2021 Acres"; is that correct?
A. Sorry. What page are you on?
Q. Page 19.
Let me double-check. Excuse me. Page 18.
A. Yeah. I mean, that was the most recent one or -- but, you know, the numbers are similar.
So I think that this would be a good place to

start for coming up with the acres.

Q. Yeah, it says in the report: "In my opinion, it would be more appropriate to use the 2021 acres for purposes of the demand calculations."

Correct?

A. Yeah.

Q. Have you totaled those acres in 2021 -- 2021?

A. And when I said that, I should have been clear. I meant for Burley and Minidoka and for Twin Falls.

Q. Well, that's not what your report says.

A. I should have been more clear.

Q. So that's a mistake. You only want to use --

A. Well, they shouldn't be able to -- you know, if they're irrigating more than their shapefile or more than they say they're irrigating, then that should be a consideration as well.

Q. Well, I don't disagree with you, I'm just reading what your report says.

A. Okay. I was --

Q. Because those 2021 acres total over 618,000 acres; correct?

A. Well, there's -- if you look at, like, North Side -- I used to know the answer to this -- but there's some -- there's a reason why North Side says 220

in 2021 and not 154.

Q. Okay. My question is: The 2021 column adds up to over 618,000 acres; correct?

A. I haven't done the math.

Q. Well, the math can be done, but I would advise you that if you do the math, you're showing an increase in acreage of about 57,000 acres by using 2021?

A. I think using the actual acreage would reduce the overall acres.

Q. What goes into determining crop water need?

A. Irrigated area, the crops that are being grown, and the weather.

Q. And is the crop mix an important factor of that crop water need?

A. Yes.

Q. And, in your opinion, the more current that information is, the better?

A. Yes. I mean -- yeah, I mean, assuming we're trying to figure out what the crop water need is today, we should be using current data.

Q. Yeah. If you had 2023 data available, it should be used; correct?

A. Yes.

Q. And how is the Department doing that now; do you know?

A. Yeah. I think they're -- they're using what they call CDL information. So it's remote sense crop data. And that data is not available in real time, so -- or at least not readily available in a form it can be used. So I think they use data from the previous year.

Q. Are they averaging previous years.

A. Oh, you're right.

Q. Yeah, I'm not trying to stop you --

A. No, you're right.

Q. A lot of details in this stuff.

A. Yeah.

Q. They're averaging about three years to determine what this year's crop data mix is; is that correct? Or is it more than that?

A. It's -- yeah, three to five. I don't remember exactly.

Q. I'd like to talk to you about project efficiencies. A little bit of reality instead of theory.

You toured these projects back in 2005 or '06. I don't know what year, but...

So you're familiar with how they're actually laid out on the ground; correct?

A. Yes.

Q. And, Twin Falls, who -- everybody's after Twin Falls in this proceeding. Twin Falls has, what, 100 miles of canals and about 1,000 miles of lateral ditches and other parts of its delivery system?

Sound right?

A. I don't know those exact statistics, but it's a large irrigation system.

Q. And when they design a system like Twin Falls, aren't they designing that system to carry peak demand, the amount -- the largest amount of water they need during the year to grow a crop?

A. They should be.

Q. And isn't that typically occurring in the months of June, July, and August when it's the hottest and all of the crops are growing, generally?

A. Typically.

Q. So your review, and I think the Department's review as well, shows when the demand is the highest and when the canals are near capacity, they're the most efficient. Wouldn't you agree with that? The project is most efficient?

A. I think that's what the -- the results, those monthly -- actual efficiencies that I calculate that are crop water need divided by diversion are at their highest in the mid-season.

Q. Right. And that's when the project efficiency is also the highest; correct?
A. And the reason that is, is because I think they're probably overdiverting in the other months when the demand is lower.
Q. That's what I want to talk to you about.
In the spring and fall, they still have to make deliveries to water users; correct?
A. Depending on how the company operates. But, yeah, I mean, they -- there's different mechanisms for ordering water, and they have to try to meet those deliveries.
Q. And using Twin Falls as an example, they may have to be delivering water still down 100 miles of canals and a 1,000 acres of lateral ditches?
A. Yeah.
Q. Even in the spring and fall; correct?
A. Correct.
Q. Now, that doesn't mean that every farm on that project is irrigating at that time; correct?
A. In the fall?
Q. In the fall or even in the early spring.
A. Well, the demand is generally less in the fall and the early spring.
Q. Some crops have been harvested by the fall;

correct?

A. Correct.

Q. But they still have to convey water to all their other water users on the system; correct?

A. But, overall, the demand is lower.

Q. I'm not talking about the demand; I'm talking about the fact they have to still convey water through their system to all other users.

A. Yeah, but the amount that's peeled off on the way is less because the demand is less.

Q. Okay. The headgate deliveries are less, is what you're talking about; correct?

A. Uh-huh.

Q. But you still have to push all that water through a system that was designed to carry the peak load of June, July, and August; correct?

A. Of course.

Q. And doesn't that effect those efficiencies in spring and fall?

A. You, typically, can see some lower efficiencies in the spring and fall, but I think to the extent to which these efficiencies have gotten so low are unreasonable.

Q. What I just described to you is true for almost all open-canal surface water systems; correct?

Their peak efficiencies -- project efficiencies tend to be in the midsummer, and their spring and fall efficiencies typically are lower?

A. Typically. But then the issue is: How much lower, okay, in the shoulder months?

Q. Well, Twin Falls -- do you know how many acre-feet per acre it delivers or that -- excuse me -- how many acre-feet per acre does Twin Falls divert at the Snake River to deliver to it's 180- or 90,000 acres, whatever we're talking about?

A. What, 1.1 million divided by --

Q. I'll just throw a number out there, and you can tell me if you disagree.

Around 5.8 acre-feet, something in that neighborhood?

A. We can use that for an example.

Q. And you believe that's an unreasonable amount of acre-feet to deliver -- whether it's 180- or 190,000 acre-feet -- over a system that's -- conveys water through, roughly, 1100 miles?

A. Well, I don't think you look at it that simply. And that's -- you would look at it in more detail.

Like, I've done that in the past, and I think that more detailed look shows that they're typically

diverting more than they need to.

Q. Well, it's my understanding --

A. And more than they -- and more than they would need to in comparison to -- in my experience, compared to other large irrigation systems that operate more efficiently.

Q. So what other irrigation system do you know that delivers water to close to 200,000 acres through lava soils and stretches -- well, you heard Mr. Barlogi talk about 10,000 acres covering, roughly, 15-square miles.

I mean, what other system are you talking about?

A. Well, there's -- I mean, I just got through with a long litigation in Texas v. New Mexico where, you know, analyzing the irrigation operations under the Rio Grande project. And those are huge systems, very long, hundreds of miles long, and they operate more efficiently than Twin Falls does.

Q. Have you looked at other irrigation systems in the Eastern Snake River Plain?

A. Well, all the Surface Water Coalition members.

Q. Have you looked at others up the river?

A. Not in this level of detail.

Q. Do you have any idea how many acre-feet per

acre those systems divert?

A. Well, they're not calling curtailing juniors, though.

Q. I understand. But you're talking about an industry standard or a reasonable diversion rate.

A. I'm talking about industry standard in the situation where there's conjunctive administration and curtailment going on.

Q. What is this industry standard that you're talking about? You don't put it in your report. What is the industry standard for Twin Falls Canal Company?

A. I don't understand the question.

Q. In your report, you say Twin Falls should be measuring against an industry standard; correct?

A. Well, I think when I use that terminology, I mean the reasonableness of their operation, vis-à-vis their irrigation efficiencies and all should be analyzed in an industry standard way where the efficiencies that they should be expected to operate at before juniors are curtailed, for their benefit, should be based on, you know, their reasonable conveyance efficiencies. And, you know, their conveyance efficiencies and conveyance losses are knowable. And the amount of waste that is running out, you know, just gets spilled through the waste gates or runs out into the canal is knowable.

And there are industry standards that large canal systems operate under with -- yeah, I agree with, you know, what Jay was saying, that there is a certain amount of waste that has to happen to operate these large systems; but there's also a limit or a point at which it becomes unreasonable. And it's certainly -- it's easier to operate a canal system with more waste. You don't have to manage it as carefully.

But I think in a situation of conjunctive administration, there should be a reasonableness test before you curtail others.

So that's the conveyance efficiency piece. And then there's the on-farm efficiency piece, and industry standards on that is that there's certain efficiencies for gravity irrigation, sprinkler irrigation, that the users should be operating up to before juniors are curtailed.

And as I testified earlier, I'm not saying they have to, it's just that if you're requiring mitigation and curtailment, there should be an obligation in the calculation that you don't calculate a shortage until they are operating at that level.

Q. And in the 2007 hearing, the hearing officer and the Court found that the Surface Water Coalition -- their operations were reasonable; isn't that correct?

A. I think the -- they did. I think the hearing officer chose not to engage in all the details of the analysis.

Q. Okay. So your -- the stuff you're talking about right now was rejected by the hearing officer?

A. Yes.

Q. On page 12 of your report, you make a statement where you say: "Declines in the average project efficiencies are due to these systems not being managed as well as they were in the past."

What facts do you have to back that up? Have you -- do you have any evidence that the projects are not being managed properly?

A. Well, that's -- so that's based simply on that -- I forget the figure, but the figure where I had tabulated the average efficiencies that I found -- actual efficiencies -- you know, crop water need divided by what they're actually diverting -- from my analysis using the data from, what is it, 1990 to 2006. And so that's -- that was a set of actual efficiencies for each of the members.

And when I -- and when those actual efficiencies are now computed again with the more recent data, they're actually lower. And so, you know, what has changed that they should be lower and one -- you

know, apparently, they're not being managed as well because they're having to divert more water to meet their demands than they did in the past. So that was the basis for that statement.

Q. And you heard Mr. Barlogi's explanation for that; correct?

A. That they're converting to --

Q. Well, first of all, they aren't diverting that much more water, are they, at Twin Falls Canal Company?

A. When you do the math, the efficiencies are lower.

Q. They've been -- you saw his chart where it showed he was diverting about 1.1 million acre-feet for I don't know 20, 30 years?

A. Well, but it goes up and -- you know, about -- but it goes up and down --

Q. Right.

A. -- and it's been more of late. I mean, that's why the baseline year has been going up.

Q. So that's an analytical analysis you did to come up with that determination they're not being managed as well. It's not based upon any facts; correct?

A. Facts?

Q. Dealing with observations of management?

A. I haven't done that.

Q. Do you believe that the Methodology Order should be used to protect seniors from injuries caused by junior diversions?

A. Yes.

Q. Do you agree that if injury is determined, the shortfall should be supplied in time, location, and amount that season?

A. Well, I still believe that they really shouldn't really have to pay it back. You know, make -- pay back the depletion until, you know -- it could be sometime later if the users still have storage available. But under the methodology, there's some constraints on that. So I mean, if we're working within that constraints of the methodology, then, yeah, they should provide the water in the season or at the time of need.

Q. Thank you.

HEARING OFFICER: Mr. Thompson, I assume that Mr. Fletcher's cross-examination was sufficient, or do you want to ask some questions as well?

MR. THOMPSON: I have a few, Director, if that's okay.

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CROSS-EXAMINATION

QUESTIONS BY MR. THOMPSON:

Q. Good afternoon, Mr. Sullivan. Travis Thompson for A&B Irrigation District, et al.

A. Good afternoon, Travis.

Q. Just a couple of questions. Kent covered quite a bit, so I won't go back over that.

On page 6 to 7 of your report, you talk about -- I think you do a lot of comparison of an average year of diversions looking at 2000 to 2021; is that correct?

A. Yeah, that's what the Department did.

Q. And you just kind of compared that to the prior baseline year of '6/'8/'12?

A. Yeah, I was just basically stating what the Department did for that particular piece of that.

Q. So if we're looking at an average diversion, would you agree that that average diversion does not meet the methodologies criteria of an above average year of diversion?

A. The '06/'08/'12?

Q. I'm just -- whatever average we're talking about. We're just looking at a straight average.

A. Yeah, as I testified earlier, I mean, if you still just use 2000 to 2021, it's 40 acre-feet short of

being above average.

Q. And the criteria in the order requires that you're above average diverting; would you agree?

A. It does.

Q. And are you familiar with the order on judicial review of the Methodology Order issued by Judge Wildman back in 2014?

A. I'm sure I read it.

Q. I guess would you agree that an average year of diversion does not meet the standard that he approved?

MS. KLAHN: Objection; the document speaks for itself.

THE WITNESS: I don't recall exactly --

HEARING OFFICER: Just a moment.

I'll allowing questioning in this area. I think it's important. If there's an objection, it's overruled.

Q. (BY MR. THOMPSON) I'm just curious. Arguments made in that case by Pocatello and IGWA were requesting that an average year be used.

Were you aware that those were rejected by the Court?

A. I'll take your word for it.

Q. I guess would you agree that the average of

the combined diversions for all Coalition members is not reflective of a standard of an above-average year for an individual Coalition member?

A. Yeah, I mean, that's different. It seemed like the methodology doesn't require it to be done user by user.

Q. And it's not average whether it's the Coalition or if it's a single user; is that correct?

A. I'm sorry, can you say that question again, please.

Q. The methodology does not require an average year; isn't that correct?

A. Above average.

Q. Yes.

A. Uh-huh.

Q. So you talked about increased diversions the last few years. Would you turn to Exhibit 300. I think that's the Fifth Methodology Order.

Could you turn to page 7, Mr. Sullivan.

A. Okay.

Q. And what is that table depicting?

A. The graph here?

Q. Yes.

A. It says: "April Through September Growing Degree Days."

Q. So would you agree that warmer climatic conditions could contribute to increased diversions in recent years?

A. They could.

Q. And based on that graph, have we seen a greater number of years with growing degrees higher than that average than the years prior? I'm going to look at, like, 2012 through '21.

A. Yeah, there's more years above average.

Q. How about more water consumptive use crops? Could that contribute to greater demand?

A. It could.

Q. So you talked about 2022 in your report. Would you agree that was a year of limited water supply for certain Coalition members?

A. I don't recall.

Q. Are you aware of reduced deliveries by certain Coalition members in 2022?

A. Reduced delivery?

Q. Yes.

A. I haven't studied that 2022 diversion data in detail.

Q. Or shortened irrigation seasons?

A. I don't know.

Q. So if that were the case, if those certain

members had reduced supplies in 2022, reduced deliveries, shortened irrigation seasons, would you agree that that year would not meet the Methodology Order's criteria for a baseline year?

A. I don't think I was suggesting that 2022 be a baseline year, but if I -- it could be used in computing the average over the period.

Q. Right. Which is not used by the methodology?

A. Well, the methodology does require, as I understand it, a computation of some average with which the baseline year is then compared to, to see if the baseline year is above average.

Q. Yeah, I think the criteria we talked about, it needed to reflect a year of above average to protect the senior at the outset?

A. Right.

Q. So would 2022 be above or below average?

A. I think it's probably below average, but maybe -- I don't know if I misunderstand or there's some misunderstanding, but I didn't propose that 2022 be a baseline year.

Q. No, that wasn't my question.

A. Oh, okay.

Q. Turn to page 7. I just have a statement I wanted to ask you about -- back in your report, I'm

sorry, Mr. Sullivan.

So you make this statement about Twin Falls Canal Company's, I'll quote, legally established delivery rate.

Do you see that?

A. Yeah, on the second-to-last paragraph.

Q. I think you testified earlier today that you're not an attorney; is that correct?

A. That is correct.

Q. So would you agree that you're not qualified to give an opinion on what the legally established delivery rate is?

A. Well, I can -- I'm not a lawyer, but I can read documents and see where information comes from.

Q. So you talked about looking at the Unit B part of the A&B project. Do you remember that testimony? I think it's in your report as well.

A. Yes.

Q. And would you consider that project to be similar to a large open canal system in Idaho?

A. I mean, there's some similarities, but one difference is that the distance between the point of diversion and the point of delivery is typically pretty short, and there's some open canals up there, but there's a lot of piping too.

Q. And that system has a number of groundwater wells; do you recall?

A. I think at the time it was fully supplied by groundwater. I think maybe they get some surface water now.

Q. So I'll represent probably over 180 wells delivering water to individual farms.

Would you agree with that?

A. That sounds right.

Q. And so these large canal systems that we're looking at for the Surface Water Coalition, would you agree that they have a large diversion point at the Snake River not over hundreds of individual points of diversion?

A. Yes.

Q. And you talk about the Director's order in that case. Did you agree with the Director's and hearing officers' recommended diversion rate for A&B at three-quarters of an inch per acre?

A. No. I think that's probably too much.

Q. So you disagree with the finding and the order?

A. Yeah, I don't -- I haven't studied that part of the order in quite a while, so I'm a little fuzzy on that piece.

Q. Is the requirement for a water user to put water to beneficial use different when you are making a call as opposed to not making a call?
A. I think so, yeah.
Q. And is that based upon your experience in Idaho or other states?
A. I would answer in the context of Idaho, that in the context of the conjunctive management rules and the decisions that have been made, and all, that they're expected to be operating reasonably and without waste before they are curtailed -- or before juniors are curtailed on their behalf.
Q. And does that apply to surface-to-surface water right administration?
A. I don't know.
Q. So is a diversion rate of 5 to 7 acre-feet per acre reasonable for large open canal systems in Idaho?
A. It depends. It depends on what their conveyance losses are and what their on-farm irrigation application practices are.
Q. You have a per-acre-feet, per-acre standard as an industry standard?
A. No.
Q. Or would it be different for every entity?
A. It would vary.

Q. I'd like to talk to you about your supplemental groundwater testimony in your report, pages 20 to 21.

And you represent that table was provided by the Surface Water Coalition; is that correct?

A. Yes.

Q. And do you know if that information related to potential groundwater lands within their project or specific lands that were overlapped with surface water as well?

A. I don't remember the specifics of that.

Q. So would you agree that some of these projects cover vast areas of certain counties in southern Idaho?

A. Yes.

Q. Not every one of those users may have a surface water right; is that true?

A. That's true.

Q. Some may have groundwater?

A. There may be, uh-huh.

But I think that this information was represented as supplemental groundwater acreage by the canal companies, to my recollection.

Q. Have you compiled any information on supplemental groundwater rights since 2007?

A. No.

Q. Are you aware of any groundwater right transfers since that time?
A. Just in the ESPA.
Q. Yes?
A. Yes.
Q. Would that change the analysis of supplemental groundwater available within certain projects?
A. Yes. And I don't -- I wasn't necessarily advocating that these values be used, but they were put in here as an example that this information has been considered before and, for whatever reason, hasn't been considered for a long time. And if it is to be considered, would it make sense to use more recent data.
Q. How about groundwater rights enrolled in CREP since that time?
COURT REPORTER: Wait, I didn't hear that. Can you repeat that?
MR. THOMPSON: Groundwater rights enrolled in CREP, C-R-E-P.
THE WITNESS: I mean, if they're not delivering groundwater, then I don't think that should be considered as an alternate source. I suppose the lawyers may have some reason that legally it should be considered, but...
Q. (BY MR. THOMPSON) How about groundwater

rights used in mitigation plans, have you looked at those?

A. So what do you mean by that?

Q. Well, I just want to know if -- you haven't done any analysis on supplemental groundwater rights since that time, could those rights be not available today, not being used today, if they're in other programs?

A. Did you say enrolled in mitigation plans?

Q. Yes.

A. So the wells would still be in use?

Q. Maybe not. I don't know. That's the question.

A. It should be based on the wells that are -- I think that the wells that are actually in use.

Q. So do you know how long it takes the groundwater districts to compile their annual use of their members' groundwater rights?

A. I do not.

Q. One last question: Would the priority date of a supplemental groundwater right matter if it was subject to a curtailment order?

A. It might.

Q. I'd like to ask you a few final questions, I guess, looking at Exhibit 365.

Do you have that in front of you?
A. Yes.
Q. How many gauges did you query for these tables or graphs? I'll call them graphs.
A. Well, they're listed in the footnotes. I haven't counted them up.
Q. So the only ones that are totaled here are the ones actually listed --
A. Yes.
Q. -- in the notes?
A. Yes.
Q. How do you define the term "TFCC Return Flows" at the top?
A. I think that's the -- that's the sort of general terminology that's used -- that the Department has used. It's return flows coming off a tract, so it's measured water below that canal service area.
Q. So does it include water from other sources, not just irrigation return flow?
A. It could.
Q. So the orange tributary bars, are those natural streams?
A. Yes. So, I mean -- and as we heard Jay Barlogi talk -- testify earlier, there's -- some of their runoff off the waste or surface runoff goes into

tributaries.

Q. Certainly, during irrigation season that could be a component of that flow at that particular time?

A. Yes.

Q. How about runoff precipitation events?

A. It could be in high -- like it rained here last night.

Q. 3 inches, I think, at Crane Creek.

A. It was a lot. Almost as much as it rains down in Florida now, like that.

Q. Did you differentiate the irrigation return flows from other natural runoff in this graph?

A. I did.

Q. And it appears that some of these run year-round; is that correct?

A. Yes, there's some water in the winter.

Q. Are you aware of seeps in groundwater returns that might be included in these numbers?

A. Probably is some of that, yes.

MR. THOMPSON: That's all the questions I have.

HEARING OFFICER: Okay. Thank you, Mr. Thompson.

MR. THOMPSON: Oh, sorry. I've got a couple more.

HEARING OFFICER: Go ahead.

Q. (BY MR. THOMPSON) Getting back to your question on project efficiencies, would your proposed use of an efficiency regression with that 75th percentile, essentially, disfavor seniors?

A. No.

Q. How so?

A. Because it would be using the efficiency values that they have shown to be able to operate at.

Q. At certain times? Is that correct?

A. Yeah, but I think it's entirely reasonable to be -- I'm not picking the very top, I'm just picking within the upper part of the range that they've shown they can operate at.

Q. So do you agree that large canal companies would need some sort of base level to operate their diversion system?

A. What do you mean, "base level"?

Q. Can they simply follow the ET curve seasonally or annually crop --

A. Well, that's why -- well, I'm not sure if I understand your question. But that's why these efficiencies are not 100 percent, and there's allowances for losses and inefficiencies.

Q. So do you agree there's beneficial diversions

of water to bear crops that go beyond just meeting the consumptive irrigation requirement of the plan?

A. When you're, like, storing water and soil moisture for subsequent use, yes.

Q. How about canal charging?

A. Yep. And that's the reason that the efficiencies -- the conveyance efficiency can be temporarily higher in the spring. Although, I understand, you know, canals like Twin Falls and some others run year-round now because of the recharge.

So maybe some of that charging part is not as big a deal as it used to be.

Q. I guess, are you aware of the location of Murtaugh Lake compared to the rest of the project on Twin Falls Canal Company?

A. It's up near the top.

Q. How about having an available steady supply of water, if that's how they deliver?

A. Can you be more specific on what you mean?

Q. Yeah. Do you consider that a beneficial diversion of water that goes just beyond meeting the crop water need for the plan?

A. I think that's part of the reason Twin Falls is so inefficient is because they -- their operational practice is to basically guarantee a rate of water to

their users rather than an allotment system. It's more typically used by these large systems, and it leads to a less efficient operation.

It's great for the users, and it's great if you have enough water, but you can -- a system can be operated more efficiently under an allotment system. There's incentives for saving water.

Q. So which entities are you referring to that use an allotment system?

A. I know some of the Surface Water Coalition members do, but I just -- I haven't -- and that's something we looked at back -- way back when. I just didn't have a chance to refresh myself on that.

Q. How about diverting water for chemigation and soil tillage, is that a beneficial use of water?

COURT REPORTER: Okay. Wait. Can you repeat your question?

Q. (BY MR. THOMPSON) Using water for chemigation or soil tillage, is that a beneficial use of water?

A. It's a beneficial use. I think it, you know -- and I don't know how much of that is happening, how big of a deal that is. I mean, if they're -- yeah, I don't know. It's a beneficial use, though.

MR. THOMPSON: Thank you. That's all I have.

HEARING OFFICER: Thank you, Mr. Thompson.

Redirect?

MR. BUDGE: Director, the cross-examination by Mr. Fletcher and especially -- and partly by Mr. Thompson went way outside of what's in Mr. Sullivan's expert report and what was offered in direct, so I would like to also ask a few follow-up questions.

HEARING OFFICER: Well, I'm not sure that I agree with you, that it went way outside the boundaries of direct.

I disagree, but I don't object to your asking some questions. But before you do, Mr. Budge, and before you come all the way forward, I want to give Ms. Klahn an opportunity to ask questions.

MS. KLAHN: I'd rather go after Mr. Budge because I don't know what he's going to say, if that's okay, Mr. Director.

HEARING OFFICER: Well, let's stay as long as we have to.

Mr. Budge.

MR. BUDGE: I'll be as quick as I can.

MR. FLETCHER: 30 minutes; right?

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CROSS-EXAMINATION

QUESTIONS BY MR. BUDGE:

Q. Thank you, Mr. Sullivan.

I want to follow up on some of the questions that were asked by Mr. Fletcher.

You'll recall there was a lot of questions about Colorado replacement water plans?

A. Yes.

Q. That is not something I am familiar with, but I assume they're governed by Colorado law?

A. Yes.

Q. And they're designed to accommodate Colorado water systems?

A. Yes.

Q. They're not governed by Idaho's conjunctive management rules?

A. No.

Q. And you're not advocating today that the Director replace the Fifth Methodology Order with --

COURT REPORTER: So, Mr. Budge, I'm going to need you to slow down, please.

MR. BUDGE: He's telling me to speed up.

COURT REPORTER: I can't get it, though.

HEARING OFFICER: No, I'm encouraging you to be more articulate.

MR. BUDGE: Touché.

MR. FLETCHER: More efficient and articulate.

Q. (BY MR. BUDGE) You're not advocating the Director replace the Fifth Methodology Order with a Colorado replacement water plan?

A. No.

Q. Let me ask you about a question Mr. Fletcher asked about some rulings by Judge Melanson related to the five-eighths-inch versus three-quarter-inch delivery for Twin Falls Canal Company.

Do you remember those questions?

A. Yes.

Q. Do you remember Mr. Fletcher asking if you knew that Judge Melanson had rejected or overruled the five-eights-inch standard?

A. Yes.

Q. And your response was that you'll take Mr. Fletcher's word for it?

A. Yes.

Q. So the record's clear, you don't know whether -- that Judge Melanson accepted five-eighths inch or three-quarters of an inch?

A. No.

Q. And to the extent that's in the record, that would reflect Mr. Fletcher's testimony and not your own?

A. Yes.
Q. Mr. Fletcher asked you if there had been any curtailment of groundwater rights to date, and I believe your answer to that was, to your knowledge, no?
A. This year?
Q. I think it was to date.
A. To date this year; right?
Q. Yes. Was your answer with respect to this year alone?
A. Yes.
Q. Okay. You weren't referring to curtailment in prior years?
A. No.
Q. There was a dialog between you and Mr. Fletcher about who should be curtailed when the seniors are short of water.
You said something to the effect that those who caused the problem should be curtailed; is that right?
A. Yes.
Q. You also testified that curtailment is extremely inefficient in the conjunctive management context?
A. Very.
Q. And it should be a matter of last resort?

A. Yes.
Q. And so it's fair to say that your testimony has been that curtailment should only be pursued to meet genuine water needs by the senior?
A. Well, not exactly. I mean mitigation should be provided to meet genuine water need, and curtailment, like I say, is a -- at last resort. If the user doesn't want to mitigate, then they shouldn't be allowed to pump.
Q. And in terms of calculating mitigation obligations, mitigation should only be required to the extent the senior actually needs it to grow crops?
A. Yes.
Q. And did I understand your testimony that the Fifth Methodology Order has created no incentive for seniors to become more efficient in their water use?
A. That's correct.
Q. In fact, if I understood your testimony earlier, there's some incentive built into the methodology that encourages the seniors to divert more water than may be required for their crops?
A. Yes. There's this feedback loop that the more they divert, the more they're entitled to under the methodology.
Q. And then, lastly, there was some discussion

about prior court rulings involving reasonable use of water. And I think Mr. Fletcher represented that a prior decision found Twin Falls Canal's diversions to be reasonable.

Do you remember that?

A. Yes.

Q. Do you recall whether that decision was based on efficiency or just based on whether Twin Falls was wasting water?

A. I don't recall.

Q. And efficiency is a spectrum. You can be highly efficient or --

A. Absolutely.

Q. -- poorly efficient?

And the waste threshold, as you understand that, would be at the very bottom end of the spectrum?

A. Well, my understanding is that it's -- they're really two sides to the same coin, the way that it's evolved and put out in the conjunctive management rules and the decisions that are being made.

If you're operating with reasonable efficiency, you're not wasting, and if you're wasting, then you're not operating with reasonable efficiency.

I used to think there was, like, some multiple tiers, but I don't think that anymore.

Q. Does your analysis show that since 2008 when the Methodology Order was first developed and we last had an evidentiary hearing, that Twin Falls Canal Company and other members of the Surface Water Coalition are not demonstrating increased efficiency even though you would expect that given the improvements made to the canal system?

A. Yes, that's correct.

MR. BUDGE: That's all I've got. Thank you.

HEARING OFFICER: Mr. Budge, I want to compliment you on your articulate questioning of the witness.

MR. BUDGE: It's about time.

MS. KLAHN: It was a lot less than ten minutes, TJ.

HEARING OFFICER: I did not mean it as a personal shot at you, so please accept my apology.

I also want to observe in the -- as I scanned the document and as I listened to the testimony, that the expert report is replete with references that say "in Colorado" and "in Colorado" and "in Colorado," as well as the testimony. I'll just observe that I think there's a lot of reference there, but I won't draw any more conclusions than that.

So, Ms. Klahn, from Colorado, you may question

the witness from Colorado.

THE WITNESS: I'm not in Colorado anymore.

MS. KLAHN: He's from Florida now.

HEARING OFFICER: Florida now, huh?

MR. FLETCHER: I can't wait to hear what they do in Florida.

HEARING OFFICER: Following the water problems.

MR. FLETCHER: The drain ditch problems.

MS. KLAHN: You should see the returns flows down there.

HEARING OFFICER: Ms. Klahn?

MS. KLAHN: Thank you.

REDIRECT EXAMINATION

QUESTIONS BY MS. KLAHN:

Q. Just a couple of things.

The discussion you had with Mr. Fletcher about the project efficiency aspects of crop water need, do you recall that?

A. Yeah.

Q. And I feel like there might have been some confusion about what the Methodology Order calculates and what's shown in Figures 3-1, et cetera, versus what your conclusions are.

Could we take a look at that real quick?

A. Sure. 3-1?

Q. Yeah. So in Figure 3-1, just to make sure the testimony is clear, you included on that figure your -- I don't remember what the terminology is because I didn't bring the report up with me -- the efficiency number you calculated in 2007; is that right?

A. Yeah, the seasonal efficiency. That's the blue lines.

Q. Right. And that was for purposes of comparison with the actual efficiencies that the Surface Water Coalition is currently experiencing; is that right?

A. That's one of the purposes, yes.

Q. Okay. There was a question about the -- whether chemigation and soil tillage were beneficial uses; do you recall that?

A. Yes.

Q. Would you agree that chemigation and soil tillage are not part of the crop water need?

A. I don't know.

MS. KLAHN: And I think those are all the questions I have, Mr. Director. Thank you.

HEARING OFFICER: Thank you for being succinct.

Recross?

Recross, Mr. Fletcher?

MR. FLETCHER: No, I don't have any.

HEARING OFFICER: Mr. Thompson?

MR. THOMPSON: No. Thank you.

HEARING OFFICER: Okay. Are we finished with Mr. Sullivan?

MS. KLAHN: I think so.

HEARING OFFICER: It sounds like we are.

Okay. It's 5:00 o'clock. The timing of examination of counsel is admirable.

Do we want to call the next witness? I assume not?

So looking at the schedule, I assume that Sophia Sigstedt will be scheduled tomorrow morning to testify, is that right, Ms. Klahn?

MS. PATTERSON: That's correct.

HEARING OFFICER: Oh, wait a minute.

TJ?

MR. BUDGE: That's correct.

HEARING OFFICER: Do you want to start at 9:00, everyone? Are we on schedule to finish on Friday, looking at the witness list?

MS. PATTERSON: I think we are, Director. We are only going to call one late witness, Mr. Carlquist.

And then I believe we just have a witness from Amalgamated, a witness from McCain, and then your expert witnesses.

I think that we can get Ms. Sigstedt and Mr. Contor done by midday tomorrow, leaving time in the afternoon for rubuttal.

MR. BUDGE: That's only if they'll be as succinct as I am.

MS. KLAHN: No, you're not succinct, I'm succinct.

HEARING OFFICER: And articulate.

MR. JOHNS: I can't make any promises about midday.

MR. FLETCHER: You're articulate, she's succinct.

HEARING OFFICER: Let's go off the record because we're devolving downward, I think. So let's go off the record.

So we'll adjourn until tomorrow at 9:00 a.m.

(Hearing adjourned at 5:03 p.m.)

REPORTER'S CERTIFICATE

I, ANDREA L. CHECK, CSR No. 748, Certified Shorthand Reporter, certify;

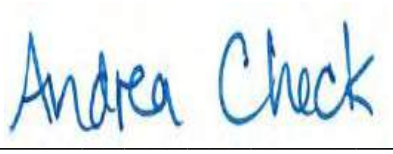
That the foregoing proceedings were taken before me at the time and place therein set forth, at which time the witness was put under oath;

That the testimony and all objections made were recorded stenographically by me and transcribed by me or under my direction;

That the foregoing is a true and correct record of all testimony given, to the best of my ability;

I further certify that I am not a relative or employee of any attorney or party, nor am I financially interested in the action.

IN WITNESS WHEREOF, I set my hand and seal this 19th day of June, 2023.



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ANDREA L. CHECK, CSR No. 748, RPR, CRR
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BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF	**) DOCKET NO.**
WATER TO VARIOUS WATER RIGHTS	**) CM-DC-2010-001**
HELD BY OR FOR THE BENEFIT OF A&B	**)**
IRRIGATION DISTRICT, AMERICAN	**)**
FALLS RESERVOIR DISTRICT #2,	**)**
BURLEY IRRIGATION DISTRICT,	**)**
MILNER IRRIGATION DISTRICT,	**)**
MINIDOKA IRRIGATION DISTRICT,	**)**
NORTH SIDE CANAL COMPANY, AND	**)**
TWIN FALLS CANAL COMPANY	**)**
_____	**)**

BEFORE

HEARING OFFICER: GARY SPACKMAN

VOLUME III

Date: June 8, 2023, 9:02 a.m.

Location: Idaho Department of Water Resources
322 East Front Street, 6th Floor

REPORTED BY:

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P R O C E E D I N G S

HEARING OFFICER: Okay. It's 9:00 a.m. June 8th, and we're ready to start.

Are we on the record, Andrea?

COURT REPORTER: Yes.

HEARING OFFICER: Microphones are on.

Sarah, can you hear us?

Sarah is there, her image is there, anyways. Maybe she just logged in.

Okay. Do we have Candice McHugh today?

MS. KLAHN: She will join us later. She's at a meeting with one of her clients getting ready for the testimony tomorrow.

HEARING OFFICER: All right, good. Are there any preliminary matters that need to be addressed this morning? If not, I think the witness that's --

MR. WOOD: Should we see if these guys can hear us?

HEARING OFFICER: Yeah. Is Garrick Baxter on?

MR. BAXTER: I'm here, Director.

HEARING OFFICER: You can hear us?

MR. BAXTER: Yes, we can hear you fine.

HEARING OFFICER: Great. All right. Thanks.

I think the next witness is Sophia Sigstedt;

is that correct?

MS. PATTERSON: That is correct, Director.

HEARING OFFICER: And who will be examining?

MS. PATTERSON: Elisheva Patterson on behalf of IGWA will be.

HEARING OFFICER: Good. Ms. Patterson, if you will come forward, please, and find one of the microphones.

And, Sophia, I see that you are online and participating remotely.

THE WITNESS: Yes, thank you.

HEARING OFFICER: So I hope this examination can proceed in a way that's meaningful.

Okay. I guess I need to swear you in from a distance, Sophia, so if you'll raise your right hand.

SOPHIA SIGSTEDT, PH-GW,

called by IGWA having been first duly sworn to tell the truth relating to said cause, testified remotely as follows:

HEARING OFFICER: Thank you.

All right. Ms. Patterson.

MS. PATTERSON: Thank you, Director.

///

DIRECT EXAMINATION

QUESTIONS BY MS. PATTERSON:

Q. Good morning, Ms. Sigstedt. May I call you "Sophia" today?

A. Yes, that's fine.

Q. Thank you.

Can you please give the court your name and your business address.

A. Oh, gosh. Yes, my name is Sophia Sigstedt. And the business address is -- sorry, just give me a second.

Q. Just the business is fine.

A. Okay. Lynker in Boulder, Colorado.

Q. Thank you.

And, quickly, can you tell me what your educational background is.

A. Yes. I have a bachelor's degree in environmental science from the New Mexico Institute of Mining and Technology and a master's degree in hydrology, also from New Mexico Institute of Mining and Technology.

Q. And how long have you been with Lynker?

A. I've been with Lynker since 2015, so about eight years. But I've been consulting since 2010, so a little over ten years.

Q. And how long have you been familiar with the -- this project, the Eastern Snake Plain Aquifer?

A. I started working for IGWA around 2012, 2013, so about ten years I've been working on the Eastern Snake Plain Aquifer.

Q. And what type of work do you do for IGWA?

A. I started with IGWA during the Rangen litigation. So I did a lot of modeling, water right support related to that matter. I've done some witness testimony also related to water right transfer in a mitigation matter for the Rangen case. I've done a lot of groundwater modeling, looking at IGWA's various mitigation activities around CREP, recharge, water conservation, modeling those activities as part of a mitigation plan. I've done modeling for settlement agreements around water conservation. For IGWA, I participate on a number of technical working groups like the --

Q. Yes, thank you.

So you've worked since 2012 -- was that the date? -- 2012, 2013 on -- with IGWA?

A. Yes, that's right.

Q. So you're familiar with this project?

A. Yes.

Q. You mentioned briefly that you work on

other -- or not other consulting projects -- strike that, please.

Can you tell me about the other committees that you mentioned. Is there an aquifer modeling committee that you are on and participate on?

A. Yes. So I'm a member of the Eastern Snake Plain Hydrologic Modeling Committee, which does technical advisory and oversight of Eastern Snake Plain hydrologic model or ESPAM. I also participate in the Big Lost Modeling Technical Advisory Committee.

Q. Okay. Thank you. I'm going to move to what you did on this case.

What were you asked to do here in preparation for this hearing?

A. I was asked to review the Fifth Methodology Order, the April As-Applied Order, and the various expert reports that were submitted in this matter.

Q. Thank you.

As a part of this hearing, did you also participate in technical working groups held by the Department staff in 2022?

A. Yes. I was part of the -- all of the meetings for the 2022 technical working group, and I was also part of the 2015 technical working group in this matter.

Q. Thank you.

And did you submit comments to the Department on each of the 2015 technical working group and the 2022 technical working group?

A. Yes, I did.

Q. Did you submit an expert report in this case?

A. Yes, I did.

Q. And we have identified that as Exhibit 837.

Do you have a copy of that with you?

A. I do.

Q. Wonderful. So we will be going over your expert report today.

We have also discussed your written comments that you made to the staff in 2015. Those are identified as Exhibit 103. We will be referring to those during your testimony today.

And then your 2022 comments are identified as Exhibit 916.

A. I have all of those.

Q. And you have copies of those available to you?

A. Yes.

Q. Thank you.

On this expert report and on your analysis of the Fifth Methodology Order and the As-Applied Order, were you able to perform all of the work you wanted to do?

A. No, there is a number of things that -- sort of outlined throughout the report that I didn't have time to accomplish. And I think I submitted some other documents to the court related to kind of further analysis around irrigated acres. I would have liked to have done some modeling to evaluate As-Applied Order models that's detailed in the report. I think reasonable carryover is something that I didn't have very much time to analyze in this report; that's something that I would have liked to have spent more time on. Project efficiencies --

Q. It's kind of hard for you to see me, but I'll try to interrupt you if -- we will address, you know, these matters in more detail as we go through your report, but suffice it to say there were more things that you would have liked to do if you had time in assessing the Fifth Methodology Order and the As-Applied Order?

A. Yes. There are a huge number of components to this methodology, and that was a very compressed time frame to put together this report and analysis.

Q. Okay. Thank you.

And were there other matters that IGWA had asked you to work on that, you know, this analysis pulled you off of?

A. Yes. We're doing -- I'm doing some workaround looking at how -- approaches to a groundwater management plan, I'm working on recharge analysis, several things that could have been done -- that should have been done in this time.

Q. Okay. Thank you.

Let's turn to your report now and discuss what you mentioned, the irrigated acreage issue. And can we look at Table 2-1, which is a summary of the SWC irrigated acres 2015, TWG.

A. Okay.

HEARING OFFICER: So, Ms. Patterson, this is Exhibit 837 in the common exhibits?

MS. PATTERSON: This would be under IGWA's exhibits.

MR. WOOD: What number again?

MS. PATTERSON: 837. It should be the last binder.

MR. WOOD: 837?

MR. BUDGE: Director, can we go off the record just for a moment just to address a logistical matter?

HEARING OFFICER: Yes.

(Break taken.)

HEARING OFFICER: Back on the record. We're recording again. Microphones are on.

Ms. Patterson?

MS. PATTERSON: Thank you.

Q. (BY MS. PATTERSON) Sophia, can you see me a little better now?

A. Yes, thank you.

Q. So I previously asked you to turn to your report, which is Exhibit 837, and then on page 8, there is a Table 2-1.

Can you please tell us again what the 2015 TWG refers to?

A. Yes. So in 2015, I think, there was an order that directed Department staff to convene a technical working group around a number of issues. One of the issues that was discussed was improvement to the reasonable in-season demand. And part of that was looking at irrigated acres.

This table that you're referring to is basically a summary of irrigated acres presented to the technical working group related to their reasonable in-season demand calculation.

Q. Okay. And then in your report, two paragraphs above the second sentence, it reads: "It was my understanding that in 2015 that these would be the irrigated acres used in the Methodology Order. However, my recent review of the Department's RISD calculation

spreadsheet indicates that these acres were only applied to calculations 2000 to 2014."

Can you explain that comment for us?

A. So I'm referring to the very last column in the Table 2.1 that you referred to that's labeled, and this is the Department staff's labeling, "2013 Reasonable In-Season Demand." So in that column, there's sort of a conglomeration of the different irrigated acres presented in the table where they're either taking what's from the partial decree irrigated acres, or it seems like they're using the 2005-2007 SPF acres, which I think have been mentioned in testimony represented in previous proceedings.

And so it was my understanding that the last -- the acres in that last column were being used in the reasonable in-season demand. They provided a spreadsheet of the reasonable in-season demand calculation in 2015, and these were the irrigated acres used in the calculation sheet at that time.

When I referred to they were only used through 2014 is that for this proceeding, we were given an updated spreadsheet, something like that reasonable in-season demand through 2022, and that includes a hindcast, basically, from -- you know, the order wasn't implemented until I think 2010, but that includes a

hindcast of reasonable in-season calculations starting in 2000. And what I see in that sheet was that these irrigated acres in this column were used in the reasonable in-season demand from 2000 to 2014.

Q. So you identified some of the columns here. Am I to understand the 2013 RISD column of -- those were used in the hindcast, which means that they were used in the As-Applied Order to calculate RISD in 2000 to 2014?

A. Like I said, I think the As-Applied Order really only goes through 2010, but, yes, I think these were the irrigated acres used in the calculation during that time.

Q. Okay. And then you mentioned, you know, that second column from the right, "2005-2007 SPF."

Do I understand -- is that the Spronk engineering inputs?

A. Yes.

Q. And so, for example, Burley, it looks like that's 44,715, and then in column -- on the far left, that same number is used for the 2013 RISD?

A. Correct.

Q. And similar for Minidoka and Twin Falls Canal Company?

A. That's correct.

Q. Thank you.

Let's move next to Table 2-2, which is on page 9. Can you explain to me what this is?

A. Yes. So this is the table extracted directly out of the reasonable in-season demand calculation sheet. You can see this in both the version provided to the technical working group dated 2014, and you can see this same table in the reasonable in-season demand calculation sheet provided to the technical working group in 2022 -- or it was -- yeah, 2022.

And, essentially, you can see that this is -- these are the data cells used for irrigated acres in the reasonable in-season demand calculation, like I said, 2000 through 2014.

Q. And what is significant about the Twin Falls Canal Company acreage?

A. So you can see, like the table that we referred to previously, they're implementing the SPF, the Spronk water irrigated acre numbers there. They're referencing an exhibit I think that was used in the proceeding to, basically, accept these acres to be used in the reasonable in-season demand calculation.

Q. Thank you.

Did the Department staff tell the 2015 technical working group that they were planning to change the acreage that was used to calculate RISD that

was shown in Table 2-1?

A. I don't recall that, and I went through the staff recommendations which were very detailed in terms of what they were recommending to change, and there was nothing about changing the number of irrigated acres that they were going to be applying in the reasonable in-season demand calculation.

Q. Thank you.

Let's go to that memo, which is actually an attachment to your report, but it is also Exhibit 103. If we want to stay on the report, we can just look at page 50.

Sophia, do you have in front of you that staff report that is from Liz Cresto and Matt Anders to Gary Spackman dated March 16th, 2015?

A. I do.

Q. And do you recognize this?

A. Yes.

Q. Can you explain to me what this is?

A. Yeah. So I think at the conclusion of the series of technical working group meetings in 2015, the staff was, basically, describing the recommendations that they were going to have if they were recommending to have implemented in the methodology. And then they also describe, I think, pieces of improvements to

reasonable in-season demand and others that they didn't have time to, basically, do analysis and address to make a recommendation on.

Q. Thank you. And then if we turn to page 55 of your report, which, again, is -- we're still looking at that memo from Liz Cresto. It says down at the bottom that -- the last paragraph summarizes the work on the mid-season forecast demand.

It reads: "With the limited time frame the committee was given, we were unable to conclude an analysis of methods to improve RISD forecasts. Because this analysis was not yet complete, we cannot currently recommend changes to the current methodology regarding this issue."

Do you recall why there was a limited time frame?

A. I do not, but I definitely do remember the staff talking about being under a compressed time frame during the period that they had to do the analysis.

Q. Do you know whether the technical working group or Department staff has completed this analysis since 2015?

A. I think the things that she lays out here and that I recall from the presentations to the technical working group were, she was looking at alternative

possibilities for basically forecasting the remainder of the irrigation season and the reasonable in-season demand calculation, so opposes the current methodology that uses the baseline year to come up with volumes for the months that haven't occurred. She was also looking at supplemental groundwater use and reevaluating the project efficiency methods.

To my knowledge, none of that analysis was carried on past this point or further.

Q. Thank you.

If you go down to page 56, I believe that's where supplemental groundwater use is discussed, so under Section 4, paragraph 2, sub (b), it says: "Supplemental groundwater use. There was insufficient time for the committee to evaluate this subject."

Does that match what you recall?

A. Yes.

HEARING OFFICER: Ms. Sigstedt, could you tell me which exhibit that you are referring to at the present time?

THE WITNESS: I'm looking at the last page of the 2015 Department staff recommendations.

HEARING OFFICER: So, Ms. Patterson, I'm sorry, that would be 103?

MS. PATTERSON: So it is contained in 103. If

you want to refer to it there, it would be the last page of that one. But it is also an attachment to Ms. Sigstedt's expert report. And if you're looking at the expert report, which is 837, it will be on page 56.

HEARING OFFICER: Okay. I now am on page 56 of Exhibit 837. Okay. Thank you.

MR. WOOD: I don't think that's correct.

MR. FLETCHER: It says: "Future committee meetings."

HEARING OFFICER: Yeah, it's titled, "Future Committee Meetings," Section 4.

MR. WOOD: Oh, that's right.

MS. PATTERSON: Yeah, that's right.

MR. WOOD: Okay. That's fine. Sorry.

HEARING OFFICER: Go ahead.

MS. PATTERSON: Sorry, there's a lot of paper.

MR. WOOD: Yeah.

Q. (BY MS. PATTERSON) Sorry, I'll just go back.

So as you recognized or just testified about before, the technical working group in 2015 did not have time to address the supplemental groundwater use, and is that reflected in the report on page 56?

A. That's right. And you can see right above that, the Department staff is also recommending that they would have liked to continue this work in future

meetings. I think they recommend something like one meeting a year or something. And that -- that has not taken place. I don't think that recommendation was taken up.

Q. Thank you.

Section D also identifies future work. Irrigated acres, it says: "Significant discussion focused on this topic. And it was generally agreed that the processing for determining irrigated acres for SWC members could not be improved."

Do you recall that discussion?

A. Yes. I think discussion around irrigated acres was -- had to do with the submittals by the Surface Water Coalition, whether they were updated and whether the Department had a process in place to, basically, evaluate what the Surface Water Coalition submitted.

Q. Thank you.

Let's move on to page 66 of your report, which are your comments in 2015 in response to the Liz Cresto report.

Is that correct?

A. I'm sorry, I have a different page number. Okay.

Q. So can you just describe this document?

HEARING OFFICER: So what document are we looking at now?

MS. PATTERSON: If you stay on the current exhibit that you are on, 837, and if you go to page 66.

HEARING OFFICER: Okay.

THE WITNESS: So following the recommendation comments from Department staff in 2015, they gave an opportunity to the technical working group members to provide their own comments that would be attached to their comments, which is what you see. These are my comments related to what they recommended.

Q. (BY MS. PATTERSON) And just so we're clear that we're all looking at the same document, is this the one dated March 16th, 2015?

A. That's what I'm looking at.

Q. Perfect. Okay. On page 68, the last two paragraphs refer to "irrigated acres."

Are these comments referred to in your current report?

A. Yes.

Q. Can you explain to the Court what your comments are here?

A. So what we heard from the technical working group on irrigated acres was that there was not a process in place for the Department to basically

evaluate a submittal, aside from overlapping -- removing overlapping acres, I think, from those shapefiles.

So my comments here have to do with recommending that they're -- they do put in a review process around irrigated acres submitted that includes identifying hardened acres using either aerial imagery or remote sensing data, which was presented as being available to the Department to use for this type of analysis.

So I lay out kind of the things that they should -- a process around things that should be removed, like roads and surfaces, things like that. And then I also have a comment here that I, essentially, disagree with using the 5 percent standard as the Surface Water Coalition's being able to, essentially, say that as long as they haven't changed their acreage within 5 percent -- this has to do with something we heard, I think in testimony earlier -- that for a very large irrigation district like Twin Falls Canal Company, 5 percent of that irrigated acres can be something like 10,000 acres and that can, you know, add up to some tens of thousands of acre-feet in terms of crop water need.

Q. Potentially erroneous crop water need?

A. Exactly. An erroneous calculation of crop water need that would fall into the demand shortfall

calculation.

Q. Do you know if the Department has done anything to improve the process?

A. No. I think based on the information that we represented in the 2022 technical working group, not only have they not implemented their own review process, for whatever reason, it seems like they have reverted back to using more outdated irrigated acres than were presented to us in this 2015 technical working group, which took into account, basically, the nonirrigated acres that had previously been identified and presented to the Court for various irrigation entities.

Q. Okay. Thank you.

Let's go back to the body of your report. So we're still on Exhibit 837, but we'll be going to page 10. And we're looking at Table 2-3, Summary of SWC Irrigated Acres 2022, TWG.

Can you just explain again what the 2022 TWG is?

A. So again, by order, the Department staff were directed to convene a technical working group. This is the first one since that 2015 technical working group. There was a series of meetings held as part of meetings around looking at the implementation of what's called near real-time METRIC data, and they presented

information on irrigated acres.

This table is a summary of the various datasets for irrigated acres that were presented to the technical working group committee in 2022.

Q. Okay. So this came from a presentation that was given by the Department in the 2022 technical working group?

A. Correct.

Q. Thank you. So what does this show, this table?

A. So this shows -- it starts with a column called "Shapefile Acres." These are either from the permitted place of use, PPU, with a date; acres recorded; or sometimes there's a shapefile that has been submitted by Surface Water Coalition following that date, so it has -- that would be designated by SWC with the date that that shapefile was committed and the associated acres. That's the first column.

The second column, and these are the Department's labeling, is "If Removed Non-irrigated Acres Using the 2011 Irrigated Lands Dataset." So these report the acres for the districts from using the Departments irrigated land dataset.

The same thing is in the next column but is the updated irrigated lands for 2017.

And then, like I said, this presentation, I think, was focused around the implementation of near real-time METRIC, and so they have a column labeled "Near Real-Time METRIC Processing Acres" that was done in 2021.

And then the last column is, essentially, the acres that are used in the Methodology Order. And like I said, I reviewed the reasonable in-season demand calculation sheet for the Methodology Order and following -- starting in 2015, the very last column here, are the acres used in every year for the reasonable in-season demand calculation.

Q. Thank you. If we go to page 11 of your report, the first paragraph has a sentence that reads: "Every technical analysis of the irrigated acres consistently shows that Twin Falls Canal Company is irrigated approximately 15,000 acres less than the" 19 -- or "194,732 acre figure that Twin Falls Canal Company reports to IDWR as being irrigated."

And then there's references to the SPF report from 2008 and the IDWR irrigated lands dataset in 2011 and 2017, and then the NRT METRIC data for 2021.

Can you explain to me, you know, how those different references helped you form that conclusion?

A. I mean, you can see it in the table we were

just referring to, Table 2-3. Each of those datasets that is -- has, basically, an actual analysis. What the irrigated lands, the actual irrigated lands are at that time shows that it's about 15,000 acre-feet less than the irrigated acres that's being used for Twin Falls.

You know, this is confusing, because I think in the same presentation, Matt Anders makes very clear that in the Department methodology nonirrigated acres are not supposed to be included in the reasonable in-season demand calculation, and, essentially, they're showing consistently data that shows that those nonirrigated acres are being used.

Q. Thank you. Can you explain to us the IDWR irrigated lands dataset, as you understand it?

A. Yes. As I understand it, this was something that was, I think, originally commissioned for Eastern Snake Plain Hydrologic -- or at the direction, maybe, at the Eastern Snake Plain Hydrologic Modeling Committee. They used this dataset in the calibration of the model, and the year that it is available, they use that as the irrigated acres, then they apply whatever method they're using to calculate ET, or evapotranspiration, to come up with a consumptive use volume associated with those acres to be used in the model and the model calibration.

Q. So just to confirm, this irrigated lands

dataset, this was used in the model?

A. Correct. It's -- yep -- whatever years it's available, it's used for those years until -- starting in that year until the next most updated irrigated lands dataset comes available.

And I think I list in my report there, I saw, basically, some Department information, like a story map or something, talking about these irrigated lands dataset, and it looks like starting in, basically, 2008, they've developed it for every year through 2017.

Q. Thank you.

On page 12, there's a figure labeled "2-1." Can you explain this figure just briefly?

A. So this comes from a 2006 document about how the irrigated lands dataset is created. I found this in background material presented to the technical working group in 2015, so I think it was made available to us then in terms of understanding how the irrigated lands dataset worked.

And, essentially, what you can see is they start with remote sensing data of irrigated lands, which is kind of the green box without any delineation s, and they overlay that with a very detailed -- the most detailed polygon area that they can find. It's called the CLU, and it's, basically, designed to be the

smallest boundary that they can. So individual fields owned by individual owners, just, basically, the most discretized polygon acres that they can associate with the various land designations.

COURT REPORTER: Ms. Sigstedt, hold on because I missed a word.

(Record read by reporter.)

THE WITNESS: I think "discretized" is the word I used.

COURT REPORTER: Okay. Thank you.

THE WITNESS: So they use the -- they use the Landsat image to then assign those polygons as either irrigated or nonirrigated. And then they take that classification, and they mask it with, basically, aerial imagery to identify where the developed acres are.

And we heard testimony earlier that this -- the IDWR irrigated lands dataset is basically classified into three classes that includes irrigated, semi-irrigated, and nonirrigated. And so they use the aerial imagery to identify the semi-irrigated acres, which in -- ultimately, this all resulted in the last image that you see on the bottom right where the irrigated acres are shown in green, the semi-irrigated acres are shown in gray, and the nonirrigated acres are shown in tan.

Q. (BY MS. PATTERSON) Thank you.

And you said that this dataset is available -- or has been used by the Department since 2008 through present, or they at least have the dataset.

Can you clarify what that comment was?

A. I think they started this dataset around 2006 -- I'm not sure exactly when they started -- and they did some prior years like, maybe, 1986, 1996, 2000 [sic]. But my comment was that, at least based on the information -- I haven't checked the archived data to verify this, but based on information from the Department, it looked like starting in 2008 this dataset is available every year through 2017.

And they continually update it every year for the model. Like right now, they're estimating that the 2021 dataset will come out next year, I think. And it just takes them a while to process. It's a very detailed dataset that is well done, and so it takes them a while to process it.

Q. Thank you. The next section of your report discusses IDWR METRIC dataset.

Can you explain your understanding of this?

A. Yes. So, also, I think for the ESPAM model development, they started working with -- I think the University of Idaho, basically, under a grant to come up

with an alternative method to using the ET data just measured at point sources from weather stations to coming up with mapped evapotranspiration data across the entire Snake Plain that they could use for their consumptive use in the model. And so, again, they went back for -- they have some years like 1986, 1996, 2006, but they started developing, as often as they could, a METRIC dataset to be used in the model for ET.

Q. Thank you.

And so Figure 2-2, on page 13, is that an example of the METRIC ET?

A. Yes. So here, you can see the model boundary on the left figure, and then the -- where that METRIC data covers in terms of just the images that come out from the METRIC analysis. And then there's kind of a zoomed-in picture to show you how detailed this METRIC is in terms of they can apply it on a field-by-field basis for coming up with an evapotranspiration rate.

Q. Thank you.

And then on page 13, you have a section on your conclusions. Can you just briefly explain your conclusions based off of all these different technical working groups and the work that you've done?

A. Yeah. So I think based on the information that I understand that the Department has available to

them, they certainly have the capability to be updating the irrigated lands that are used in the methodology to be consistent with only applying nonirrigated -- or to not apply nonirrigated acres and to only be using irrigated acres. I think that the -- whatever is the most up-to-date IDWR Landsat at a minimum should be used to evaluate what the shapefiles that the Surface Water Coalition submits in terms of irrigated acres.

I understand from the Department staff testimony that they would like that to be available every single year. I think that there are a number of components in the methodology that aren't available in real time, the crop links which is also used in the reasonable in-season demand isn't, and so I think using whatever is the most up-to-date dataset makes sense.

I think if they wanted to have the most real-time picture, it seems like they should be able to use the METRIC information that is -- potentially is available to them in-season, and they could use that to identify within the information that they already have what is being irrigated and what is not being irrigated.

Q. Okay. Thank you. Let's move on to another component of the reasonable in-season demand.

Can you talk about the baseline year and what the selection criteria are, briefly.

A. Yes. So the baseline years is, essentially, come up with a forecasted demand for the Surface Water Coalition entities that can be used in April before the season starts. It's meant to sort of balance -- be a balance between providing adequate protection for the senior surface water users without creating unnecessary -- you know, creating a level of protection against unnecessary curtailment of the juniors. There is a series of baseline criteria, and these are meant to account for three factors that are basically climate, water supply, and the irrigation practice.

Q. And are there specific criteria, like within the climate factor, for example, that the Department considers?

A. Yes. So I think in my expert report, I show the specific criteria being used for the baseline year, and, essentially, to capture irrigation practices, they only consider years post 2000 to make sure that current irrigation practices are only considered in the averages.

In terms of water demand or, you know, also related to irrigation practices, they look at what the total Surface Water Coalition diversions are. They also look at what the supply is in terms of the highest natural flow and then the storage allocations.

For the climate component, they look at what the evapotranspiration is. They look at what the growing degree days are, so, essentially, making sure that they're evaluating a long season. And they look at what the precipitation would be for the irrigation season.

Q. And then in your report, you have Figures 2-3 to 2-7.

Are these figures pulled from the methodology report?

A. That's right. And these figures show all of those individual baseline criteria components, and then they show what the average over the period is for these components so that you can see that for the -- so that you can see that they're meeting the baseline criteria in terms of whether they're supposed to be above or below average.

Q. Going to page 17 of your report. Can you explain how the baseline year has evolved over the different methodology orders?

A. Sure. So by my review, it seems like the First Methodology Order laid out the first baseline year to be used, and they, essentially, were using a period of record from 2000 to 2008. Based on the selection criteria, there's a statement in there that says, "'from

a standpoint of total annual SWC diversions, 2006 is an appropriate baseline year with 97 percent of 2000 to 2008 total surface water diversions.'"

That's a direct quote from the First Methodology Order, but the Director found that it would also be appropriate to use the values of 2006 and 2008, so an average of those values, to arrive at the baseline year. And the reasoning there was that it more strongly fits the criteria for all of the members. And in the '06 and '08 the average amounts to 100 percent of the Surface Water Coalition's diversions over that period of time.

If we move on to the Third Amended Final Order, which was the next update to the baseline year, the period of record that they're considering is 2000 to 2014. And the reason they needed to update the baseline year was that the previous average being used no longer met the baseline year criteria.

In that year, they had -- they considered 2012 as the baseline year. They decided that they did not think that was an appropriate baseline year because it was very extreme in terms of the average over some of the baseline year criteria. Ultimately, they chose the average, '06, '08, '12 for the baseline year criteria to establish the baseline year in that methodology. That's

101 percent of the total Surface Water Coalition diversions.

And then for the Fifth Methodology, which is the next update to the baseline year, they again had an extended period of record. So they're looking at 2000 to 2021 to evaluate those baseline year criterias.

The Department considered using 2018 or 2020 based on the review -- based on the information presented to us in the 2022 technical working group committee. They selected 2018 as the baseline year, and that's 104 percent of the Surface Water Coalition total diversion entities.

And I guess one thing that I note in terms of how this evolution played out, is that I think the difference between 104 percent and 1 percent of the baseline year, in terms of the bias it creates, is, essentially, looking at the difference between 32,000 acre-feet or 120,000 acre-feet, respectively, in terms of protection for the senior surface water user in terms of just sort of starting with how much demand you want to start with in the evaluation.

And I think that that's a significant shift from the previous baseline years that were all around that 100 to 101 percent. And I think it's informative that in the Third Methodology Order when they chose '06,

'12, '08 as the baseline year at 101 percent, they could have chosen -- I'm just looking for it here in my notes.

Q. I think it was the '08-'12 average?

A. Yes. They could have chosen the '08-'12 average, which would have -- instead of being 101 percent of the surface water diversions at that time, that would have been 104 percent of the diversions at this time -- at that time. And they chose not to do that. I think they chose a year closer to the 100 percent. They chose the 101 percent.

And I think that's because there's no need to shift the baseline year to that higher percentage because it's the accumulation of all the baseline year criteria, themselves, that ensures that there's above-average supply so that they can divert as much as they want. It ensures that it's a hot and very long growing season and in terms that there's minimal precipitation. And then on top of that, in terms of the demand shortfall, you already have a reduced forecast supply based on conservatism that they had in that.

So all of that, arguably, amounts to, you know, a very protective year in terms of what the senior needs to balance out protection for them versus curtailment of the junior.

Q. Thank you.

And just to summarize a couple of points, the Department allowed averaging to create kind of a synthetic baseline year in the past; is that correct?

A. Yes. In all of the previous orders, an average was used to, basically, get as close as they could to that 100 percent.

Q. Okay. Thank you.

Let's go now to your conclusions, which, you know, if you've already kind of testified about some of your conclusions, just please address on page 18 of your report if there's anything else that you kind of concluded from your analysis on the baseline year.

A. Yeah. So I think, you know, one thing you can look at, Twin Falls in particular, and look at choosing 2018 as the baseline year, which has 106 percent of the average Twin Falls, TFC, diversions, and that creates a bias in their favor of starting with 60,000 acre-feet. So that's almost the entire demand shortfall that was calculated this year. And I think if you take into account in addition what the methodology does to reduce the supply, what we can see in a year like this is that the entire demand shortfall is really based on just the conservatism in this methodology.

So I think it's important that that conservatism be balanced in some way when we talk about

60,000 acre-feet of shortfall being just the conservatism, and we think about the new method of the methodology, where the transient model is employed, we're talking about already a very senior curtailment date.

If we consider the curve that Jennifer Sukow presented in terms of looking at demand shortfall under the transient simulation and the -- what it generates for shortfall under the transient simulation, a 60,000 acre-foot demand shortfall basically starts you in around a 1961 curtailment date with over 500,000 acre-feet of groundwater curtailed. And so I don't really see the balance there for protection against curtailment for the junior.

Q. I want to direct you to page 20 of your report. Up at the top of that first paragraph, you state: "There were unique hydrologic circumstances in 2018 that I don't believe represent the typical dry year."

Can you explain that a little bit?

A. So in addition to just shifting the total demand for the Surface Water Coalition, the thing they're pointing -- when you look at 2018, I think there was a particularly good water supply outlook for that year, and there was a lot of recharge done across the

Eastern Snake Plain Aquifer in that year. And it also may have just lapsed water operations because the water supply was predicted to be so good, and it didn't need to be constrained.

And so a couple of things that I looked into was whether all the recharge water was accounted for in 2018. And I don't know if we're going to get into this, it might be later in my report, but what I see is that I don't think that they have -- that the Department's water allocation has accounted for all the recharge that needed to be subtracted out of 2018 as a baseline year.

And then the other concern I have with 2018 as a baseline year is if we look at the figures for the baseline year criteria, what we see is that it's particularly low in terms of the irrigation season precipitation. It's the only year in the entire record that doesn't have any July and September precipitation, and its total precipitation is, basically, at one standard deviation away from the average.

And when I look at previous orders on selecting the baseline year, it seems like they're choosing an average to get all of those baseline criteria closer to average so that, you know, an outlier-type year is not included as a baseline on its own.

Q. Thank you.

And are some of those things you just described, you know, about precipitation, are those identified in Table 2-4 on page 19?

A. No -- well, yes. Yeah. You can see in Table 2-4, what I'm laying out here are, essentially, the numbers for the different baseline years considered in this Fifth Methodology Order based on the technical working group meeting. So that was 2020, 2018, and they're comparing it to the average of the 2000-to-2021 period. And so, yes, you can see that precipitation is particularly low compared to the average there.

And what I'm proposing in this table is that I think the Department could have considered an average for the baseline year criteria in the Fifth Methodology Order, so I've included the average of '06 and 2018 to show that that also meets all of the baseline year criteria when you look at it compared to this current period of record, but it's much -- but it's more reasonable in terms of just being 101 percent of average for total Surface Water Coalition diversions more consistent with what's been chosen in previous orders.

Q. Okay. Thank you.

And in your January 16th, 2023, comments to the technical working group, did you raise these issues?

A. Yes, I did.

Q. Thank you. Let's move next to forecast supply.

What issues were identified at the 2015 technical working group meeting? Again, just briefly.

A. So I think, specifically, one of the reasons -- and it was definitely something that the Department put the most, it seemed like, time and analysis into -- was that the April forecast supply model for Twin Falls Canal Company needed to be improved. And so they looked at, basically, ways that they can improve that model. Just because of the way that they did the analysis, they evaluated the forecast supply models for all of the different Surface Water Coalition entities, and in the end they made a recommendation to change several of them.

Q. Thank you. And then Table 2-5 on page 22, can you just describe what that table shows.

A. So this is a list of all the different predictors that the 2015 technical working group considered at that time to improve the forecast supply models, and then you can see in bold, in this table, are the ones that actually got selected to be used in the forecast supply models.

And so I think in total here, we're looking

at -- almost 30 different predictors that would be --

HEARING OFFICER: Just a moment. Just a moment. We lost the audio. We need to back up.

Q. (BY MS. PATTERSON) Sophia, were you counting out, or were you trying to say something when you were doing that?

A. No. I'm sorry. That was just me counting in my head. I'm sorry about that.

So I was just saying that, essentially, they tested about 30 predictors to see which ones applied and how they can improve the models at those times.

Q. And you were looking at Table 2-5 and just counting out the different predictors that they considered in 2015?

A. Just roughly, yes.

Q. Roughly, yeah. Thank you.

Moving on to the 2022 technical working group, what was the regression models discussed there?

A. So we saw a presentation that basically showed the Department's evaluation where -- you know, since these models were developed in 2014, they're able to look at how the regressions compare as they add new -- as they add each new year of data so they can show us over the years how the regression models have performed.

And so that -- you know, that's one of the

analyses that they -- that's kind of the main analysis that they showed us for the 2022 technical working group.

Q. Let's go to Table 2-6 which is on page 22. What does this table show?

A. So this is the table that I've created to, basically, summarize -- from my understanding, it looked like they did try and see if they could make improvements to the forecast models. But this effort seemed like it was done not in the same manner as the 2015 technical working group, which had a really thorough and kind of prescribed approach to how -- to the predictors that they did.

It seemed like here they, basically, tested three new predictors. So the table that I'm showing are, in bold, the predictors that are already used in the model. And in this technical working group, they tested a couple wells and then, basically, the introduction of the Sentinel Well Index to see if those improved the forecast models; and they found that they did not, and so there was no recommendation to change the forecast models.

Q. Okay. And then in your section on current forecast supply predictor variables, can you explain your concerns that you have presently?

A. Yeah. So I think these are concerns that the Department had as well. It was part of their presentation to us. And that's that they, basically, showed us that for Twin Falls Canal Company in particular, what they see is that the R-squared value has been degrading over time to the point where -- and the R-squared value is, basically -- you know, it explains the predictive power for accuracy of the model, so the percent of variabilities that's explained by your forecast model.

And so it -- they see it degrading about 10 percent, and they see it consistently degrading every single year that it's input. And so I think that's a concern.

And I think we heard testimony that the concern is, potentially, that that model includes Box Canyon as a predictor. They talked about the shift that's observed in Box Canyon. I think that's a concern. When you look at just the water year summary for Box Canyon, it also talks about it can be influenced by irrigation return flows from Rimrock.

And then I have a concern for Box Canyon as a predictor just because physically Box Canyon discharges from a completely different reach of the Eastern Snake Plain Aquifer, and, actually, when you look at kind of

historical discharge from the Kimberly to King Hill, which is the reach that Box Canyon discharges to, compared to the near Blackfoot to Minidoka reach, they have different responses to, basically, changes in the Eastern Snake Plain Aquifer over time.

And so to me, just logically, it's a questionable predictor, and it's probably just correlated with something else, and that's why it doesn't perform very well in the model.

Q. Do you recall the testimony from Matt Anders where he discussed the Department's decision to -- and I don't have the exact quote -- but just monitor and reassess the Box Canyon data in the future?

Do you agree with his statement?

A. Yes. I think they should be concerned about using Box Canyon as a predictor. And I think not -- I think that there's a really good reason for them to do a comprehensive review of how the forecast supply models are done, similar to what was done in 2015 with casting a wide net of predictors that are more pertinent to the near Blackfoot to Minidoka reach, and that just wasn't performed. And I mentioned this at the beginning of my testimony, I think that this should be performed to see if there is a better predictor for the forecast supply models, particularly the Twin Falls, given the

degradation.

Q. Matt Anders also said that, you know, there's a chance that the Box Canyon R2 could stabilize or perhaps improve in the future.

In your experience, do you think that's likely?

A. I mean, they have not seen it improve from one year to the next in any year that they've employed it; so just based on the record, I think that that's unlikely. It seems like it's more likely to further degrade.

Q. Thank you.

And then you mentioned also in your report a well, 05S31E27ABA1. I think -- you can just refer to that as ABA1.

What was your issue with that?

A. You know, this is just something that I have from experience because this is one of the sentinel wells. It's something that -- you know, there's a technical working group around the sentinel wells to evaluate whether they're a good representation. I think we've sort of flagged this well as it's not really necessarily, being representative of aquifer conditions and that it's probably more representative of sort of surface water irrigation practices or maybe American

Falls Reservoir levels than it is kind of regional or even local aquifer conditions. And so I know that this well -- and I didn't have much time to evaluate the July forecast model, but this well is used in some of those July forecast models. And so it just catches my eye in terms of, you know, that should probably be reevaluated as well.

Q. Thank you.

And do you have any other recommendations on improving natural flow models that you haven't already discussed?

A. I think just in addition to doing a more comprehensive and really more objective approach to the forecast supply models, like a stepwise linear regression that has the very specific criteria that, basically, establishes the significance of including or omitting variables, and these are just standard methods that can be applied, I think that should have been done.

And then the other thing that I've mentioned in both my 2015 and 2022 comments is the idea that, at least from my perspective, it seems like we have a good forecast supply that comes out of the joint forecast for Heise. And I don't quite understand why we can't use forecast supply from there to kind of develop an allocation model that, basically, takes the water rights

administration in this reach into account to determine what is available to the individual surface water entities without coming up -- you know, which would avoid having developed our own forecast supply models that are forecasting administration effects, which I think is difficult.

Q. Okay. Thank you. Let's move on to reasonable carryover.

Can you explain briefly what that term means?

A. Yes. So reasonable carryover, it's basically to establish the carryover needs of the various Surface Water Coalition entities for the next surface water -- for the next irrigation season. And so the way that they calculate that in the methodology is the baseline year demand minus the projected supply, and so they use -- for projected supply, they use an average of historical supply -- which, again, they're choosing a below average. I think they use maybe '04, '06, and they didn't change that in this methodology.

But something that was brought to the attention of the technical working group really late in the process, and there really wasn't any analysis around, was that the baseline year selected as 2018, because it has such higher demands for the Surface Water Coalition entities, it really changes -- it changes that

calculation as a reasonable carryover in terms of there being, more often, shortfalls determined for the reasonable carryover.

Q. And are some of your concerns reflected in Table 2-7; or can you explain Table 2-7, which is on page 25?

A. This just shows the difference in choosing the baseline year and the change of the baseline year in the Fourth to the Fifth. And so you can see that, for some entities, we're only talking about a 4,000-foot increase, but some of them, the change is like -- if you look at AFRD2 there, you go from is 11,500 feet in the Fourth Methodology Order to 93,000 acre-feet in the Fifth.

Or similarly, if you look at North Side Canal Company, in the Fourth Methodology Order, their carryover needs were 65,000 acre-feet, and in the Fifth they're, you know, over 110,000 acre-feet.

Twin Falls Canal Company went from 25,000 acre-feet to over 85,000 acre-feet.

And there really wasn't any analysis presented to the technical working group around whether there was a need for these massive increases to carryover needs. Like, historically, can you show that the carryover has been insufficient, you know, to these levels for those

entities.

Q. Thank you. Let's move on to your section on compounding bias.

You state: [As read] "The Fifth Methodology Order leads to curtailment of every junior right on the ESPA in most years even though TFCC records demonstrate that it is short of water only occasionally."

Can you explain that statement?

A. Yeah. So to explain that statement, we need to look at Table 2-8.

Q. Okay. And that is on page 26.

A. Okay. So this table was based off of, essentially, a hindcast analysis that Department staff put together where they were showing the difference from the period of 2000 to 2022 between using a baseline year -- the previous baseline year and then the update to using 2018 as the baseline year.

And so in this table, what I've pulled out is the April baseline year shortfall is, essentially, the second column here after the year in this table. And then from that shortfall, that would be determined from the Department's analysis using 2018 as the baseline year. I've used -- Jennifer Sukow provided a series of ESPAM model datasets that were used to generate the figure that we've been over in previous testimony that

basically shows -- she created a curve that showed various curtailment dates under the transient ESPAM model and the associated shortfall.

And so I took those model files and, basically, tried to find the curtailment date that she had run that produced a benefit to the near Blackfoot to Minidoka reach that most closely approximates the April baseline shortfall using 2018.

And so the comment that you specifically mentioned, I'm basically highlighting every year that the shortfall determination is over 97,000 acre-feet, which means whenever there is a shortfall above that, it's a full curtailment to the 1900 curtailment date, and that's 941,000 acre-feet of junior groundwater acres curtailed. And so when you look at the hindcast of these 23 years, 16 of the years result in complete curtailment to that 1900 date.

And then in the very last column, from some information provided by Twin Falls Canal Company, I think related to their deposition, there was, basically, a record of what their diversion rates were -- I think maybe starting in the '90s. And, basically, I just -- in the column for each year, I included every diversion rate, and I am highlighting, basically, years that have a diversion rate that is less than five-eighths.

And there's only 4 years out of the 16 years that have shown that they've diverted less than the full diversion of five-eighths versus the 16 years that, you know, 900 -- over 940,000 acre -- junior groundwater acres are curtailed. And so this just kind of demonstrates what I was discussing in the selection of the baseline year; that when you shift 2018 as the baseline year at the higher percent of SWC diversion, there's really no balance in terms of any protection against unnecessary curtailment of the juniors.

Q. Okay. Thank you.

Let's go next to the impact that nonirrigated acres has when it's included in the RISD November actual demand shortfall calculation.

On page 27, there is Table 2-9. Can you explain that?

A. So, again, I am pulling some data from the hindcast analysis that the Department did where, in addition to presenting information from 2000 to 2022 for the April demand shortfall, they included the November reasonable in-season demand for shortfall. So in November, the baseline year is no longer a component, and the shortfall is completely determined based on the reasonable in-season demand calculation.

And all I'm doing here is, basically, instead

of using the acres that the Department is using in the Methodology Order, I'm just using the acres -- and I've only done this for -- oh, no, I did all of them -- so I'm only updating the acres for Twin Falls Canal Company, which is the one we have very consistent evidence that it's nonirrigated acres.

And so for Twin Falls Canal Company, I'm, basically, updating the acres used in the reasonable in-season demand calculation sheet to be whatever the most recent irrigated lands dataset is; or for 2021 and 2022, I'm using what the Department reported in terms of 2021 near real-time METRIC acres. And I'm just showing the difference in the shortfall that you calculate by using those more accurate acres for Twin Falls Canal Company.

Q. Okay. Thank you.

Moving to your next section, you've got a Table 2-10. Can you explain this table and how it relates to bias in April and July?

A. Sorry, that actually should be -- that's a typo. This really just refers to April.

Q. Oh, okay.

A. The April forecast. Sorry, that's my mistake.

But in the April forecast, the -- so in April, the shortfall is the baseline year -- is the forecast

supply minus the baseline year demand, and so -- and the forecast supply comes out of the forecast supply models. And those forecast supply model predictions are each reduced as a measure of bias or, essentially, in favor of the senior. They're reduced by one standard deviation. So we don't use the forecast supply that we actually predict; we use less than that.

And so what I'm tabulating here is basically what one standard deviation is for each of the Surface Water Coalition entities in terms of their forecast supply models. And so just off the top of those, you know, again, we focus on Twin Falls where we're reducing, just to be protective, another 50,000 acre-feet.

So maybe these are all reasonable, but they -- individually, it's just important to remember that if we're adding a bias in terms of the demand by choosing a higher baseline year of 60,000 acre-feet, we also have to remember that we're reducing the supply by another 50 -- you know, 50,000. So we're sort of starting with over 100,000 acre-feet of, you know, potential shortfall depending on the year just based on that.

Q. Okay. Thank you.

And then your next section bias in the 2018 baseline year for reasonable carryover, is there

anything new that you need to address here?

A. No. Like I said -- I mean, I didn't do -- I didn't -- I wasn't able to do an analysis of, essentially, a hindcast that would show the difference in curtailment date from -- which is also calculated at the time that there's a shortfall to the reasonable carryover. So I don't have that information.

But what I do have is, essentially, information that was presented to the technical working group that I'm showing in Figure 10 that, basically, just shows how this bias will create shortfall in so many more years in the Fifth Methodology Order compared to the Fourth.

So I'm showing the information from Twin Falls Canal Company, and in the columns labeled either the Fourth Amended Methodology Order or the Fifth Amended Methodology Order, I'm, essentially, highlighting years. And this isn't me; this is information from Matt Anders that he presented to us. It highlights years where a reasonable carryover shortfall would have been calculated.

And you can see that over the period using the Fourth, there was only three years where a carryover shortfall would have been determined, and these are mostly in very dry or dry years.

And then you see with the shift in the baseline year that to 2018 that occurs in the Fifth, we're now looking at, you know, most of the record is going to have a shortfall, and these are going to occur in even average or above-average years.

Q. Thank you.

And then just to close out the section, are there any other sources of bias in the methodology?

A. So I touched on it a little bit that when I reviewed 2018, and I looked at the Department's spreadsheet for, essentially, their adjustment, where they take into account either wheeled water or recharge that has occurred -- and I only did this for 2018, but I think it could be done for other years, and it could, potentially, lower total Surface Water Coalition diversions that we're using in the baseline year. So that's a concern of mine.

But just reviewing 2018, I can see in the spreadsheet that there's, basically, a note -- I think it's for AFRD2 -- that it was reported that either 5,000 or 10,000 acre-feet was recharged, and the Department has only accounted for, in their calculation, 5,000 acre-feet.

And then, additionally, based on the settlement agreement reporting that is submitted by IGWA

to the Surface Water Coalition, it looks to me like there is another 4,000 acre-feet of recharge that occurred in 2018 on the North Side Canal Company that's not included, and so that's about 9,000 -- that's, potentially, 9,000 acre-feet of -- you know, in my opinion, I think just error, but maybe bias in -- in the baseline year that will occur every year -- you know, that it's part of the baseline year, so that will always be there.

And then another -- I think this has been testified to. You know, another just consistent source of bias is that the supplemental groundwater acres as either a reduction in acres or a source of supply is not being taken into account. We don't know what level, I guess, that occurs, but we know it does occur, so that's just consistently in there.

And then I think --

Q. Oh, please continue. Sorry.

A. You know, I think this has maybe been discussed as well, but I think just another source of potential bias in the way the baseline criteria are laid out is that increasing diversions by the Surface Water Coalition entities just, ultimately, result in increasingly higher baseline-year criteria to meet and, ultimately, a higher baseline year determined.

And so there's not really incentive to be efficient with Surface Water Coalition diversions. There's actually, seemingly, just based on the methodology, there's incentive to keep your diversion as high as you can because it ensures that in the future more and more water comes.

Q. Thank you.

One last question: Did you raise the issue of the supplemental groundwater with the Department in the past?

A. Yes. Those were in my comments in 2015, and they were in my comments in 2022.

And I think, you know, from my experience, which has a lot to do with the ESPAM model, I know that we do account for mixed source lands in the ESPAM model and that there is a dataset available. And I saw some notes from Matt Anders that looked like they were prepared for the 2015 technical working group that looked like -- it seemed like he was considering that that dataset from the ESPAM model for mixed source lands could be used in the Methodology Order.

And so it's not clear to me why that can't be advanced or, you know, why we can estimate it in the groundwater model, but we can't in the Methodology Order.

Q. Okay. Thank you.

MS. PATTERSON: Director, we've got one last section of the report to go through, so I think we're about two-thirds of the way done.

HEARING OFFICER: Let's break.

MS. PATTERSON: Okay.

HEARING OFFICER: Let's break for 15 minutes, come back at a quarter to the hour.

(Break taken.)

HEARING OFFICER: Are we back on the record?

COURT REPORTER: Yes.

HEARING OFFICER: Thank you. Mics are on.

Ms. Patterson.

MS. PATTERSON: Thank you.

Q. (BY MS. PATTERSON) Sophia, before we move on to your section on the ESPAM model, I just want to do one item of cleanup.

When we were discussing the irrigated acres, there was a quote from your report that said the "irrigated acres consistently shows that TFCC is irrigating approximately 15,000 acres less than the 194,732" number.

You may have misspoke and said in some of your testimony that it was 15,000 acre-feet. I just want to confirm, did you mean it's 15,000 acres?

A. Yes. Acres.
Q. Thank you.
Moving back to your report on page 30, you have a section called, "Simulation of Curtailment of Junior Groundwater Rights Using the ESPAM Model."
Can you please explain some of the background.
A. The ESPAM model is used in the As-Applied Order to determine the curtailment date that comes up with the -- that meets the demand shortfall obligation. In this section on background, I'm describing the development of the ESPAM model and, essentially, that it's done under the -- it's the Department's model and done under the advisory of what's called the Eastern Snake Plain Hydrological Modeling Committee.
Q. And you said before that you participate in this group, the committee?
A. That's correct.
Q. And so you're quite familiar with the model?
A. Yes. I've been, I think, part of that committee in working with the model for over ten years.
Q. Can you explain a little bit about the model structure?
A. Yeah. So I think in terms of the testimony I'm going to give today, what's important about the model structure is that it's a single layer throughout

the entire model. It's a single-layer model, and it's defined with homogenous isotropic properties, which means that it, basically, doesn't differentiate between horizontal and vertical hydrologic conductivity, which relates to how quickly or easily water moves through the aquifer system.

Q. And then tell us a little bit about the calibration process.

A. Sure. So when you develop a model, you build the structure and you build the boundary conditions that you think best represent reality in a simplified version in the model, and the model is calibrated, basically, over a historical period where you've developed various sets of model input data, like groundwater consumptive use or tributary inflow, and then the model is, basically, calibrated over that historical period. And it's calibrated based on trying to get the best match to historical observations of what are called "model targets."

And those historical observations are typically, things like water levels in the aquifer and reach -- basically, reach gains or spring level -- spring discharge data, so you're -- in calibration you're trying to get the best fit with those historical observations.

With the ESPAM model, they used an automated calibration tool that's called PEST. And the way that PEST works is that the modeler, basically, gets to assign PEST a certain set of parameters that it's allowed to adjust up or down based on ranges that the modeler gives it.

I think in terms of my testimony that I'm going to give today, it's important to understand that the parameters that PEST is allowed to adjust in its model calibration process is aquifer properties like the transmissivity and the storage of the aquifer, and then it's also allowed to adjust water budget components like tributary underflow values and nonirrigated land recharge.

Q. Thank you.

And you've got a section on model uncertainty. Why did you feel it important to discuss this?

A. Yeah. So, you know, all models inherently have model uncertainty. Because of what I said, they're basically a simplification. There's model uncertainty around the target observation that we put in, so when we're trying to get it to match the reach gain, like the near Blackfoot to Minidoka reach, that's subject to just error, like in the observation in the target data, like reach gain error around the gage measurement. But it's

also subject to, essentially, errors that are caused by uncertainty that we have in the water budget components or the aquifer properties themselves.

And so we have uncertainty around, like I said, the aquifer properties in some of those model budget components, and that's why we allow PEST in the calibration process to adjust those. So that's one type of model uncertainty around water budget components.

And then there's another type of model uncertainty that just has to do with how the model is built conceptually and how well that conceptual model matches the reality.

And I think when we look at, basically, the hydrologic controls on the discharge, the near Blackfoot to Minidoka reach, which is the particular prediction that we're using ESPAM for in this surface water delivery call, there's significant limitations in the conceptual model of the ESPAM in that reach.

Q. And you note in your report on page 32 that no amount of data improvement resampling or recalibration can correct errors stemming from incorrect or simply incomplete model conceptualization.

In the Blackfoot to Minidoka reach, are those sort of what you're talking about where there's just some things built in that you're not going to be able to

calibrate around?

A. That's right.

So, you know, PEST is going to do its best to match the model results with the targets no matter how we build the model. And so if you build the model wrong in that area, it's going to match the observation, as well, in terms of the calibration process, but it's not going to match them for the right reasons because it's not built the right way. And I think that's, essentially, the point there.

Q. Thank you.

And under 3.4.2 of your report, you talk about the Blackfoot to Minidoka reach.

Can you explain kind of what you would want to see in the model to address this issue?

A. Sure. So what I'm referring to a lot in this section -- I'm referencing a report that was done in 2008 by Ralston -- I think -- Engineering Services, and it was done for the Department, prepared for the Department. And it's, essentially, a look at how the model -- and they're evaluating ESPAM1.1, I think, based on the date there, but these same conceptualizations, the same in this area in ESPAM2.2, so it all applies.

But it's, essentially, a critique of how the model is built in that area, because they lay out

geologic -- the hydrogeologic framework that shows that the model actually is -- or the aquifer is very -- has multiple aquifer layers and what are called aquatards or impermeable layers within the aquifer that are, essentially, the main controls on what's dictating the discharge in the near Blackfoot to Minidoka reach.

And because the ESPAM model is a single-layer model that doesn't have the vertical hydraulic connectivity represented, it's not able to re-create the flow conditions in terms of the major controls, which it's laid out through the -- based on the geology there, we know that there are significant vertical flow components that lead to the discharge in the near Blackfoot to Minidoka reach.

Q. And on page 33, you have Figure 3-1 and 3-2. Are those figures from the Ralston report?

A. Yes. So these are excerpts from that report that are taken from previous hydrogeologic investigation. And, essentially, what I'm trying to illustrate in 3-1, this shows, basically, the interlayered nature the interfingering of the aquifer system, which is shown in kind of the darker vertical line stippled -- or dashed area, and then the impermeable layers that are shown as kind of the stippled lighter areas in that figure.

And so what happens -- and I think it's, basically, what is controlling the discharge to the near Blackfoot to Minidoka reach -- is that the main aquifer system, basically, encounters these very impermeable layers in the vicinity of the American Falls reach, and that forces -- because they can't move through these impermeable layers, it forces the water to discharge to that reach, but it's going to be discharging vertically, basically, through these interconnected hydrologic aquifers.

Q. Okay. Thank you.

So if I understand, that section relates to kind of the framework of the model and, you know, issues that might be there?

Can you explain 3 -- 3.4.3 section on page 34 of your report?

A. Yeah. So what we just went over were, essentially, the aspects of the conceptual model uncertainty. What this section talks about is uncertainty around our input parameters, and so what I'm referring to in this particular section is the aquifer properties.

And so the aquifer properties are transmissivity and storage, and those two combine to, basically, control how quickly or slowly water will move

through a system. So if we think about the curtailment simulation for the Methodology Order, it's, essentially -- controls how a reduction in groundwater pumping in one area will propagate to the near Blackfoot to Minidoka reach will be based on those aquifer properties, and we have uncertainty in those aquifer properties.

And so they're something that are adjusted during model calibration, and so we'll get -- these will change as new -- as each new version of the model comes out. And so that's, more or less, what I'm describing, kind of the evolution of these properties with the versions of the model.

Q. So why don't you, then, explain your next section, which compares ESPAM1.1 to 2.2?

A. So are we looking at, like, Figure 3-3?

Q. Yes. And that is on page 36.

A. So here in this figure, I'm, basically, showing -- I know you can't read these figures -- and so I'm showing the distribution of one of those terms, "transmissivity," so sort of the resistance to which water can move through the system. What I'm showing for each version of the model is the mean transmissivity, and so you can see how these values from ESPAM1.1 to 2.1 -- and then change.

I've got -- on the left side of this figure, I'm describing the ESPAM2.2 model that was proposed to the Eastern Snake Plain Hydrologic Modeling Committee in January of 2020, and then I'm also showing, above that, the actual version of ESPAM2.2 that was accepted, which was proposed in September of 2020.

And what I'm going through -- the reason I'm going through this evolution in this section is that when the version that was proposed in January was presented to the Eastern Snake Plain Hydrologic Modeling Committee, I did a review of the model, basically, looking at how the calibration -- how the calibration had turned out. And then, as I've mentioned prior in testimony, I do a lot of analysis for my clients, IGWA, around using the model.

And so I ran the model -- I ran some of those basic analyses that I do all the time with the new version of the model, and I was seeing really, really drastic changes in terms of what it was predicting for water levels, like at the sentinel wells, for example, or what it was predicting in terms of what responses to recharge activities were going to be.

And so in January, I raised those concerns to the committee saying that, essentially, the changes that we were seeing -- that I was seeing in the model -- I

think were hard to explain based on the structural changes that we made to the model. And I just -- I had concerns about -- particularly, one of the main inputs that we had changed to the model was one of the water budget components.

It was, essentially, introducing the METRIC data to calculate consumptive use. And I thought that that was probably a likely change for -- you know, I thought that that input and, then, how the model dealt with that input, in terms of its calibration, was kind of -- was a likely change for what we were seeing in terms of such widespread differences in aquifer transmissivity.

And then particularly if we go to the next figure, that shows the same thing for storage in terms of the evolution between the models and the storage values average across, there again, changing very drastically. And that's really, really changing the type of model predictions that we're getting.

So I just raised this concern to the committee; that I thought before we release this version of the model, there was some things that I thought we should analyze, to check out to make sure that we were comfortable with what was resulting from the calibration.

Q. Okay. When you said "the next figure," are you referring to Figure 3-4 on page 37?

A. Yes. So this shows the storage, which, ultimately, I think, was probably one of the main drivers for the differences that we are seeing in predictions in terms of water levels and responses for reach gains -- through reach gains.

Q. Moving to the next page, 38, you have Figure 3-5.

Can you explain this chart?

A. Yeah, so in this chart, I think you should focus on the yellow lines in this figure. And, essentially, this is a really standard analysis that the Department does with any version of the model that they release, and it shows a curtailment response. In this case, we're looking at curtailment of groundwater rights junior to 1961.

And the dashed yellow line shows the response to the near Blackfoot to Neeley reach using version ESPAM2.1, and the solid line shows the predicted response to that reach using ESPAM -- the accepted version of ESPAM2.2.

Q. And what does this difference mean?

A. So these are -- it's just a difference in what it predicts under the different model version. And I

think it's about a 20 percent difference in terms of what they predict. And the difference in the prediction has to do with, essentially, what I was talking about, how those aquifer parameters influence the timing of responses from a reduction in groundwater and how that moves to the reach.

Q. And then can you explain Figure 3-6?

A. This compares, again, the ESPAM2.2 and ESPAM2.1, what the steady state response function is, so the percentage of water from each model cell that would result in -- essentially, if you stressed any one of these model cells, the percentage of that stress that would impact the near Blackfoot to Neeley reach under steady state conditions.

And so, again, just the difference in the distribution of these shows the difference in the timing and -- that results from changing to this new version of the model.

Q. You discuss, on page 39, the ESPAM water budget component uncertainty and the current model.

Can you just go through that and explain some of the uncertainties?

A. Yes. So this was related to the concern that I brought up to the committee in January of 2020 when they proposed their first, potentially, version of

ESPAM2.2. And the differences I saw is basically what I reviewed from calibration -- from the calibration results where I had mentioned that PEST, the tool, is allowed to adjust water budget components up or down to better match the observed targets.

And if we turn to -- you're looking at Figure 3-7; is that what you're looking at?

Q. Yes, on page 40.

A. Yes. So when you look at Figure 3-7, the initial estimate for -- what I'm showing on the left there is the initial estimate for the volume of annual recharge -- natural recharge to the reach. And what we see -- precalibration is the blue line, and postcalibration is the orange line.

And what we see is that PEST is trying -- so that it's able to match the observation, it's increasing the amount of natural recharge components across the ESPAM model pretty significantly. And I've put a couple of those components on the right side of the graph where the lines represent the same thing.

Blue is precalibration and orange is postcalibration, and we're looking at tributary underflow, and then we're looking at recharge on nonirrigated lands. And so what we see is that for the model to be able to calibrate, it's having to increase

the amount of tributary underflow or nonirrigated land recharge to compensate for that.

And what we saw -- what we saw in the storage is that we also saw the model had to significantly increase its aquifer storage values.

And all of these things combined tell me that it seems like PEST it trying to adjust for the fact that we're taking too much water out of it. It's working really hard in calibration to get more water into the model wherever it can, either by increasing the aquifer's storage or by increasing these water budget components.

And so I had questioned to the committee -- because I was part of --

COURT REPORTER: I'm sorry, Ms. Sigstedt, I think I missed a little bit. "And so I had questioned to the committee"?

THE WITNESS: I questioned to the committee the use of the METRIC processing that we were using.

Q. (BY MS. PATTERSON) Okay. Go ahead and continue from there.

A. And the reason that I questioned the METRIC processing was because I was part of a technical working group that discussed how the METRIC data would be processed, and I remembered that they were choosing,

basically, whether to apply a buffer or sort of an increase in the area around the actual field irrigated area to -- they were trying to decide what buffer area they would use to process the METRIC data.

And I remembered in that committee that there wasn't really a well-justified reason for the buffer that they ultimately decided that -- they were considering like two or three different buffer areas, and, ultimately, they just chose the largest one which had resulted in the largest estimate of ET. And I was concerned that maybe it was that processing that was creating us to overestimate the METRIC application in ESPAM that results in one of the largest model components, which is the groundwater consumptive use component of the water budget.

And so in my recommendations to the committee in 2020 when they proposed this model was that they do a sensitivity analysis around that processing and just either try and verify the processing they were using by looking at, you know, a field verification or something like that or, like, an on-the-ground verification of the number that they were using or just test the model to the sensitivity of using -- of processing the data some of the other ways that they proposed and see if one of those helped with this calibration or how much it

influenced the calibration.

Q. So was the idea trying different methods, running through and seeing kind of what the parameters look like on Figure 7.3, and seeing if those improve with different runs?

Was that the sensitivity you were requesting?

A. Exactly, just seeing how it changed. So if we tried some of the other processing methods, would the -- would this preimposed calibration of, you know, the tributary underflow or the -- the nonirrigated lands recharge, would PEST seem to adjust those less.

And then on the -- like I said, the storage value, the change in the aquifer storage value, was something I was really concerned with, mainly because in calibration, we have a preferred value for that storage. It's something around.205. And you can see that, if you look at the evolution of that figure, each version of ESPAM2.2 is moving further away from that. And so to see if our -- the change in the storage wasn't as drastic testing the sensitivity to that under the different processing method.

Q. Thank you.

Can we move to page 41, Figure 3.8, and can you explain to me what this addresses.

A. So ultimately, the Department chose not to

take the recommendation that I gave in January to test those parameters, and they did do some -- I think they extended the model calibration period, which was another recommendation I made, before they proposed another version of this model of this ESPAM2.2 model in September, and in September they asked for the committee to, basically, have a vote to accept that model. That was, ultimately, the version that was adopted as ESPAM2.2.

Following that meeting, the Department asked for recommendations from the committee about future improvements to ESPAM, we just start working on the next version of the model immediately. In those recommendations to the committee, I again brought up this issue that I discussed around, you know, some kind of verification of the METRIC processing.

Ultimately, the Department did do that, and when they looked at sort of a preliminary field investigation of the processing and then they also compared their METRIC processing to some open source metric.

So the in-field investigation looked at using the diversion data compared to the METRIC processing, kind of a field-by-field basis, and then they also compared their METRIC processing method to just some

open source ET data. There's a couple of different sources they could see. And what they consistently saw was that their method produced a much higher ET rate than any of the open source data or the comparison to the diversion data.

And so they consulted with ET -- or more like METRIC specialists or experts -- and they, basically, reviewed the processing method the Department was using, and they did say that it should be -- that that was probably not the correct way to do it and that they had a different recommendation for how that processing should be done. And then the Department has basically done an initially recalibration using an alternative processing of the METRIC data, and that's what I'm showing in Figure 3-8.

So on the right side of this figure is the current ESPAM model for those same aquifer properties we were looking at, transmissivity and aquifer storage; and then on the left is the preliminary recalibration of the model. And so, you know, particularly for storage, what you see is that the value is going down, you know, is a lower -- closer to that preferred value of .05 that we have.

And then if we move on to the next figure, which is 3-9, I've highlighted -- or this is really,

actually, Jennifer's figure, where she's highlighted some of these water budget components that I touched on.

So we've got the ESPAM2.2 value shown in green for the water budget component, and then we have the precalibration refined METRIC processing value shown in gray. And then we have the postcalibrated with the new processing method shown in blue.

And so what you see is that this eliminates that concern that I highlighted earlier where when you compare the gray bar to the blue bar, which is precalibration versus postcalibration, we see that the -- that FS isn't having to adjust those model parameters anymore. Precalibration and postcalibration, the values are pretty similar.

But also what we see is that there's a huge difference in some of these components. Like, I think, nonirrigated recharge and tributary underflow, we're looking at like 300,000 acre-feet differences between ESPAM2.2 and this preliminary calibration model; and for groundwater CIR, we're looking at a difference of like 600,000 acre-feet.

So what this highlight s for me and the reason that I'm bringing it up here is that we just have significant uncertainty in these model -- these water budget components right now in the model, and it's

leading to significant uncertainty because of the way the model is calibrated, and it's able to adjust both water budget and aquifer parameters. At the same time, it's leading to significant uncertainty in the water budget -- I mean, in the aquifer parameters.

And, you know, this preliminary calibration, the storage value that we see, is getting a little closer to, you know -- a little closer to what was in 2.1. And so when I showed you, before, the response from curtailment, the difference between 2.2 and 2.1, we're, again, going to see a shift whenever the next version of the model is released, which, you know, won't be for years, probably. But it will again change that prediction. And we sort of already know at this point that it's wrong.

Q. Thank you.

Let's move next to Section 3.4.4, and if you can just explain this section and the Table 3-1.

A. Yeah, so this is just a section that kind of describes some of my conclusions, again just kind of relating the fact that we have this aquifer uncertainty and that it -- I mean, that we have this model uncertainty -- and that it directly affects the prediction that we're making at this near Blackfoot to Minidoka reach for the methodology.

The table is an analysis that was done by Jaxon Higgs, who couldn't be here to testify, so I went over the analysis with him, and I'm going to testify on it today.

And, essentially, what it lays out is -- it takes the model files that the Department produced as background data for the current curtailment date for this April As-Applied Order, and it splits it into -- it splits it geographically by groundwater district to see how each district's reduction in pumping affects the near Blackfoot to Minidoka reach.

And so if I just go through the columns, we've got the first column is just IGWA's proportionate share broken down by districts that comes from that curtailment.

And then if we move to the column that is the transient May-through-September impact, that's, basically, by district what impact comes -- you know, what will show up within that first season from the curtailment for each district. And then the next column shows the curtailment volume, so the amount of acre-feet curtailed within each district. And then the next column is basically the ratio of those two.

And so what we see is that the response from each groundwater district, because of its distance or

hydrologic connection to this reach, is really variable in terms of the type of benefit that we get for how you curtail to near Blackfoot to Minidoka reach gain.

And, you know, particularly if we go to some of these districts at the bottom and we look at, like, Jefferson Clark, Magic Valley, North Snake, we see -- and then, you know, we can see that the response to what they get at the reach is extremely low compared to what they have to curtail.

And so, again, moving through this column, there's the next column that, basically, tabulates by district the number of acres that are curtailed. And so we can see, just kind of adding up some of those bottom districts with the lowest response, we're talking about in the vicinity of 300-, 400,000 acres that are curtailed that have almost no in-season benefit to the near Blackfoot to Minidoka reach.

And I think that those are probably my main conclusions from this.

Q. Thank you.

A. I guess -- actually, I guess it is also interesting to look at the next two columns, which is percent of acres curtailed, and you can just -- again, just illustrates for a year like this, using the transient model -- for a lot of these districts, you're

talking about, you know, 70 to 97 percent of the groundwater acres in those districts are curtailed under this type of curtailment date.

Q. Thank you.

The last section is your summary of conclusions. I think we can go without you reading these on the record, and I will just move to admit Exhibit 837.

HEARING OFFICER: Any objection from the parties?

Hearing no objection, the document marked as Exhibit 837 is received into evidence.

(Exhibit 837 received.)

MS. PATTERSON: And that will be -- I'm done.

HEARING OFFICER: Any further questions of Ms. Sigstedt from the groundwater users group?

MS. McHUGH: I have questions.

HEARING OFFICER: Ms. McHugh?

MS. McHUGH: Should I sit there?

HEARING OFFICER: You're welcome to sit here.

DIRECT EXAMINATION

QUESTIONS BY MS. McHUGH:

Q. Good morning, Sophia. I just had -- I wanted to make sure I understood your testimony correctly

relevant -- I think it's to Exhibit 826. It's a table where you did a hindcast. It's Table 2-8, the hindcast of what the impact is for using 2018 as a baseline year.

A. Okay.

Q. And I just wanted to ask you about -- just make sure I understood your testimony about what you would expect going forward now using the 2018 baseline year.

A. I think we can expect that in most years, the aquifer is going to be curtailed to pretty much -- potentially, it's -- all of the junior groundwater acres are going to be curtailed more than half of the time, 60 percent of the time if we just use the hindcast.

And then using -- also looking at the hindcast, we can see that there's only four years out of this 20-year period where less than 300,000 acre-feet of junior groundwater acres are curtailed. So I think, you know, almost every year you're going to see more or at least 300,000 acre-feet of junior groundwater pumper acres curtailed using the 2018 as the baseline year.

Q. And when you say -- when you mean "curtail," you're meaning that in the analysis for the As-Applied Order in April, there will be a forecast of shortage to at least one member of the Surface Water Coalition; and what I understood you to say over -- in at least

66 percent of the years going forward?

A. I think 60 percent of the years.

Q. Okay.

MS. McHUGH: That's all I wanted to ask. Thank you.

HEARING OFFICER: Okay. Other questions from the groundwater group?

All right. Cross-examination.

Mr. Simpson.

MR. SIMPSON: Yes. If we could go off the record for a moment. I can move all my stuff up there and get organized.

HEARING OFFICER: Yes. Okay. Let's go off the record.

(Break taken.)

HEARING OFFICER: Let's go back on the record, Andrea. We're recording.

Thank you, Mr. Simpson. You may examine Ms. Sigstedt.

CROSS-EXAMINATION

QUESTIONS BY MR. SIMPSON:

Q. Ms. Sigstedt, good morning. My name is John Simpson. I'm one of the attorneys for A&B Irrigation District, et al., and I'll be cross-examining you this

morning.

Is it okay if I call you "Sophia"?

A. Yes, that's fine.

Q. Thank you. So, Sophia, from your direct testimony this morning, you've been working on these issues on conjunctive management on the ESPA for well over ten years; is that correct?

A. I think, yeah, over ten years.

Q. Okay. And during that time, you've been retained by IGWA specifically for those efforts?

A. That's correct.

Q. And you mentioned in your direct testimony that in approximately 2012, around the time you started working for IGWA, you worked on the modeling in the Rangen case.

Do you recall that testimony?

A. Yes.

Q. And in that case, did you use the ESPA model as a part of your tasks that you performed on behalf of IGWA?

A. Yes.

Q. Okay. And did you use that ESPA model in the version that was then present because it was the best science that was available for your efforts?

A. I think so.

Q. Okay. If it was the best science available at that time, would you agree that it's the best science available today to estimate or predict the responses of the aquifer to stresses such as groundwater pumping?

A. I do.

Q. And that would include stresses in every reach of the Snake River, including the near Blackfoot to Minidoka reach?

A. Yes.

Q. And in using the model, have you used it in both the steady state and the transient version?

A. Yes.

Q. And in your opinion, is the transient version of the model and running of the model the best predictor of what would need to be accomplished on the aquifer to deliver water into the Blackfoot to Neeley reach -- or excuse me -- the Blackfoot to Minidoka reach?

A. Over what time period?

Q. In the -- in the present irrigation season.

A. I think it's the only version that can predict in the present year of irrigation season.

Q. So if we're attempting to use the model to identify what actions need to be taken on the ESPA to deliver a volume of water into the Blackfoot to Minidoka reach during the irrigation season, the transient model

would be the only version to use; is that correct?

A. That's correct.

Q. During your direct testimony, Sophia, you discussed the efforts in early 2015 by the technical work group.

Do you recall that testimony?

A. For the Surface Water Coalition technical working group?

Q. Yes.

A. Yes.

Q. And in looking at the comments that were provided by you on behalf of IGWA and then the recommendations made by Department staff to the Director as a result of those efforts, do you recall the time frame under which those comments were made?

A. I think you would look at the dates of the memos. I think mine were in March.

Q. Right. And so, I mean, you testified that there was a limitation of time -- a limitation of time at that point that limited the number of issues to be discussed or recommendations to be made.

Do you recall that testimony?

A. That was in the Department's conclusions and their recommendations.

Q. And do you believe that limitation was in

reference to the work that was completed in March of 2015 relative to the irrigation season that was then pending?

A. I don't know.

Q. You testified earlier today regarding the -- on page -- I believe it's on page 10 of your report Table 2-3, if you'd turn to that, please.

And this is a summary of the SWC irrigated acres, the 2022 technical work group, is it not?

A. That's correct.

Q. And you described earlier the various columns and the basis for the various columns, that is either the shapefiles or the irrigated lands datasets that were generated by the Department; is that correct?

A. That's correct.

Q. And would you agree that for the irrigated lands dataset, the 2011 or the 2017 or the METRIC processing acres 2021, that those are just a snapshot in time?

A. Yes.

Q. So at that particular point in time, whatever's identified with respect to those datasets, the number of irrigated acres identified would be relevant, but you can't, necessarily, draw conclusions as to what's happening before or after that particular

snapshot; is that correct?

A. I think that there's evidence that they don't change that much between them, if you look at what I focused on here for Twin Falls Canal Company between 2017 -- or 2011 and 2017. And I think that that's the reason that, for example, in the modeling for, you know, years that we don't have the intervening data, we just use whatever the most recent data is because we have some confidence that the level of difference is not going to be that great.

Q. But, for example, between 2011 and 2017, you don't have an irrigated lands dataset for 2013, do you?

A. I actually think there is, potentially, irrigated lands datasets for every year in between this, based on the information that I saw on a Department information page. But I haven't verified those in the archive, but I think there are additional years to what's shown here.

Q. So for 2013, for example, what irrigated land figure would you utilize? Would you use an unknown number that you haven't calculated for 2013, or would you use the shapefile acres for SWC members and specifically for Twin Falls?

A. I think that the change that you see -- I think that they should be updated relative to each

other. So in my opinion, in 2013, the shapefile that was submitted by SWC should have been verified against the 2011 irrigated lands dataset as well as against the acres identified in the SPF report that were accepted previously in the methodology to confirm that either those acres were still nonirrigated or that they had somehow changed to be irrigated.

Q. But would you agree that, in 2013, the best information available to the Department was the SWC shapefile for Twin Falls Canal Company?

A. No. Because the Department really made it clear that they don't verify the acres that are submitted from the Surface Water Coalition entities to identify nonirrigated acres, and those efforts to identify nonirrigated acres are done in other datasets.

Q. So within the irrigated lands dataset, can you explain to me what the difference is between semi-irrigated and irrigated lands?

A. Semi-irrigated is a classification that, like, a subdivision or a developed area would be classified into. And irrigated are, you know, purely irrigation lands like an agricultural field.

Q. And do you know the time of the year that the irrigated lands dataset was generated, for example, in the spring or in the midsummer? Late fall?

A. I think that they use, you know, a variety of different sources that probably all -- they use satellite imagery, they use aerial imagery, so the dates on all of those are going to vary.

Q. So would you agree that, depending upon the date of a photograph of -- showing irrigated acres, if it was in the early spring, that later in the spring or later in the summer that those particular lines might be irrigated if they previously were shown as not irrigated?

A. I think the point of generating the irrigated lands dataset is specifically to characterize irrigated acres for the consumptive use calculation used in the model. So I think their, you know -- their method is based around trying to capture that as best they can. I don't know the dates or how they make sure that that is true.

Q. So now turning to your testimony on the baseline year, is it fair to say that your -- the issue you draw with utilizing the base year 2018 as the new baseline year under the Fifth Methodology Order was that it was above the average for looking at all years?

A. I think relative to previous baseline years that have been selected in previous orders, it's a higher percentage than have been selected previously.

And my testimony is that it is possible to select something that's more consistent with the baseline year that has been adopted in previous methodologies.

Q. So more consistent with being closer to the average as opposed to more conservative in terms of baseline year demand?

A. Yes, more consistent with the previous percent of average.

Q. So do you have an understanding of why the Department picks a baseline year that's above average?

A. They're trying to give the senior adequate protection.

Q. Protection against what?

A. I think protection that they're going to have the supplies that they need to meet demands in the next coming season.

Q. And do you know why they, the Department or the -- in the Methodology Order -- identify an above-average year as opposed to a below-average year? Is it because of a court determination that requires that?

Do you have a general understanding?

A. I have seen, I think, that language that you're referring to.

Q. You've reviewed that language?

A. I've seen it before. I think it was in one of your expert reports.

Q. Okay. With respect to the baseline year and your testimony regarding looking at 2018 as a baseline year, do you recall your testimony regarding above-average years and the potential for lax operations -- I wrote it down; you used that phrase "lax operations" -- by project managers in terms of delivering water?

Do you recall that testimony?

A. Yes. I think that I was referring to water supply outlooks in 2018 based on the snowpack that occurred in that year. People had confidence, I think, at that time that it wasn't going to be a constrained water supply year, that there would be recharge opportunity.

COURT REPORTER: I'm sorry, can you repeat that last part again.

THE WITNESS: That there would be recharge opportunity.

COURT REPORTER: Thank you.

Q. (BY MR. SIMPSON) How does recharge opportunity relate to project managers delivering their water supply?

A. I don't know that they do.

Q. So I took what you said when you said "lax operations" for the projects, that managers weren't as careful when they deliver water in a year like 2018.

Would that be a correct conclusion?

A. I think I'm just saying that that's possible. I know that I think -- or I think that it's easier to run operations with higher volumes through the system, and if you know that it's not going to be constrained, maybe you would want to have your operations be easier. But I don't know that.

Q. You don't have any evidence that shows that; is that correct?

A. That's correct.

Q. So in your testimony we discussed -- -- strike that.

You discussed the issue of reasonable carryover and how a modification in the baseline year resulted in a change in reasonable carryover for SWC members.

Do you recall that testimony?

A. Yes.

Q. And that that change increased the carryover figures for many of the SWC members; correct?

A. Correct.

Q. Do you have an understanding with respect to

the methodology and the identification of reasonable carryover and what the purpose of reasonable carryover is?

A. I identified that in my report as something that I would like to have given more consideration if I had more time. It's something that I am less familiar with at this time in terms of what all of the considerations around reasonable carryover are, and it's something that was not presented to the technical working group in 2022.

Q. So with respect to the purpose of reasonable carryover, you don't have a clear understanding of why it's identified in the methodology?

A. I mean, I think it's to protect that you have adequate supplies for the next irrigation season. That's the purpose of your reservoirs, are to carry over supplies when you need them.

Q. So the purpose of that carryover figure is to protect the SWC members and to ensure that they have an adequate water supply for the following year?

A. That's my understanding.

Q. And in the context of your testimony regarding bias being built into the reasonable carryover, how does that bias impact the reasonable carryover figure?

A. In my report and in my testimony, I think I'm

being specific to how the selection of the baseline year is affecting reasonable carryover. And so it's kind of just related to the fact that I think, compared to previous baseline year determinations in previous orders, 2018 is a further bias in terms of how it predicts demand needs.

Q. Sophia, with respect to the Methodology Order, would you agree that the purpose of that Methodology Order is to ensure that the injured party receives water when they need it?

A. I think that is a fair statement.

Q. When you were testifying as to forecast supply, you identified some concerns regarding the continued use of Box Canyon as part of the forecasted supply determination in the As-Applied Order for April.

Do you recall that testimony?

A. Yes.

Q. So earlier, Sophia, you testified that you had been involved in the Rangen call, so you have a general understanding of the ESPA and ongoing efforts on the ESPA regarding recharge efforts and other efforts throughout that area?

A. I think so.

Q. So do you have a general understanding that a number of the Water Resource Board's activities with

respect to managed recharge are occurring in the lower valley, that is, diversions occurring below American Falls?

A. I would say most of the Board's recharge is in the lower valley.

Q. And with respect to that recharge that's occurring in the lower valley, do you have an understanding that most of the benefits from that recharge have propagated into the reaches below Milner?

A. I think that that is true.

Q. And could that -- those efforts by the Board influencing the Box Canyon and the issue that you raise with respect to the R-squared values associated with Box Canyon as a reasonable forecast tool?

A. I think that those recharge efforts influence the discharge at Box Canyon.

Q. So if those recharge efforts were leading to the overprediction of the discharge from Box Canyon, could that have an impact on the forecasted supply in April for SWC members?

A. It would be a matter of looking at the timing of that, the timing of when they -- what discharge measurement timing is on the predictor versus the response timing of that recharge to that spring.

Q. And so if you've identified concerns about the

R-squared relationship at Box Canyon and the use of Box Canyon as a part of the forecasted water supply, until a change is made, how would you respond to this uncertainty?

A. I think the Department has responded to that uncertainty, and that's, you know, one of the reasons that they take the standard deviation below in favor of the Surface Water Coalition. They -- any uncertainty they have taken there, that's how they address it.

Q. So with those additional questions that you've raised or uncertainty that you've raised with respect to Box Canyon, would you agree that taking a conservative approach is warranted?

A. I think that's the Department's discretion in terms of how they want to take that approach, and they've chosen a wide margin on how much conservatism or bias that they want to -- that they've applied there. So it's, in my opinion, one standard deviation is very significant in terms of the reduction.

Q. Sophia, if you could turn to page 34 of your report.

A. Would you mind giving me a section header?

Q. Yeah. On page 34 of your report. At the top of that page, you discuss -- or state that: [As read] "the ESPAM transmissivity does not fit the

hydrogeological characteristics of the near Blackfoot to Minidoka reach region."

Do you see that at the top of the page?

A. Is that the paragraph right above Section 3.4.3?

Q. It is.

A. Yeah.

Q. So can you explain to me why that transmissivity does not fit?

A. Sure. So if we look at the Figure 33 -- 3-3 -- and this was something that was criticized or brought to the Department's attention in the Ralston report that was prepared for them, which I think would have been referring to ESPAM1.1, based on the date of that, but I think you can see it has persisted in all of these.

And, essentially, it's that if you just look at where the American Falls Reservoir is positioned in terms of the transmissivity, it's in a pretty high -- so the transmissivity values on these, the darker color, the higher the transmissivity is.

And so you can see that in all of these models kind of in the vicinity of that American Falls reach, it's of those higher transmissivity colors, and the geology, basically, the presence of these interfingering

impermeable units would specify that you should have lower transmissivity in that American Falls area and to the southwest.

And that's, you know, a function of what causes the discharge to that near Blackfoot to Neeley reach to come up before the reservoir. Basically, all the springs are kind of -- to the -- to the east.

Q. And is part of your opinion based upon the fact that we have a single-layer model instead of a multilayer model?

A. Yes. I mean, that's separate from just the comment on the transmissivity. But perhaps the inappropriate -- perhaps that if the model had the multiple layers that it should in that area, the transmissivity would work itself out.

Q. Is it ever appropriate to represent a multilayer geologic system with a single-layer groundwater model?

A. In my professional career, and I've built a lot of models, I've never built a single-layer model, even when I'm doing -- representing an alluvial aquifer system on a short reach of river. Because I was taught that even in just an alluvial environment, the vertical hydraulic conductivity is less than the horizontal hydraulic conductivity, I will have multiple layers so

that I can represent that anisotropy.

Q. Do you know why ESPAM uses a single layer?

A. I've heard the Department talk about maybe they don't have the data to support multiple layers. But, you know, in my review of just kind of the information that's available out there, there's some hydrogeologic studies done for the RASA project, which is Regional Aquifer-System -- I can't remember exactly. But back in the '90s, they had, you know, I think a four-layer model of the Eastern Snake Plain. So it's really at the modeler's discretion.

Q. And is that an issue you bring up in the modeling committee that you're a part of?

A. Yes.

Q. Does the MODFLOW river package allow for the representation of low permeability impacts of fine grain sediments in the area in the Black- -- near Blackfoot to Minidoka area?

A. MODFLOW is capable of representing multiple layers, and you can parameterize those to represent those impermeable characteristics.

In particular, ESPAM2.2 moved to a version of MODFLOW that's called MODFLOW USG, which stands for unstructured grain. And it's very -- it's very flexible, in that it allows you to put in layers in just

certain parts of the aquifer. It doesn't have to be across the whole region.

Q. Right. So the river package can control the interactions of the river and the reservoir?

A. Yes. The river package has a conductance value that, exactly that, is very controlling in terms of how it interacts with the groundwater -- the regional groundwater levels.

Q. So with respect to the near Blackfoot to Minidoka reach, is this how the interactions with respect to reach gains are represented in that area?

A. I mean, the boundary conditions as they're -- as they exist in MODFLOW are implemented throughout the model and including this reach.

Q. Sophia, in your testimony you discussed confidence in ESPAM2.2 predictions in the near Blackfoot to Minidoka reach gain, and you make comparisons between ESPAM2.1 and 2.2 --

A. Yes.

Q. -- I believe specifically stating that those differences in reach gain predictions indicate uncertainty in the model.

Is that your testimony?

A. Yes. I think they're a reflection of uncertainty that we have in aquifer parameters and water

budget components.

Q. But aren't those differences due primarily to improvements in 2.2 from 2.1 that more accurately calculate reach gains?

A. I think that there are localized improvements that were done in ESPAM2.2, so I think that's true. But I don't think that -- I don't think that that is -- I think it's separate from just kind of general model uncertainty that we have in prediction from these other components; like model -- like conceptual uncertainty and input parameter uncertainty, they still exist.

Q. Would you agree that we're going to always have some level of uncertainty when we're dealing with a model?

A. I agree with that. What I'm highlighting in my report here is very specific issues around water budget components for consumptive use and a known problem that will impact the response to this reach in a similar fashion that was, you know, a change that we saw from 2.1 to 2.2.

Q. So do you have a recommendation for a better way to estimate near Blackfoot to Minidoka reach gains?

A. I think my recommendation, which is, you know, something that the Department puts in their calibration report, is that because we have this model uncertainty,

that uncertainty should be taken into account when using it in water resource applications and administration.

And so I think in my report I'm advocating to consider a trim line as a potential -- a potential to just recognize that there is uncertainty in some of the -- in the prediction that we're making.

Q. So you've used this term "trim line." What's your definition of a trim line?

A. I think in applications that I'm familiar with, it's often based on a response to the reach or a feature. Like, I think in Rangen, they used the Great Rift where the response beyond that feature they have less certainty in.

Q. So with respect to the application of a trim line, do you think that junior groundwater pumpers are responsible for mitigating their impacts to senior surface water rights?

MS. PATTERSON: Object. Objection. This is outside the scope of her report, and it calls for --

HEARING OFFICER: Am I hearing an objection?

MS. PATTERSON: Yes. Objection. Sorry.

HEARING OFFICER: You'll need to speak up loudly, I think.

MS. PATTERSON: It's outside the scope of her report, and it calls for a legal conclusion.

MR. SIMPSON: Well, Mr. Director, she's testifying as to her perspective or her testimony regarding the application of a trim line, and that's what my question was based upon.

HEARING OFFICER: Overruled.

Answer the question, please, Ms. Sigstedt.

THE WITNESS: Can you repeat the question.

Q. (BY MR. SIMPSON) You testified a few moments ago about the application of a trim line, and my question that I asked you was: Do you believe that junior groundwater pumpers are responsible for mitigating their impacts to senior surface water rights?

A. I think that water users are, you know, ruled by state administration's rules.

Q. So if it's determined that junior groundwater pumping is impacting a senior surface water right, then they would have the obligation to mitigate for that impact?

A. I mean, however that's determined. Like I said, a trim line has been used with the ESPAM model in previous rulings and, you know, however that's applied or not applied is what the obligation is.

MR. SIMPSON: That's all the questions I have.

HEARING OFFICER: Did you have further cross-examination, Mr. Fletcher?

MR. FLETCHER: Yes, I have just two lines of TJ's version of 30 minutes from yesterday, if that's okay, unless you want to break right now.

HEARING OFFICER: What does everybody want to do? I'm sure we'll have some redirect.

MS. PATTERSON: We will have some redirect, but we're happy to have Kent do this questioning.

HEARING OFFICER: I just wonder whether we can get through Ms. Sigstedt before lunch. My guess is we will end up with a late lunch.

Let's break right now and come back a quarter after and you may ask your questions then, Mr. Fletcher.

So let's break for lunch and come back in an hour, at a quarter after 1:00. Thank you.

(Break taken.)

HEARING OFFICER: We're recording again after the lunch recess.

Mr. Fletcher, you may cross-examine Ms. Sigstedt.

MR. FLETCHER: Ms. Sigstedt, are you on the phone?

HEARING OFFICER: Perhaps she's not.

MR. FLETCHER: Unless the name's changed.

THE WITNESS: Can you hear me? Can you hear me?

MR. FLETCHER: There you are.

HEARING OFFICER: There you are.

CROSS-EXAMINATION

QUESTIONS BY MR. FLETCHER:

Q. Good afternoon. My name is Kent Fletcher. I represent Minidoka Irrigation District and American Falls Reservoir District 2, and I just have two areas I'd like to ask you a few questions concerning.

And the first one is, in this proceeding, there's been a lot of discussion about the number of acres of the SWC members and how they're calculated and that, as I understand your report, you believe the number of acres in the methodology are overstated for Twin Falls Canal Company; isn't that correct?

A. That's correct.

Q. But one thing that hasn't been discussed at all is if the number of acres are changed, don't other changes have to be made to the methodology?

How does the change in the number of acres affect the methodology?

A. It's used in the calculation of crop water need.

Q. Where else is it used?

A. That's the main thing that I can think about.

Q. Is it used in the determination of project efficiency?

A. I think project efficiency is calculated using crop water need and the diversions, so I think the change to crop water need affects the project efficiency calculation.

Q. And the crop water need is based upon acreage, correct, to some degree?

A. Correct.

Q. So if you went back -- if you change the number of acres, you'd have to recalculate the efficiency of the entity; correct?

A. So in my report, I'm changing the value of the acres using the Department's reasonable in-season demand sheet. And I believe I can see it changing the calculation of the project efficiency in there. So in the example I provide, I think that is taken care of, unless I'm missing something.

Q. Well, you said that the use of a different -- of the higher acres number creates what you referred to as an erroneous shortfall; correct?

A. Correct.

Q. But if you adjusted efficiency to take into account the adjustment in acres and the same amount of water was diverted, the shortfall would be the same;

isn't that correct?

A. I mean, it doesn't seem so. I do see the project efficiencies go down when I change the irrigated acres, but I'm still calculating a difference in the shortfall.

Q. How much would it adjust the shortfall?

A. We can look at my table. So if you look at page 27 of Exhibit 387, I have recalculated the shortfall changing the irrigated acres for Twin Falls Canal Company in the reasonable in-season demand calculation sheet, which, like I said, it seems to be changing the project efficiency. And those are the shortfalls, the difference.

Q. Did you recalculate the efficiency as part of that?

A. Like I said, to me, they seem to be updating in the sheet as a function of the crop water need, so I do see a change in the project efficiency.

Q. So that was really the point I was trying to make. It is true that if you do redo the acres, you have to adjust the project efficiency as well as the crop water need; correct?

A. That's how the calculation sheet works, to my understanding.

Q. The other area I would like to go into dealt

with the transient versus steady state analysis. I'm a little unclear on what your opinion is concerning the use of the steady state.

I believe your testimony when Mr. Simpson was questioning you was that the transient model run was the only way to determine how much water would be available in the reach during the year of need. Wasn't that correct?

Isn't that your testimony?

A. If you're trying to determine the amount of water May through September of the current year, the transient model is the only model that can give you that answer.

Q. So if your goal is to furnish the amount of shortage to the injured party during that year, you have to use the transient model; correct?

A. That's the way to get that model output.

Q. And if you use the steady state model run to do the same calculation, the injured party would only receive about 15 percent of the shortfall in that year; isn't that correct?

A. I think it varies by curtailment date in terms of the percentage.

Q. Well, you reviewed Jennifer Sukow's information; correct?

A. Correct.
Q. And do you remember the information that she provided? I think it said that either 15 percent or 9 to 15 percent appears in the year of curtailment?
A. Yes, that range is what I'm referring to --
Q. Okay.
A. -- that the --
COURT REPORTER: Ms. Sigstedt, I'm sorry. I missed some of that again. I got, "Yes, that range is what I'm referring to"?
THE WITNESS: I think that that range was developed based on analyzing different curtailment dates and looking at the comparison of the transient -- the in-season to the steady state response.
Q. (BY MR. FLETCHER) Do you believe that the goal of the methodology should be to protect seniors from injury caused by junior diversions?
A. I think that that sounds correct.
Q. And do you agree that if injury is determined, the shortfall should be supplied in time, location, and amount that season?
A. To me, that seems like, potentially, a policy decision. I don't know if it's a technical question.
Q. So you don't have an opinion on that?
A. My opinion is that it's a policy decision.

MR. FLETCHER: Thank you.

I don't have any further questions.

HEARING OFFICER: Okay. Thank you, Mr. Fletcher.

Redirect, Ms. Patterson?

MS. PATTERSON: Yes. Just a moment.

HEARING OFFICER: Do you want to go off the record?

MS. PATTERSON: No. I'll be short.

REDIRECT EXAMINATION

QUESTIONS BY MS. PATTERSON:

Q. Hi, Sophia. Before lunch, you were asked by Mr. Simpson whether or not you were saying the model should be used given the uncertainty, and I think you replied that it's what we have, and so, yes, it should be used.

I just want to clarify, are you saying that it can be used but you need to account for the uncertainty?

A. That's correct.

Q. And then there was questions about irrigated acres and whether or not in 2013 the Department should have used the self-reported numbers.

You commented that, no, that one shouldn't be used because it hasn't been verified; is that correct?

A. That's correct.
Q. Could you envision a process such as the Department using the most recent data available for irrigated acres, such as the Landsat data that they use in the model, and then the districts, if they find an error with that, could produce that -- produce that evidence to the Department if they want to contend that the data, the Landsat data excludes irrigated or semi-irrigated acres?
A. Yes, I think that makes sense, and I also think that in the application of those acres, there is the semi-irrigated acres category that I think is just being treated as irrigated acres. I think, similarly, you can make a determination of the percent of the semi-irrigated acres that are nonirrigated.
Q. Thank you.
That brings me to my last question which is, again, related to the Landsat data. That includes irrigated, semi-irrigated, and nonirrigated acres; is that correct?
A. That's correct.
Q. And if we look at --
A. The irrigated lands dataset is the one that has those classifications.
Q. Thank you, the irrigated lands dataset.

Going to Table 2-3, where it discusses the different ways to calculate irrigated acres, in that chart do you know whether that -- those numbers include both irrigated acres and semi-irrigated, or is it only counting irrigated?

A. I'm pretty sure, from the testimony that we heard from Matt, it is including the semi-irrigated.

Q. Okay. That is what I recall as well. Thank you.

MS. PATTERSON: That's all.

HEARING OFFICER: Recross, Mr. Simpson?

MR. SIMPSON: No.

HEARING OFFICER: Mr. Fletcher?

MR. FLETCHER: No.

HEARING OFFICER: I just have one question for Ms. Sigstedt.

EXAMINATION

QUESTIONS BY THE HEARING OFFICER:

Q. Ms. Sigstedt, I am looking at page 23 under Section 2.2.2, and the beginning of the second paragraph, it says: "The first is that Box Canyon spring flows are representative of groundwater discharge to the near Blackfoot to Minidoka reach."

Is that your testimony?

A. No, that looks like a typo. It should be "are not representative."

Q. Okay. And it may be just in the context of that statement, because in the previous paragraph it says: "I have additional concerns about two of the predictions," but then, again, it very clearly states that they are representative, and you're saying that it should say "is not"; is that correct?

A. That's correct.

Q. Okay.

A. I also noticed a typo on the curtailment date under the figure -- under the last figure also. So I think there could be some minor corrections.

Q. Under what figure?

Well, if you don't recall, maybe you can correct it through your counsel. I just noticed this particular sentence and thought it was not consistent with your testimony, and I wanted to ensure that at least the document reflected and was consistent with your testimony.

A. I really appreciate that.

And the other one is Figure 10. 3-10 has a typo in the curtailment date.

MS. PATTERSON: Counsel will see to it that those changes are updated and it's submitted to the

Department.

HEARING OFFICER: You'll have to speak up, Ms. Patterson.

MS. PATTERSON: Counsel will work with Sophia to make sure those corrections are accounted for and submitted to the parties in the Department.

HEARING OFFICER: Okay.

All right. Thank you, Ms. Sigstedt.

THE WITNESS: Thank you.

HEARING OFFICER: The next witness I have in my list is Jaxon Higgs. He is not here, I assume, and doesn't have connections in some remote location in Mexico, Mr. Budge?

MR. BUDGE: That's correct.

HEARING OFFICER: So we don't anticipate hearing from Mr. Higgs.

MR. BUDGE: No.

HEARING OFFICER: And the next witness I show is Bryce Contor.

MR. BUDGE: I think we're going to put Lynn Carlquist on next.

HEARING OFFICER: Okay. Mr. Carlquist, if you'll come forward, please.

THE WITNESS: Right here.

HEARING OFFICER: We'll switch back to our

regular configuration which you have not observed.

Will you raise your right hand, please.

RICHARD LYNN CARLQUIST,

called by IGWA, having been first duly sworn to tell the truth relating to said cause, testified as follows:

HEARING OFFICER: Thank you. This chair may feel comfortable to you, given your long history.

THE WITNESS: Not our first go-round.

HEARING OFFICER: Okay. Mr. Budge.

DIRECT EXAMINATION

QUESTIONS BY MR. BUDGE:

Q. Thank you.

Lynn, thank you for being here today. Just to begin, will you please state your name and address for the record.

A. Richard Lynn Carlquist, 1092 South 2500 East, Hazelton, Idaho 83335.

Q. You're here to testify today, Lynn, on behalf of Idaho Ground Water Appropriators?

A. Yes.

Q. What's your current position with IGWA?

A. I am the co-chair of IGWA organization,

serving with Stephanie Mickelsen as the other co-chair.

Q. How long have you been involved with IGWA?

A. Since the mid-2000s. 2005 our groundwater district joined.

Q. And can you identify who IGWA's groundwater district members are?

A. Yeah, if I look them up, I could go -- try and go through them, but there's nine districts and one irrigation district that is members of IGWA.

Q. I'll make it easy for you, Lynn. I'll just go through them and then have you confirm.

There is North Snake Groundwater District, Carey Valley Groundwater District, Magic Valley Ground Water District, Aberdeen-American Falls Groundwater District, Bingham Groundwater District, Jefferson Clark Groundwater District, Henry's Fork Groundwater District, and Madison Groundwater District.

Does that sound right?

A. That sounds right. I think that's all of them.

Q. And Southwest Irrigation District is also a member of IGWA?

A. Yes.

Q. I understand you are a member, personally, of North Snake Groundwater District?

A. That's correct.
Q. How long have you been a member of that district?
A. Since its inception.
Q. Do you serve as a director of that district?
A. Yes.
Q. And as the chairman?
A. Yes.
Q. How long have you been the chairman?
A. Ten years.
Q. Where is North Snake Groundwater District located?
A. It's located in Jerome County, Gooding County, and Blaine -- or Shoshone County.
Q. And it represents groundwater irrigators in that area?
A. Yes.
Q. Are there also nonirrigator members of the district?
A. Yes.
Q. Just describe some of the nonirrigation uses that are in the district.
A. Some of the cheese-processing plants are some of the bigger users of water. Amalgamated Sugar has some use of water. Other cities, municipalities have

water rights that belong to our district.

Q. And I understand there's a lot of dairy operators in your district as well?

A. There are a lot.

Q. How many acres, approximately, are irrigated by members of your district?

A. There's a little over 200,000, 202,000 acres, irrigated acres in our district -- or 102,000 irrigated acres in our district.

Q. Okay. And, generally, what types of crops are grown in your district?

A. Well, the big crops now are alfalfa, corn. There are still potatoes, sugar beets, beans, small grains. Some specialty crops are grown, some seed crops.

Q. And how much water do patrons of your district divert on a per-acre basis typically?

A. The diversion now, we average about -- from our -- the groundwater is 2.2 acre-feet a year.

Q. And I understand that your district limits how much groundwater the patrons are permitted to divert?

A. Yes.

When the Surface Water Coalition plan was formulated and put into place, each groundwater district was given an amount of reduction that belonged to their

district; and we set up a system whereby a set of priorities each individual water right was given a set amount that they could divert.

Q. And that's 2.2 acre-feet in your district?

A. The priorities range from 2.4 to 2. And we average, roughly, that 2.2 right now.

Q. Okay. So more senior rights in your district are allotted a higher volume than more junior rights?

A. That's correct.

Q. And your district sends out to each patron the volume of water it's allowed to use, and they're responsible to stay within that amount?

A. Yes.

Q. Are you aware of other groundwater districts also imposing diversion limits on their members?

A. Yes.

Q. Compared to other groundwater districts, are North Snake's diversion limits higher or lower than others?

A. Generally higher.

Q. The other districts have lower diversion limits than your district?

A. Yes.

Q. I understand you, personally, own groundwater rights in the district?

A. Yes.
Q. And you also own surface water rights?
A. Yes.
Q. Where does your surface water come from?
A. I have surface water rights with A&B Irrigation District, North Side Canal.
Q. Does A&B Irrigation District regulate how much water you can divert under your surface water rights?
A. Yes.
Q. How does that work?
A. We're given so many acre-feet a year that we can pump. If we go beyond that, then we get charged a surcharge for the additional acre-feet that we pump.
Q. Okay. Does North Side Canal Company regulate how much surface water you can divert?
A. Their water right is based on a diversion rate, not a consumptive amount.
Q. So you're just able to divert your rate all season long?
A. Yes, if you want to, you can.
Q. Okay. Let me ask you some questions about the Fifth Methodology Order that was issued April 21st of this year.
Lynn, are you aware that among other changes to the Fifth Methodology Order, the Director changed

from a steady state to a transient state application of the ESPA model?

A. Yes, I'm aware of that.

Q. Did you know what effect a transient state would have on curtailments?

A. Well, we talked about it a lot. We didn't know exactly the impact that it would have, but we knew it would be a major change from the steady state analysis that had been done. And we thought for sure, based on where our groundwater district is, there would be less of an impact; but, in fact, you know, it -- the curtailment for our district is about the same as everybody else.

Q. You're aware that also in April this year the Director issued what we call an As-Applied Order that sets a curtailment date of December 30th, 1953?

A. Yes.

Q. Did you anticipate a curtailment happening this year?

A. No.

Q. Why not?

A. With the larger than average snowpack that we had and what we'd had in previous years, we did not anticipate that there would be a curtailment order issued.

Q. So it came as a surprise to members of your district when the curtailment was issued?
A. Yes.
Q. And have your patrons complained about that revelation?
A. Complained? They've asked questions. They want to know why and what they can do and what the impact will be.
Q. Your patrons also weren't anticipating a curtailment this year?
A. I don't think so.
Q. Lynn, let me have you turn, in one of those white binders behind you, to Exhibit 829.
Do you recognize that document, Lynn?
A. Yes, I've seen this.
MR. BUDGE: And just for the record, I'll represent that Exhibit 829 is a duplication of Figure 3-1 in the expert report of Sophia Sigstedt, which has been admitted into evidence as Exhibit 837.
Q. (BY MR. BUDGE) Lynn, you mentioned that you've seen this before. What do you understand this exhibit shows?
A. Well, in the left portion of the exhibit, it shows IGWA's -- IDWR's percentage of IGWA's proportionate share, and that was based more on a type

of steady state type of analysis, is my understanding.

And the midsection shows the impact of water that would be made available under curtailment based on the transient state analysis.

Q. So if we look at the row for North Snake, that's North Snake Groundwater District; correct?

A. Yes. We're on the very bottom.

Q. If we look at the middle section of that spreadsheet, it shows that the curtailment would eliminate beneficial use of 217,151 acre-feet.

Do you see that?

A. Yes.

Q. Do you understand that to be the curtailment within your district?

A. Based on the December 30th, 1953, date?

Q. Correct. And then the model benefit to the Coalition from May to September would be 0.06 acre-feet?

A. Yes.

Q. Did that come as a surprise to you?

A. Yes. It's much lower than I thought it would have been.

Q. And does this change how North Snake handles groundwater management for its patrons going forward?

A. Well, it probably will. I've had patrons call, and, of course, they have rights junior to 1953.

And if you look over further, it shows that 88,000 acres are junior to that, so they're concerned "Are we going to be curtailed?" And I -- under the way we used to mitigate for an order, was supplying wet water prior to the Surface Water Coalition call -- or agreement that we entered into. And I told them we will be able to supply the necessary water to meet our obligation under this curtailment order.

Q. Which would be a very small fraction?

A. A very small -- less than 1 acre-foot.

Q. Have your patrons continued to conserve water this year -- or I should rephrase that.

Has your district continued to send out the diversion reduction obligations this year like you've done in the past?

A. We have. And at our annual meeting, I told them that we were going to do that, and we asked if everyone was okay with that, that was at the meeting, and they said yes. And we will continue to do our reductions that we've been doing in the past under the Surface Water Coalition Act.

Q. Okay. And that's intended to stabilize the aquifer in your area?

A. That's what our intent is.

Q. It's not, necessarily, a representation of

your obligations under the -- this table that we've just seen?

A. No.

MR. BUDGE: No further questions.

HEARING OFFICER: Okay. Cross-examination? Mr. Simpson or Fletcher?

CROSS-EXAMINATION

QUESTIONS BY MR. FLETCHER:

Q. Hi, Mr. Carlquist. How are you doing?

A. Oh, pretty good.

Q. I'm Kent Fletcher, as you know. We've dealt with each other for many years. And on behalf of our clients, I'd like to thank your district for the actions you've taken over the years pursuant to our plan.

I -- first of all, you mentioned briefly some of the operations for your district. You heard the testimony of Jay Barlogi yesterday -- were you sitting in on that?

A. I was not, I didn't hear it.

Q. I'll represent to you that he said that Twin Falls Canal Company employs -- his written testimony states that the Twin Falls Canal Company employs somewhere around 65 employees, 24 ditch riders to monitor water deliveries. And that's for somewhere

between 180-, 195,000 acres, whatever number is determined. You said you had about 100,000 acres of groundwater that you manage in your groundwater district; correct?

A. I would say we don't manage it, but we have initiated programs for the members of our district who have those groundwater rights. We don't own any groundwater rights as a groundwater district, and I wouldn't say that we manage it, but we give them plans and operations that will help meet the obligations that come because of water calls.

Q. Does your district monitor in-season diversions of groundwater?

A. No.

Q. Does your district take any action against groundwater users who overdivert the allocation you talked about?

A. We do.

Q. And what do you do?

A. We have gone to the program where they are required to pay $100 per acre-foot. There is actually an averaging system that is set up, that Jaxon Higgs helped us put into place, where they can make up in a following year for overages in a previous year. But if after a three-year period of time they don't make it up,

then they have to pay the difference in acre-feet, $100 per acre-foot.

Q. And the only reporting concerning the diversions that take place in your district occurs after the season has ended; is that correct?

A. That's correct.

Q. I was a little confused about your actions.

Is your district -- you mentioned the 2015 agreement a few times. Is your district still honoring the 2015 mitigation plan and the order that was entered pursuant to that?

MR. BUDGE: Objection. Beyond the scope of this proceeding.

HEARING OFFICER: I don't -- I don't think so. He testified about the actions that were taken by North Snake. This is clarification.

MR. FLETCHER: Right.

HEARING OFFICER: Overruled.

MR. BUDGE: Objection. Calls for a legal conclusion.

HEARING OFFICER: Overruled again.

MR. BUDGE: Mr. Director, can I inquire of the witness in aid of objection?

HEARING OFFICER: Sure.

MR. BUDGE: And I'll just stand here.

Mr. Carlquist, do you understand that the dispute has arisen between IGWA and the Surface Water Coalition over the terms of the 2015 settlement agreement?

THE WITNESS: Now, say that again.

MR. BUDGE: Do you understand that a dispute has arisen between IGWA and the Surface Water Coalition over the terms of the 2015 settlement agreement?

THE WITNESS: Yes.

MR. BUDGE: Do you understand that dispute is presently on appeal?

THE WITNESS: Yes.

MR. BUDGE: That dispute has not finally been resolved?

THE WITNESS: That's my understanding.

MR. BUDGE: And your understanding of the terms of that agreement are different than the Surface Water Coalition's understanding of the terms of that agreement?

THE WITNESS: That has been the case.

MR. BUDGE: Mr. Director, Mr. Fletcher is asking the witness to testify as to whether he's in compliance with the agreement. The witness can't do that, given that the terms of the agreement have not fully been adjudicated.

HEARING OFFICER: Mr. Carlquist can testify about whether he believes he's complying or not. Overruled.

Mr. Fletcher.

MR. FLETCHER: Let me reask the question because that wasn't my question, and I'm not looking for past breaches or these issues that Mr. Budge is talking about.

Q. (BY MR. FLETCHER) What I'm talking about is this year, 2023, is your district planning on attempting to comply with the 2015 settlement agreement and the order that was entered?

A. That had been the case that we were going to try and do. What was frustrating was the fact that we found out that even if we do it, if other members of the IGWA don't comply, then we're also out of compliance, so we don't know where we're going to go.

Q. So that's your understanding is that your district could comply, but if your -- if other districts don't, then all of you will be out of compliance?

A. That's my understanding.

Q. So you're not sure if you're going to attempt to comply with that yet, as I understand it?

A. At our annual meeting, I made the suggestion to the members of our district that we would still do

our share of compliance of that agreement, and our plan was to do that; but if doing that will not bring us any satisfaction, then I'm not sure what direction we'll go now.

Q. I understand that.

Is it your belief that if you do comply with the mitigation plan and are found to be in compliance with the mitigation plan, that your district then would have safe harbor?

A. No. My understanding is we will not.

Q. No, I say if you were in compliance with the mitigation plan, if you believed you were, and if the Director found you were in compliance with the mitigation plan, your district, then you would have safe harbor?

A. I don't know that we would. I don't think anyone's told us that we can do it individually and receive safe harbor.

Q. If you did have -- if you were found to be complying with the mitigation plan and order that is in place now, you would have safe harbor?

MR. BUDGE: Objection. Director, I'm going to renew my objection. This case is involving the Fifth Methodology Order and the As-Applied Order. We have a separate proceeding involving the mitigation plan past

compliance and mitigation compliance for 2023, and I don't think it's appropriate in this proceeding for Mr. Fletcher to ask the questions that he would like to have answers to in other proceedings.

HEARING OFFICER: And, Mr. Budge, your direct examination opened up this particular subject. Mr. Fletcher is exploring it. Overruled.

Q. (BY MR. FLETCHER) Do you remember my question?

A. Do it again.

Q. All right. If you were found to be in compliance with the mitigation plan this year, then the mitigation plan states you would have safe harbor; correct?

A. Well, the agreement says we would have safe harbor, but my understanding is from decisions that have come from the Department, from the Director, is the fact that if everyone is not in compliance, then no one is going to be in compliance.

Q. And if you had safe harbor, then none of your irrigators would be subject to curtailment regardless of what the curtailment date is; correct?

A. That's correct.

Q. You brought up this table -- or your counsel brought up this table that Jaxon Higgs prepared. I

think you still have it in front of you; is that correct?

A. I do.

Q. I was a little unclear about your testimony on that. It does show that in a one-year transient state analysis that North Snake would have to contribute a very small amount of water?

A. Yes.

Q. Is that correct?

A. That's correct.

Q. Are you -- is it your position as president of IGWA that those who contribute more to the shortage this year should mitigate for that, and those who contribute less mitigate their share?

A. That decision has not been made by IGWA.

Q. Is that your position as the president of your groundwater district?

A. No, it's not.

Q. What is your position concerning a mitigation requirement for this year?

A. We, as a group of groundwater districts, would have to get together and determine how any obligation would be shared. And that hasn't been done yet.

Q. So it has not been done yet?

A. No.

MR. FLETCHER: That's all the questions I have. Thank you, Mr. Carlquist.

HEARING OFFICER: Any further cross?

Mr. Simpson?

CROSS-EXAMINATION

QUESTIONS BY MR. SIMPSON:

Q. Lynn, good afternoon. John Simpson representing A&B, et al. Good to see you again. I just had a couple follow-ups to your direct testimony.

First, you indicated on direct that you thought since it was a good snowpack, that there wouldn't be a curtailment this year; is that fair?

A. That would be -- that was my thought, that the snowpacks were large enough, you know, and, of course, I was surprised when I understood that the -- those who measure said that possibly the system would not totally fill, even with the snowpack that we had, because there were certain areas, Jackson Lake area, for example, didn't have quite the snow that other areas did.

Q. Yeah. And given that you receive North Side Canal Company water; correct?

A. Yes.

Q. As the reservoir system declines in its carryover, that, obviously, means you need a better

snowpack in order to fill the reservoirs; correct?
A. Yes.
Q. And so that's part of the reason why --
A. It also depends on how the water comes off of that system up there to fill the reservoir.
Q. You bet. Understand that.
So in your experience, even if you have a good snowpack, it doesn't necessarily ensure that surface water users have a full water supply; is that fair?
A. You can't guarantee it, but it's certainly a better chance, we thought, that they would have a full water supply on a year like this.
Q. And so with respect to your groundwater rights and your pumps and where those pumps are on the North Snake groundwater system, what have you observed in terms of your groundwater levels over the last couple years?
A. In the last couple years, they've gone back down. In the prior 10 or 12 years, they've come up fairly dramatically. And then the last two years, they've declined a little bit again.
Q. When you say "a little bit," 10 feet? 15 feet?
A. 3 feet.
Q. So in those prior years since 2015, what kind

of increase did you see?

A. We went up almost 12 feet. And that's the first time they've gone up since the '80s.

Q. So you saw about a 25 percent decline over the last couple years?

A. Yes.

Q. So when you were asked on direct testimony that you're anticipating to continue your reductions in order to stabilize the aquifer -- do you recall that testimony?

A. Yes.

Q. So when you --

A. When we -- we, as a board of North Snake Groundwater District, have made that determination, and we have expressed that desire to the members of our district and received their --

Q. Approval?

A. -- "yea" that they would be fine with that.

Q. So when you talk about stabilizing, what does that mean to you in terms of your North Snake members in the district?

A. Our idea is that we will not see further declines going down. Not that we'll recover it to a particular level, but they will not continue to decline.

Q. Not continue the declines that we've seen in

the last couple years?

A. No. Decline in the last 20 years.

Q. Then looking at this table that Jaxon Higgs put together that you have in front of you, you indicated that the first couple columns were a steady state calculation?

A. That was my understanding, that we requested from the Department that they give us -- the allocation of the amount of this order would be for the districts. And my understanding was that the numbers that are there in the first columns, like, for example, North Snake would be 3,262 acre-feet, was done on some -- whether it's a modified steady state analysis or what, but it wasn't done on the straight transient analysis.

Q. So is it fair to say that, in the first column where it says 5.1 percent, that's -- North Snake's obligation under a steady state modeling was 5.1 percent?

A. That's my understanding.

Q. So that would be 5.1 percent of the obligation that would be owed to the Surface Water Coalition?

A. Yes.

Q. Under a steady state analysis, to be fair?

A. Yes.

Q. And with respect to your -- not "your," but

the North Snake groundwater rights within the groundwater district, have most, if not all, of those groundwater rights been in place for -- since 1993, the date of the moratorium; do you know?

A. Most, I would say, most have been in place since then.

Q. A very high percentage?

A. Yes, a high percentage.

MR. SIMPSON: That's all the questions I have. Thank you.

HEARING OFFICER: Okay. Mr. Budge, redirect.

REDIRECT EXAMINATION

QUESTIONS BY MR. BUDGE:

Q. Yeah, just a few follow-up questions, Lynn.

Mr. Simpson was asking you some questions about the snowpack this last winter?

A. [Witness nods head.]

Q. And you understand it was well above average snowpack this winter in the Upper Snake River Basin?

A. Well, it was above average. Now, well above average, I'm not sure what that number means, but at times we were up close to 150 percent of average. And in certain parts of it, it was above that.

Q. And in years past when we had that much snow

in the mountains, there would not have been a curtailment under the Methodology Order; correct?

A. Not that I remember.

Q. Okay. And do you understand that under the Fourth Methodology Order, there would not have been a curtailment this year?

A. I don't know that for sure.

Q. Okay. But you did understand or did assume that with as much snow as we've got, you did not expect a curtailment coming this year?

A. I did not expect a curtailment coming this year.

Q. Let me ask you a few questions about that table in front of you, which is Exhibit 829, the table that Jaxon Higgs prepared.

Mr. Fletcher asked you some questions about how mitigation obligations are apportioned among the groundwater districts under the 2015 settlement agreement.

Do you recall that?

A. Yes.

Q. You understand that the terms of that agreement do not specify how that 240,000-acre-foot obligation is apportioned among the districts?

MR. FLETCHER: Director, I'm going to object

simply because I didn't ask that question, but I don't mind this line of inquiry. I mean, I don't know how to do that. That was not my question to Mr. Carlquist.

MR. BUDGE: I'll accept the withdrawal of objection.

MR. FLETCHER: I'm objecting to the fact that I asked about that. I did not.

HEARING OFFICER: All right.

MR. FLETCHER: It misstates the foundation for the question.

HEARING OFFICER: All right. So, Mr. Carlquist, if you remember the question, you may answer. Otherwise, Mr. Budge, please restate the question.

THE WITNESS: Well, I think I remember, but go ahead and restate it.

Q. (BY MR. BUDGE) Do you recall Mr. Fletcher discussing with you for a moment the 2015 settlement agreement between IGWA and the Surface Water Coalition?

A. Broadly, I guess, yeah.

Q. And he was asking if your district's planning to comply with that this year?

A. Yes.

Q. You understand that one of the terms of that agreement is that the groundwater districts

collectively -- or the groundwater users collectively will conserve 240,000 acre-feet of water?

A. Yes.

Q. And you understand that the agreement does not specify how much conservation each individual groundwater district has to achieve?

A. I don't think the agreement says that, but the groundwater districts apportion their share of the 240,000 acre-feet based on their share of pumping, their historical baseline pumping that they had had the previous five years.

Q. And that apportionment was an agreement that the groundwater districts struck among themselves after the 2015 settlement agreement was signed?

A. Yes.

Q. And you understand the Director recently changed or interpreted the terms of that agreement in a way that would collectively require the groundwater districts to conserve more water than they had historically?

A. More than we have historically, yes. When the allocation -- when we did the allocation among the groundwater districts, we assumed that everyone who pumps water would have some share of that 240,000 acre-feet. So the districts that were -- signed

the agreement -- the six districts that signed the agreement, allocated 202,000 of the 240,000 acre-feet.

Q. 205,000?

A. Yeah, it was 202 or 205, yeah.

Q. And now that the Director's come out with the new transient state model application, does that change your thinking on how the 240 should be allocated?

A. Well, that's possible. We'll have to negotiate like we did before with the groundwater districts, but our district has decided that we are going to maintain our reduction proportion that we've had in the past, which is based on the 205, not the 240. That's what -- that's the allocation that we send out. Pumping allocation to the members of our district is based on our share of the 205,000 acre-feet.

Q. Yeah. Is it fair to say that the information in that table that shows the transient state impacts, that the districts have discussed how to reallocate the 240 and not been able to reach an agreement?

A. No. No agreement has been reached.

MR. BUDGE: The last thing I would do, Director, and this is just really for clarity of the record, is, I've been referring to Exhibit 829, which is that table from an excerpt from Exhibit 837. I would move that we admit that as a separate of exhibit just

for ease of reference in the record.

HEARING OFFICER: Any objection?

MR. FLETCHER: We have no objection. It was already admitted as part of Sophia's expert report.

HEARING OFFICER: The document, then, that has been marked as Exhibit 829 is received into evidence.

(Exhibit 829 received.)

MR. BUDGE: Thank you, Lynn.

HEARING OFFICER: Any further cross-examination?

MR. FLETCHER: I don't have anything further.

MR. SIMPSON: No.

HEARING OFFICER: Thank you, Mr. Carlquist.

Now, my list of witnesses, I don't know where to go. Please direct me.

MR. JOHNS: I think we're going to have Bryce Contor go up next, if that's permissible.

HEARING OFFICER: All right. Mr. Contor, if you'll come forward, please.

MR. JOHNS: Do you care if I --

HEARING OFFICER: You can sit or stand if you want.

Will you raise your right hand.

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BRYCE CONTOR,

called by Bonneville-Jefferson Ground Water District, having been first duly sworn to tell the truth relating to said cause, testified as follows:

HEARING OFFICER: Thank you. Please be seated.

Mr. Johns?

DIRECT EXAMINATION

QUESTIONS BY MR. JOHNS:

Q. Good afternoon, Mr. Contor. For the record, my name is Skyler Johns, and I represent Bonneville-Jefferson Ground Water District in this matter.

Can you please state your name and spell it for the record.

A. Bryce Contor, B-r-y-c-e, C-o-n-t-o-r.

Q. And just to check, are you okay if I call you Bryce?

A. Yes, sir.

Q. Perfect. The parties have stipulated to your qualifications as an expert; however, would you just briefly describe your educational background for us?

A. I've got an associate degree in farm crops

management. I've got a bachelor's degree in agricultural economics, a master's degree in hydrology from the University of Idaho.

Q. Can you, please, also describe your work history on water issues.

A. Yeah. So I farmed, I irrigated with groundwater and surface water, I served on the canal board. As a member of the canal board, I prepared the -- our little tiny canal company's adjudication claims.

I later went to work for Idaho Department of Water Resources, first measuring discharge wells in the Magic Valley and then in the Mud Lake area and also west of Idaho Falls.

After that I worked for Idaho Department of Water Resources making adjudication recommendations in the Snake River Basin Adjudication.

I went to work as a hydrologist for the University of Idaho doing the water budgets for the ESPAM models from 2001 through about 2010. During that time, I did subcontract work under Water District 1 doing field examinations for Snake River Basin Adjudication claims.

And then in 2010, I transitioned to the private sector. I've done water rights work, landfill

work, flow measurement work, all related to water resources.

Q. Okay. And are you still in the private sector?

A. Yes.

Q. Who's your employer?

A. Rocky Mountain Environmental Associates is the company. In this matter, Rocky Mountain is employed by the Bonneville-Jefferson Ground Water District.

Q. And what's your current occupation or title?

A. My occupation is a hydrologist. My title is principal hydrologist.

Q. Have you ever previously been identified as a witness in an IDWR proceeding?

A. Yes.

Q. About how many proceedings have you been a part of?

A. Probably eight or ten, including both water right matters and some, you know, private district court things that related to water but not before IDWR, and I haven't parsed it out.

Q. For the record, were you invited to participate in what's been referred to as the 2022 technical working group for this matter?

A. I was not.

Q. Okay. So you're coming in fresh and having to review some of this information?
A. Yes.
Q. You had already stated you're here representing Bonneville-Jefferson Ground Water District; correct?
A. Yes.
Q. Were you asked to create an expert report for this proceeding on their behalf?
A. Yes.
Q. Okay. And has that report been provided?
A. Yes.
Q. Will you please turn to Exhibit 500.
Yeah, there should be three copies.
COURT REPORTER: And if you can guys can slow down a little bit, please.
MR. JOHNS: I thought I was going slow. I'll try.
THE WITNESS: We're trying to go slow in an expedited manner.
MR. JOHNS: Being concise in an expedited matter.
Q. (BY MR. JOHNS) Could you please identify the document that's in front of you.
A. It's my expert report. It has a long title,

but it's my report.

Q. Okay. And can you please identify what you were asked to do in this report.

A. So I was asked to do just four things, kind of a subset of all of the issues:

I was asked to look at the technical arguments made by the Department to justify the change to a transient modeling.

I was asked to review the purposes of the ESPAM models and technical opinions regarding the use of those models.

I was asked to talk about the possible application of source water fractions to address the supplemental water question.

And then I was asked to talk about logical consistency in the use of transient modeling and in the use of steady state modeling.

Q. Okay. So did you review the Fifth Methodology Order -- and I believe that is marked as Exhibit 300 -- and then the 2023 As-Applied Order, which I believe that's -- did you review those documents?

A. So I did a cursory review of the entire document, and then I focused on the parts relating just to these issues.

Q. What information did you look at in

preparation for this report?

A. I looked at old documents that I had prepared when I worked at Idaho Water Resources Research Institute. I looked at additional information prepared by others from the IDWR website related to the ESPAM modeling. I looked at some prior orders in this matter. We can look back here. Those are the primary ones that I relied on. I looked at a document that I had prepared in a Rangen proceeding.

Q. And is the information pertaining to those documents provided in your report or cited in your report?

A. It is.

Q. Will you please generally describe the conclusions in your report.

A. So I'd like to just quickly go to -- I think it's page 30.

Q. Okay.

A. So the first two opinions -- and I wish I had numbered these -- were regarding the factual reasons given in the Fifth Order. And my conclusion was that those reasons are not factually correct; and that, therefore, I don't know what the actual reasoning was, and I cannot evaluate the actual reasoning.

The next point, the third conclusion is that

the use of ESPAM modeling is technically defensible when the use of the model is tempered both by the knowledge of the ratio of the relief provided and the burden to generate that relief and the precision of the model for the question being answered.

The next two are the response to the question about supplemental groundwater, and it's, essentially, the same thing. The argument's presented in the order I found not to be factually correct, and so I can't speak to the actual reasoning for that decision.

And then the last three talk about the -- well, let's see -- no, the next one talks about the effect. I talk about the multiplier effect of the consequence of ignoring the supplemental use.

The last two, then, talk about the consistency between the time frame of the modeling, the question being asked, and essentially there's two conclusions. One is that if you calculate the obligation one way and partition it another, then you could -- it can result in a party being responsible for more mitigation than their curtailment could have possibly generated.

And then the last one I think is probably the most important, is that technical methods exist to make a technically coherent alignment between the problem that's trying to be solved and the tools that are

available to address the problem.

Q. And the reasons justifying those conclusions are provided in your report; correct?

A. They are. And -- yes.

Q. And you and I had spoke earlier. Have you identified any mistakes or corrections that we need to make on the record that you located in your report after it was submitted?

A. Yeah. I -- the most important one is on page 29, I think. I refer to a figure -- the second full paragraph on page 29 -- "visual inspection of figure R16," I did not get that figure into the report, but it is presented as Exhibit 511. And I'm sure there are some typos that I've not yet captured.

Q. Okay. Just in general, were you able to perform all the work that you wanted to perform in this report?

A. No.

Q. Can you identify just some general technical subject matters that you would have liked to have gotten into?

A. Well, certainly, I would have liked to have reviewed the things that Mr. Sullivan and Ms. Sigstedt reviewed that I didn't even address. But within the topics that were assigned to me, I would like to have

further explored the implications of transient modeling of ESPAM2.2 in regard to this question of assigning responsibility and in regard to the question of the logical consistency between transient and steady state.

I tried to do some exploration for the second purpose, which was to generate a technical opinion regarding the use of the model. I would have liked to have further explored work that's been done by others and some original work regarding anticipated precision and uncertainty of the ESPAM2.2 model.

Q. And was that work not performed due to time constraints?

A. That's correct.

Q. Would it have improved your analysis in reviewing the Fifth Amended Methodology Order and preparing for this hearing?

A. It certainly would have made me -- made my analysis more solid, more coherent, given me more opportunity to be sure that I had not missed something in the analysis. It may also have enabled me to generate additional insights that might have been useful.

Q. I want to talk briefly about your involvement with the ESPAM modeling and your experience at IWRRI.

Can you please describe what work you

performed related to ESPAM while you worked at IWRRI?

A. So while I was at IWRRI, my assignment and the reason I was hired was to be responsible for the water budget input to the model, and so that is all of the -- we call them "goes ins" and "goes outs," all the sources of water and all of the sources of withdrawals from the aquifer with the exception of the interaction of the Snake River.

While I was there, I also generated scenarios using the model after it was -- after the model was developed, first, to the ESPAM1.1 and 1.1 and then to some extent with the ESPAM2.0 model.

The other thing that I did was I ended up having a substantial role in providing transparency through presentations to the Eastern Snake Hydrologic Modeling Committee and in writing design documents.

Q. And did you make presentations to the Department regarding the ESPAM model?

A. I did to the extent that the Department personnel were involved in the ESHMC modeling committee.

Q. And was a report generated for that or some sort of a document generated?

A. So there were many documents. I think the one that I referred to in this report was a specific report. IWRRI was asked, and I was tasked to be the lead on

assessing what would be the implications of using the ESPAM model, and this was initially the ESPAM1.0 model, in assessing the effects of curtailment of groundwater rights.

Q. Did your analysis include an analysis of transient modeling?

A. It did.

Q. And to your knowledge, has that information changed over time, at least the findings with regard to transient modeling?

A. So qualitatively, nothing has changed. And a good part of my report wades through individual findings that were in that 2006 document. But -- you know, but the nutshell is, there's nothing known now about transient modeling that was not known then. Different versions of the model produced different results, and so those have changed, but qualitatively, nothing has changed.

Q. And you've been present -- just for the record -- you've been present this -- since Tuesday when this hearing began and listened to the testimony that's been presented by the witnesses?

A. Yes. You know, I've stepped out a time or two, but I've been here the whole time.

Q. And so I think that this -- I want -- again, I

want to be concise. I think that some of the arguments on this have already been presented, but do you agree with the statement that the technical justifications for moving from -- or do you agree with the Department's technical justifications for IDWR moving from steady state to transient as they're presented in the Fifth Methodology Order?

A. I do not.

Q. And do you agree that with -- I believe it was with Ms. Sukow -- I don't want to mischaracterize her testimony, but I think she said that the decision was not technical to move from the steady state or to transient; is that correct? Or is that your recollection of her testimony?

A. That sounds about like what she said. So if there were technical reasons, number one, they have not been revealed, to my knowledge; and number two, I can't think of any technical reasons.

Q. Well, I won't belabor that point, but have the reasons -- or have your reasons for your conclusion with regard to the technical justifications for transient been provided in your report?

A. Yes.

Q. Okay. Is there anything else that you'd like to add on the technical justifications for transient?

A. I think just qualitatively that either steady state or transient could be, technically, justifiable if the entire package were considered, if all the implications of either type of modeling were considered.

Q. And I think we're going to talk about a couple of those. We'll dig into them. So we'll move on to -- let's grab -- I think it's Exhibit -- the Fifth Methodology Order, is that Exhibit --

MR. WOOD: 300.

MR. JOHNS: 300?

MR. WOOD: Yeah.

MR. JOHNS: If we could grab a copy of that.

THE WITNESS: Here we go.

MR. WOOD: Did you find it?

THE WITNESS: I did. At least it has the right number on the cover. Okay, yes.

Q. (BY MR. JOHNS) Could you turn to page 30 of the Fifth Methodology Order.

A. Page 30?

Q. Yeah. And could you read Finding of Fact 83, please.

A. "Merriam-Webster's Dictionary defines steady-state as, 'a state or condition of a system or process that does not change in time.'" And then there's a citation.

"A steady-state ESPAM simulation can only model increases in aquifer discharge to the Snake River resulting from continuous curtailments of an identical magnitude and location until the impacts of curtailment are fully realized. For example, a steady-state analysis of the curtailment of 1,000 acres, assumes that irrigation of the same 1,000 acres is curtailed every year at the same rate of consumptive use until the impacts of that curtailment reach a steady state or no longer change from year to year."

Q. What's your professional reaction to Finding of Fact 83?

A. It's twofold. First, there's some embarrassment that I may have precipitated this line of thinking in my 2006 report. And then second, it's not technically correct.

Q. How so?

A. So steady state can be used to describe a cubic-feet-per-second effect, or it can be used to describe an acre-foot effect. And in the 2006 report, I did use steady state on a cfs basis, and there are ways of construing that that would make this statement true in that context. But in the context of a curtailment, it's an acre-foot basis.

And I think, if you were to -- you know, so

1,000 acres, so that's 2,000 acre-feet per year. If you curtail 2,000 acre-feet per year for an infinite period of time, the accrual to the Snake River would be infinite, and that's not what a steady state model would show you. A steady state model would show you that if you curtailed 2,000 acre-feet, it would show you that 2,000 acre-feet were expressed at various points on the river, and it would estimate where those points were.

Q. What would you include in the definition to make it more accurate?

A. So may I refer back to Exhibit 500?

Q. Yes.

A. Towards the end, I edited it. And if you find the page before I do --

Q. I believe page 12, page 12, Exhibit 500.

A. Are you ready for me?

Q. Let the --

A. Yeah.

Q. -- folks get there.

Go ahead.

A. So I won't read all of this struck material; I'll only read what I retained and what I added.

"Merriam-Webster's Dictionary defines steady-state as 'a state or condition of a system or process that does not change in time.'" And then some

citations.

"A steady-state ESPAM simulation based on input values of acre-feet of curtailment can only indicate total acre-feet of accrual to modeled reaches of the Snake River and tributary springs resulting after the effects of curtailment have been fully realized.

"For example, a steady-state analysis of the curtailment of 1,000 acre-feet would indicate where the 1,000 acre-feet of accrual eventually would be expressed but would not describe the timing of arrival of accruals."

Q. So in your opinion, the definition of steady state, as it appears in the Fifth Methodology, is technically incorrect?

A. As applied to acre-feet, it is technically incorrect.

Q. Can you please turn to page 11 of your report. And I'm looking at Figure R7.

Do you see that?

A. Yes.

Q. Can you explain what Figure R7 shows?

A. Figure R7 is from that 2006 product that we produced for IDWR, and each line represents the transient effects of an ongoing curtailment activity corresponding to the priority date there in the legend.

And the little symbols that are there on the very right represent the equivalent steady state result from that same curtailment date. And what it shows is that over time, the transient modeling does approach the steady state result.

And this figure doesn't show it, but the fact is that if you could run transient out to eternity, then it would exactly equal the steady state result.

Q. So could you explain how transient and steady state are being used in the Methodology Order?

A. So the order itself, as I read it, specifies that transient will be used to determine a priority cutoff date. I didn't find it. And again, I was time-constrained. I didn't find in the Methodology Order a specification of how steady state would be used, but in the As-Applied, I found that it was used to assign responsibility specifically between the parties that have mitigation plans and those who do not.

Q. What about steady state?

A. So I'm sorry, if I misspoke, in the As-Applied, that's how steady state was used.

Q. Okay. And transient is for calculating the priority date?

A. So in the Fifth Order and then the As-Applied, transient was used to calculate the priority date, and

then steady state was used to assign responsibility, as I read those.

Q. Responsibility for mitigation?

A. I believe that was -- yes, I believe it was responsibility for mitigation.

Q. In your opinion, are the different uses of steady state and transient in the Fifth Methodology Order technically defensible?

A. They aren't, both because in neither case is the entire picture considered, but also because they fundamentally speak to different goals or processes. So the transient, you know, just by the nature of it, would be an appropriate tool if you were considering short-term effects. Transient -- or steady state, by the nature of it, would be appropriate if you're trying to consider long-term cumulative effects.

It appears that the Fifth Methodology Order is focused on short-term effects, and, yet, the As Applied still used a tool more appropriate for long-term effects. And, you know, either the goal is this or it's this, and they're not the same thing.

Q. In your review of the Fifth Methodology Order, were you able to identify any of the stated goals for steady state or transient?

A. So there was discussion of a goal of transient

to try to achieve in-season. I think there was -- within the season of use there was a five-month period that was the stated goal for transient. I did not find reference to the prior goal for use of steady state.

Q. So is it your opinion that there's kind of conflicting goals that are going on by the way steady state is being used and transient is being used in the Fifth Methodology Order?

A. So in the order itself, only transient is specified. The As-Applied creates the tension because the As-Applied uses both.

Q. So is it fair to say, to be technically correct, you would need to use transient to do both or steady state to do both calculations?

A. That's my opinion, yes.

Q. And that's not how it's being done this year?

A. That's correct.

Q. What's your understanding of the original purpose of the ESPAM tool?

A. So it was originally designed to aid IDWR both in planning and in administrative questions. Although, I think the word used in most of the reports was "management." I think, from having been there, the intent really was administration, even though the word used was "management."

Q. Has that purpose changed over time?
A. Not to my understanding.
I think the tool has been -- when I was debating whether to go work on the tool, an attorney said, "Don't worry. As soon as an appropriate misuse is identified, it will be misused."
But I think that the primary purposes are still the same, to inform planning and also to inform administration.
Q. Okay. In your report you refer to some -- I believe you referred to them as "precautions," where you identified precautions or factors that need to be considered when using the ESPAM when calculating surface water shortfalls.
Could you summarize what some of those precautions or factors may be and why?
A. Yeah. So the question, when you ask is this the best tool or is this an appropriate tool, you have to consider the suitability of the tool for its purpose. And, you know, if all I have in my toolbox is a crescent wrench, that may be the best tool I have, but it's still not useful for all purposes. For instance, it's not good for turning a Phillips-head screw.
So there are two different ways that I approach this question of the appropriateness of using

the model. And one is twice during my tenure within the ESHMC, the Eastern Snake Hydrologic Modeling Committee, the committee has been asked to provide a statement on appropriate uses of the model. Neither time were we able to come to consensus.

The first time we assembled what we called a white paper, which was really an anthology of statements from various members. The second time various members prepared statements, but the anthology wasn't even assembled. And in that process, there were divergent views, but they ranged from use of the ESPAM model for administration is technically indefensible to it can be used and described some narrow circumstances.

The Eastern Idaho Water Rights Coalition gave a more thoughtful -- I don't know if it was more thoughtful, but, certainly, a more lengthy response that talked about matching the precision of the model to the precision of the work -- the results needed and pointed out that the precision of the model depends upon the discretization of the question that's being asked. So that's one set of input to that question.

The other is I just looked at -- every version of the model has been, in its day, the best available science. And I looked at the important result of the model for this proceeding, which is the short-term

prediction of accruals to the near Blackfoot to Neeley -- or maybe it was the near Blackfoot to Minidoka reach -- combined reach.

And what I found is the two subsequent best available sciences in that short time period differed by a factor of more than five. That was one.

And then the other is that since ESPAM2.1, the reports have included an R-squared statistic on the ability of the model to meet short-term targets -- the model and its input data to meet short-term targets for each modeled reach. And what I found is that the ESPAM2.2, for the near Blackfoot to Neeley, the R-squared is .42, which means the model is capable of explaining about 42 percent of the variability observed. From Neeley to Minidoka, the R-squared is less than 0.1, which means that it's less -- it explains less than 1 percent of the variability.

So those -- and if you're going to use the model to predict something that's as important as the water supply for the Surface Water Coalition, to me those are frightening degrees of difference from one best available science to the next, and then within the current best available science, a disappointing ability to perform to the very thing that it's being asked to predict.

Q. And is it fair to say that the problem that it's being asked to predict in the context of this water delivery call is short-term problems, in-season demand problems?

A. That's my understanding.

Q. Does the ESPAM have short-term or is it more of a mid- to long-term response time?

A. So the aquifer itself, unless you're talking about a few locations very near the springs or river, if you're talking about the aquifer as a whole, the groundwater irrigated acres as a whole, the response is medium to long to perhaps very long-term.

Q. To your knowledge, does the Fifth Methodology Order specify minimum precision and accuracy criteria for the use of the ESPAM?

A. I couldn't find it.

Q. Is there a metric available that you could measure ESPAM precision and accuracy that you're aware of?

A. Well, so for this particular prediction, which is the one important in this question, the R-squared would be the useful statistic. There are additional modeling statistics that could be reviewed, but that would be a very useful and convenient one.

Q. Okay. And I believe Matt Anders and

Greg Sullivan, and I believe perhaps Sophia did as well, discussed the R-squared values.

Could you just briefly describe your understanding of the R-squared values and how that's important in evaluating this type of model?

A. Yeah. So, you know, fundamentally the R-squared shows how much of the observed variability can be explained by the model and the data, the equation and the data, the process and the data that are being used to estimate whatever the observed thing is. So it's -- R-squared of 42 means 42 percent of the variability is explainable.

Q. What level of precision and accuracy does the ESPAM2.2 have when using it to determine monthly estimations of the effects of the near Blackfoot to Minidoka reach? And you have already said this.

A. Yeah, so that's basically that 42 percent. It can explain 42 percent of that short-term variability.

Q. Do you believe there's a technical basis to set that minimum tolerance level and provide some criteria for that?

A. There are. And I have not explored them exhaustively, but, you know, for different types of data there are different typical thresholds. I would think a .5 would be useful in this, which is lower than the

R-squared for the Twin Falls regression that everyone seems to be concerned about. But I still think in the modeling context that could be a useful criteria.

Q. Do you believe it's a policy question of whether to set that, or is there technical -- is there a technical basis that would inform that policy decision?

A. So it is a policy decision. And, you know, ideally, you would make the decision based upon the gravity of the prediction being made and then you would look to see if the candidate tools are capable of meeting that. I think it would be tempting to do it the other way, "Well, we want to use this tool. Let's set our criterion so this tool passes." I don't like that kind of science.

Q. What kind of technical work could inform the policy decision establishing minimum criteria?

A. So a broader exploration of typical model precision -- you know, again, the technical work, the gravity of this situation -- of this prediction in terms of whether or not the calculated relief will take care of what the Surface Water Coalition needs, the gravity of the much larger effort that has to be made by groundwater users to provide that relief, those together could inform on the one hand what's attainable, on the other hand what would be necessary to justify and to

support the gravity of the decision being made.

Q. I think you touched on or you at least addressed the best available science standard. My question, I guess in follow-up to that, is the best available science standard as you understand it within your range of scientific tolerance, so to speak?

A. Help me understand. I'm not tracking what you're trying to ask.

Q. So is best available science in your work, if you were to make a recommendation as a scientist, is that good enough for you? I think you touched on this.

A. Oh, okay. No, it's not. I think that two things are required: It has to be the best available, and it has to be good enough to address the question at hand, both in its ability to provide an answer and in the gravity of the -- you know, if someone asks me what do you think about "X," I'm really comfortable, and it's just casual conversation shooting from the hip. But if someone's livelihood depends on it, if I get this answer wrong, they won't have enough water to irrigate with. I'm not comfortable shooting from the hip. And that's the kind of process, thought process, I would go through.

The other thing that's important is that paper from Roger Warner, Eastern Idaho Water Rights Coalition,

that I referred to, points out that the precision of the model depends upon the kinds of questions that are being asked. And if you've got a model that cannot answer a very specific question, if you can reformulate the question more broadly, and if that means reformulating the policy or the action that that is informing more broadly, then you can greatly improve your confidence that your results are meaningful and will provide the needed relief.

Q. And I want to talk about that with you, Bryce, because, again, we've identified there's some issues with, you know, the criterion and that.

But can you provide any suggestions on how to improve, I guess it would be, the R-squared value of the ESPAM, things that the Department should look at?

A. Yeah. So Sophia talked about many of her recommendations that have been made in the Eastern Snake Hydrologic Modeling Committee. And, you know, the bottom line is that to get the R-squared value better, the model has to get better. And I agree completely with Ms. Sigstedt that we've put as much lipstick on this single-layer pig as this single-layer pig can wear, and we need to make an advance in our structural representation in our conceptual model before we're going to get to meaningful improvement.

The other thing that Ms. Sigstedt said that I think is very important is that you can overfit a model, and some of that 42 percent of variability that the statistic says the model is able to predict, as Ms. Sigstedt said, it may be getting the right answer for the wrong reason, and it can only get that answer when it's spoon-fed the data that were used to build it. And if you want independent data to actually make a prediction, that 42 percent number may be an overestimate.

But either way, there's ongoing technical work that can be done, it is being done, IDWR is striving hard, and I think there are things that can be done to improve it.

Q. Just briefly, can you explain in your report, you refer to ratios of relief to cost. You touched on this, but can you just kind of summarize that again what you mean by ratios of relief to cost?

A. Yeah. And so I'm not talking about an economic valuation. We've heard that that's not appropriate. But it's clear from a lay reading of not only the conjunctive management rules but the order itself that there is a need to maximize the use of the state's water resources and that there is a need to secure the maximum benefit to the state from its

resources.

And so as a ratio of beneficial use -- for instance, if you had 1 acre that was mischaracterized as being irrigated by surface water, and so you have calculated a shortfall to supply that acre, and in reality that acre didn't need any surface water because it was applied by groundwater, that acre requires -- we've heard 5.8. For simple math, I'll round it to 5 acre-feet of water. We're going to go out on the plain somewhere and curtail groundwater to supply that 5 acre-feet.

But even if we could be 100 percent, if we could have a pipe from the groundwater user to that acre because groundwater users, as Mr. Carlquist testified, divert so much less, now we're going to have to have 2 or 3 acres of groundwater beneficial use to be curtailed to supply this 1 acre of beneficial use that's not needed.

Now we add in the fact that where you are on the plain, only a fraction of your -- of the groundwater pumping that's curtailed or foregone will actually accrue to that reach. On average, across the plain, now you've doubled that 3 acres to 6. There's some place s where you go -- it's an incredibly large number because there's such small effect.

Now, if you add in the fact that now we insist that this entire benefit accrue in this narrow period of time, to get that one -- you know, to get the effect of those 6 acres, we have to curtail ten times as many. So now we're -- we've -- because we've been unable to identify this 1 acre that actually has no need, we've erroneously removed 60 acres of beneficial use.

That's the multiplier effect that I'm talking about, and it applies to any imprecision that causes the calculated shortfall to be larger than the Surface Water Coalition's actual need.

Q. Okay. And did you have time to look into some specific things or adjustments that could be made in the model that could account for or address that issue of ratios of relief to cost?

A. So I did not. Except that conceptually the model can refine what that ratio is, but the ratio exists because of the physical characteristics of the aquifer. It's really independent of modeling. Modeling is only a tool used to estimate the magnitude of that effect.

Q. So it's something you weren't able to get into, but if I under your testimony, the ESPAM is capable of performing such analysis -- or you're capable of --

A. So the aquifer actually causes the effect. The model, within its limits of precision, can estimate those effects.

Is that -- did I answer the right question?

Q. I think that's the answer to the question I meant to ask you.

A. Okay.

Q. I want to talk to you about supplemental water use, and I believe Greg has discussed this, Sophia. I mean, it's been, you know, discussed quite a bit, so I'm just going to kind of move around on a couple of questions throughout here.

But could you turn to page 10 of the Fifth Methodology Order. And in the interest of being concise, could you just -- I'll just note that we're looking at page 10, Finding of Fact No. 23.

A. Yes.

Q. Could you just skim that?

A. Yeah, so -- okay.

So what I read is that there are areas of supplemental groundwater supply. It is allowable to consider that but that the information available to the Department is not sufficient to make that determination.

That's what I read there.

Q. Okay. So is it fair to say that the Fifth

Methodology Order didn't consider supplemental irrigation?

A. Only to the extent to acknowledge that it could be, but did not actually do that.

Q. What implications are there by not considering supplemental irrigation?

A. So it's exactly this multiplier effect, that if a piece of ground actually is not irrigated by surface water, then there's no need to provide surface water to support that acre. And if we erroneously try to support that acre, then depending where on the plain that reduction or curtailment has to take place, we're, you know, perhaps, as much as 60 times the reduction of beneficial use for something that actually is not needed.

Q. I believe it was Greg Sullivan who stated that he believes there's a framework where you could consider supplemental groundwater use.

Do you agree with that statement?

A. Yes, very much.

Q. Have you identified in your report any documents or anything that speaks to -- or provides frameworks for supplemental groundwater use?

A. Yes. There's -- I think I made four references. Three of them are to modeling reports that

provide thumbnail sketches. One of them, I think the most important one, is to a design document that I and Paul Pelot prepared. So this --

Q. Just is that the determination of source irrigation water?

A. Yes. Yes. So that would be --

Q. Exhibit 515, I believe, is what that is.

A. Yes. And I don't think I need to refer to it to just tell you in a nutshell.

So in a nutshell, I spent hours and hours and hours over several years wrestling and refining this because that was my job at Eastern Idaho -- at IWRRI was -- and this is an important part of the water budget, of the -- I think others have talked about the general methods, the general data that are available. I think the important thing that I can add from that exhibit -- whatever the number you said --

Q. 515.

A. Okay. -- is that to refine our understanding, for things we could not tell any other way, we developed a statistically valid sampling of 300 points, which is a pretty robust dataset across the plain. And I trained Mr. Pelot, and we funded him, and he went and looked at these points individually. And the point of that is that was not an onerous task. And we did that, you

know, over -- that part of it we did just over part of a summer.

And so there are robust methods that are available, and there are ways to account for the imprecision of those methods that are protective of the senior right. That's the importance of those four documents.

Q. Okay. Could you just describe a technically defensible adjustment relying on those documents that you can make the ESPAM for supplemental groundwater use?

A. So it would certainly be technically defensible to use the W-I-M-S [sic], Water Measurement Information System, data and any groundwater pumping that was indicated by the WMIS data to occur within the Surface Water Coalition on acres that they have identified could immediately be subtracted defensibly.

And the reason for that is, is that any kind of a failure that could occur with the underlying data in the WMIS -- and I know this from being actively involved in the first three years of the program that the groundwater data go into -- any of those failures will cause the groundwater diversion to be underreported, which would cause an overestimate of calculated shortfall. So that's the first part.

The second part is that the methods outlined

in those documents that we don't want to plow through will tell how to identify and confirm the places of use to which those apply.

Q. Are there any other frameworks or methods that are technically defensible that you can provide at this time?

A. For?

Q. For supplemental groundwater.

A. For supplemental.

Those are the only ones that I can think of right this very minute. I don't think there's anything else in my report. If there is, I apologize.

Q. If you were given more time, would you have been able to explore that issue more thoroughly?

A. Yes.

Q. Is that something you wanted to do?

A. It is something I very much wanted to do.

Q. And due to time constraints, were you barred from being able to perform that further analysis?

A. Yes.

Q. Do you think that impacted your testimony at this hearing?

A. It certainly did.

Q. In what way?

A. I was unable to answer the last question.

Q. Do you anticipate if you would have had time to do the analysis, you could have provided additional frameworks that could be considered for supplemental groundwater use --

A. I, certainly, would have been able to explore what other frameworks there are. You know, I don't know whether that exploration would have led to success.

Q. I think you covered that.

I think you touched on this, but just for clarification, what's the implication of neglecting a single acre of supplemental irrigation within the SWC service area under the Fifth Methodology Order?

THE WITNESS: Are you ready?

COURT REPORTER: Yes.

THE WITNESS: Okay. Approximately, at least within the right number of zeros, 60 acres of needless loss of beneficial use from groundwater.

Q. (BY MR. JOHNS) Does the -- well, let me rephrase it this way: Is it difficult to create the adjustment for supplemental irrigation, in your opinion?

A. No.

Q. And is it your opinion that the Department has sufficient information to create that adjustment and it will be technically defensible?

A. Yes.

Q. Does the admission of supplemental water, as we've been discussing from the Fifth Methodology Order, make it less technically defensible?

A. The omission from -- in my mind, yes, it makes the Fifth Methodology Order, as a whole, less defensible.

Q. So its inclusion would make it more --

A. Yes. Inclusion would make it more defensible because there's an important factor that's obtainable -- that's obtainable and reliable and that has not been considered.

Q. Okay. I want to shift gears and talk about, your report identified a couple of consistency issues, and so I just want to shift gears and talk briefly.

Again, I think this issue has been discussed somewhat ad nauseam, so I don't want to belabor it, but there was some discussion about accruals?

A. Yes.

Q. Do you recall those discussions?

A. Yes.

Q. Do you agree the Fifth Methodology Order does not make adjustments for accruals for target and nontarget reaches?

A. Yes, I agree.

Q. What's your professional reaction to that

admission?

A. It's a surprise because it's an inherent and obvious result of the modeling, number one. And number two, though I'm not a policy expert, I understand enough about what's trying to be achieved here that it's surprising that it's not considered in some fashion.

Q. Does it distort the calculation?

A. It distorts the calculation in every year beyond the first.

Q. Okay. You previously stated the Fifth Methodology Order uses steady state to partition the responsibility for mitigation in lieu of curtailment; is that correct?

A. I meant to say that the -- as I read it, the Fifth Order is silent on the partition, but the As-Applied indicates that it was used that way, which itself is a problem. We have an order that does not describe all the methods that are being used, and that causes me heartburn, because I can't address them technically if they're not described.

Q. So it's your opinion that the way the steady state was used in the As-Applied is not specified in the Fifth Methodology Order?

A. I did not find it in the time that I had to look at it.

Q. Okay. And I believe Greg Sullivan may have addressed this, but for the record, is this approach -- well, I think we covered that already, Bryce.

Could you please turn to page 35 and 36 of the Fifth Methodology Order.

A. I am there.

Q. And could you please skim Conclusion of Law No. 21. Once you've done that, do you have a professional reaction to that conclusion?

A. So this is a conclusion regarding a mitigation plan. My response -- my professional response to this is that it seems to articulate the ability, and not only the ability but perhaps a requirement, to use the modeling tools in a coherent -- in a fashion coherent with both the ability of the tools, the modeling tools, and the ability of the administrative instruments that are used to time frames that match the physical capabilities. And I think it's technically possible to do that.

Q. In your opinion, was that done?

A. In my opinion, it was not done.

Q. Can you please discuss any factors that may affect the precision of estimating the expected relief and the timing of which it will be realized.

A. Yeah. So, primarily, it is the ability of the

model itself to accurately estimate. The finer the time scale or the finer the temporal scale, the less precision the model is able to actually achieve. And that's the primary limitation.

The other limitation is physical. It doesn't matter how much I want to get water from Kilgore to someplace on the Snake River, in a certain time frame, the physical characteristics of the aquifer make that impossible.

Q. You've talked somewhat about some technical work that can be performed, but on this point is there any technical work that could be performed to improve the precision in this regard?

A. So the -- addressing the deficiencies that Ms. Sigstedt talked about with the conceptual model, certainly the layering, I have been in the camp that if you don't have data to support something, don't put it in the model. I think that's, in some cases, short-sighted. But the clear response is then the gravity of these matters for the needs of the Surface Water Coalition mean that a prudent investment would be to acquire the data to allow adequate modeling of some of those additional features that are known to exist.

Q. Were you able to perform some modeling? Will you turn over to page 25.

A. You're in Exhibit 500 now?
Q. Exhibit 500, yeah.
A. Yes.
Q. I'm looking through -- you've got Figures R17, the next page Figure R18, and then a series of figures that go through page 28. It appears you were able to do some modeling?
A. So R17 and R18 are reproduced from old work; they have some bearing. R19 through -- yeah, R19 through R21 were new modeling that was done under my direction by Mr. Kindred of Rocky Mountain Environmental.
Q. And can you please explain what the purpose of these figures is and how they relate to the findings in --
(Speaking simultaneously.)
COURT REPORTER: Okay. Wait. "And how they relate to"?
MR. JOHNS: To the findings in your report. Sorry.
THE WITNESS: So these figures compare the two most recent best available science versions. Specifically, they're those models' indication of responses to the near Blackfoot to Minidoka reach. I think in all cases, the solid bar represents the

ESPAM2.1 results as embodied in the ETRAN 3.3 modeling tool provided by IDWR. The cross-hatched results indicate the results from ESPAM2.2 embodied in the ETRAN 3.4 transfer tool. And they show where they are similar and where they are different.

Q. (BY MR. JOHNS) And what conclusions did you draw from running these analyses from generating these charts?

A. I conclude that if the two successive best available science models differ by this much, it gives us some viewpoint -- some view into the window of how precise can these models be.

Figure R19 is the one that I think is most alarming on a percentage basis. So if we're looking at a five-month period, four months is a third of the year. Five months is pretty close to a third of the year. The first in each graph -- the first bar is the indication of that model's estimate of the response in that first -- so in that period of such concern for us.

So here from -- in Figure R19, this Row 75, Column 57, at that location, the new model, you know, just guessing by how tall those bars are, indicates about a third of the relief that the old model did. And if it's important to get relief to the Surface Water Coalition, that degree of imprecision is alarming.

Q. Are there any -- is there any technical work or any adjustments you could recommend that you haven't discussed already that would improve?

A. Not that hasn't already been discussed.

Q. Would you please turn to page 28 of your report?

A. Yes.

Q. And I'll just summarize. In your report, you state that there's a technical analysis that could be performed to inform a policy decision, answering the question: "Is it fair to the SWC to use the model to estimate timing of accruals in the trimester of curtailment when the two most recent best available science models differ by approximately a factor of six"; correct?

A. Yes.

Q. Okay. What technical work could be used to inform this decision?

A. So much of it has been done, but it would be further exploration of these questions of precision of the model. That's the first piece.

The second piece is relating back to this finding of fact 21, that it appears to be -- there could be an ability to adjust the instruments, perhaps adjust the time frame of consideration of the order to match

the ability of the instruments to provide relief to the calculation or definition of the relief required.

Q. Were you able to perform any technical work in this regard to help inform your testimony?

A. Only these limited figures that are shown here in my report.

Q. Okay. Did time constraints prevent you from performing that work?

A. Yes.

Q. Okay. If you had the time, would you have been able to present that at this hearing?

A. I would have, and it would have been much better, because what I presented is not -- it may be spatially representative, but I don't know that it is, and I would have been able to perform analyses that were spatially representative.

Q. Would you mind turning over to page 29 of your report --

MR. JOHNS: And we're nearing the end here, Director. I think I have this, and then I just have a couple points on rebuttal. We can chug along, or we can take a break.

HEARING OFFICER: We probably should break. We've been here two hours. Let's take a 15-minute break. Back at 3:30.

(Break taken.)

HEARING OFFICER: We are recording.

Further questions, Mr. Johns.

MR. JOHNS: Thank you, Mr. Director. If I may, I just have some quick rebuttal I'd like to ask Mr. Contor from prior witnesses.

Q. (BY MR. JOHNS) Bryce, were you present in the room during the testimony of Jay Barlogi?

A. Yes.

Q. Barlogi, I believe it is?

A. Yeah, I think so.

Q. Do you recall a discussion about variations in irrigated acres?

A. Yes.

Q. On a 40-acre-tract basis, how much is a 5 percent change?

A. It's 2 acres.

Q. You have experience in assessing irrigation in the ground without entering the field?

A. I do, starting with my position at the canal company when I was assigned to prepare the adjudication claims.

And then I worked for the seed company, which we haven't talked about. I needed to assess what was going on in each tract around my seed isolations, not

for irrigation purposes, but it's the same process to assess whether they were growing the same crop as my seed isolation.

Then when I was at IWRRI, I did a lot of windshield surveys to verify irrigated lands data, source data, and methodology.

So I -- and then I did a lot of that, as well, when I was making -- doing subcontract field investigation for water right claims in the Snake River Basin Adjudication.

Q. In your experience, is it easy to detect a 2-acre change in a 40-acre tract without entering the ground or going in the field?

A. If you're specifically looking for that and the topography is right, sometimes you can catch that but not on a casual basis. On a casual basis, I think 2 acres of change in a 40-acre tract could occur and you'd never notice it.

HEARING OFFICER: Hello. We have somebody listening in that's not muted, phone number ends in 38. You're interrupting the hearing. Apparently, they're off.

MS. TSCHOHL: I was able to mute them.

HEARING OFFICER: Okay. Thank you, Sarah.

I don't like that kind of interruption, and if

it continues, I may just exclude people. Okay.

MR. JOHNS: Thank you, Mr. Director.

Q. (BY MR. JOHNS) Bryce, you were also present in the room during Ms. Sukow's testimony; correct?

A. Yes.

Q. Do you recall some of her discussion she had about steady state, and -- just generally, do you recall her discussing steady state analysis?

A. Yes.

Q. Is it true that utilizing a steady state will not result in realization of the predictive down shortfall in that irrigation season?

A. So I think there's some confusion. The modeling won't change when the relief arrives. And so whatever method you use to calculate a curtailment date, when that curtailment is instituted, most of the relief will arrive after the irrigation season.

A steady state calculation, because it's time agnostic, will calculate a different number than would a transient; but in either case, only 9 to 15 percent -- I think is approximately correct -- is what actually would arrive. I don't know if that's the question you were asking.

Q. I believe that's the question I was asking.

Bryce, you were also present during the

testimony of Matt Anders; correct?

A. Yes.

Q. Do you recall Matt Anders making an assertion that -- I believe it was not every drain or return flow from Twin Falls Canal Company is accounted for?

A. I do.

Q. Okay. What impact does neglecting these return flows have on the calculated shortfall in the Fifth Methodology?

A. So if an adjustment for returns were to be made and you omitted a return, that return that got omitted would cause the calculated shortfall to be too large. And so if the data are -- the dataset is incomplete, the data are imperfect, the shortcomings all work to the benefit of the Surface Water Coalition so they are conservative.

Q. Do you have any other comments about Mr. Anders' discussion on missing return flow data?

A. Only that they have the same multiplier effect that any other omission would. So if you -- if, because of omitting return flow calculations, the shortfall was an acre-foot too high, out on the plain somewhere, you'd have, you know, approximately 60 acre-feet of beneficial use that would have to be foregone.

Q. How does the omission of this information

affect the technical defensibility of the Fifth Methodology Order?

A. It's the same as the other. There's a relevant bit of technical information that is available that was not considered, and so it undermines the credibility of the document.

Q. Okay. In your opinion, is there a way to calculate credit for the return flows in calculating shortfall?

A. So I'm very familiar with all the work we did in the modeling process to quantify returns. One of the things I would like to have done would be to understand the full calculation of shortfall. I don't understand it well enough to speak to exactly how that would affect that calculation.

Q. During Matt Anders' testimony, do you recall some discussion about irrigated acreage data?

A. Yes.

Q. Do you have any personal knowledge about irrigated lands data that the Department has?

A. Yeah. So every irrigated lands dataset that was created up through when I left IWRRI in 2010 was under my responsibility, and particularly the transition to the methodology that's now used, it was my responsibility to ensure that that method was adequate

for the modeling purposes. And so at the time it was being developed, I was intimately involved in understanding how it worked in independent verification of it, and so I feel quite comfortable with those irrigated lands datasets.

Q. Do you have any opinions as to their sufficiency for determining the irrigated acreage in the Fifth Methodology?

A. Yes. I think that because of the process, I think they're robust datasets, and I wanted to talk a little bit about that process. We've talked about a suite of polygons, the CLU polygons that were used to identify discrete blocks of land that may have a different irrigation characteristic. And those came from the U.S. Department of Agriculture, but they were hand-modified by IDWR to correspond to aerial imagery to, again, improve that ability.

And then there was a scoring process that used multiple remote sensing data sources for multiple dates during the year to score which of these three categories that it fell into.

And then there was an additional hand-verification process. That's part of the reason this process is so costly. It's probably my fault because I raised the issue. We had a spot out in near

where I lived at the time that it just happened that every time the stinking satellite flew, my neighbor had just cut his hay and his field was showing up as nonirrigated when, in fact, it was. And pursuing that led to this additional level of handwork that I think makes it a very robust dataset.

Q. Would it be technically defensible, in your opinion, to use that data, the irrigated lands dataset, to determine the irrigated acres in the Fifth Methodology Order?

A. Not only defensible, I think it's the best available data that could be used.

Q. What more can you say about the ability of IDWR to apply its methodology to the SWC areas?

A. I think that the areas where IDWR has said it's unable to perform a certain analysis, I think there are robust methods to do that, that when there's uncertainty either the uncertainty inherently cuts in favor of the Surface Water Coalition or that an adjustment can be made.

Q. Okay. I want to shift over. And I think this is -- just have a couple questions left, some for Sophia, and then I think just a few conclusory ones, and then we'll be wrapped up here.

You were present for Ms. Sigstedt's testimony

earlier; correct?

A. I was, yes.

Q. Sophia, so I don't mess it up.

A. Yes.

Q. Do you recall her discussion about the R-squared values?

A. Yes.

Q. Okay. I just want to ask you a couple of questions in follow-up to some things she said.

What are the consequences of the degrading R-squared value that Ms. Sigstedt discussed?

A. So the consequence is that the prediction is less reliable, which could cut either way. Either to make the calculated shortfall inadequate to sustain Surface Water Coalition needs or cause the required mitigation or curtailment to be in excess of what was needed.

Q. And do you agree with Ms. Sophia's statement that there are consequences in neglecting Portneuf and Blackfoot and Henry's Fork?

A. I do, but I think she focused on the potential harm to the Surface Water Coalition. I think an important point is that there will be a year when the snowpack is reversed, that the snowpack above Heise is high, and that forecast is robust, but all the other

areas have reduced snowpack. And in that case, omission of those data will result in a calculated shortfall that is too low.

Q. Do you agree -- there was a discussion that Sophia had about the river package. Do you agree that the river package allows proper representation of the communication between the river and the aquifer -- allows proper representation of the communication between the river and the aquifer, given that it is a layered model?

A. So I believe the discussion was relative to her criticism that the model is not yet a multilayer model. And the river package and the parameters that describe the operation of the river package allow the best representation of the communication between the river and the model cell that hosts it at the top of the aquifer. But the river communicates through that cell, both to the bottom of that cell and then to adjacent cells, and the river package cannot overcome the deficiencies of a single-layer model in representing that broader communication.

Q. Have you noticed any themes from the different witnesses that have been talking about the Fifth Methodology Order with regard to criterion for minimum conservatism?

A. So a recurring theme is that if you have multiple components that are each conservative, that that tends to build and build and build on the conservatism. And so one comment that I have related to that is that there are robust mathematical methods to calculate cumulative effects like that in terms of a statistical distribution. They're well known, and they're not difficult to perform.

The second is that, as we talked earlier about criteria, you know, the -- the qualitative criterion is that it should be conservative. Well, eight times the need is conservative, so is 100.00001 percent of the need conservative. If an objective standard of the appropriate level of conservatism were set, then those calculations could be applied to ascertain whether that appropriate level were achieved. Because if the level of conservatism by this hip-shot method is too low, that harms the Surface Water Coalition. If it's too high, that harms the groundwater users. And I don't think anybody wants to do either of those things.

Q. So when you say that "hip-shot" approach, I mean, are you saying currently there's no way to measure or determine whether IDWR data in the Fifth Methodology Order -- or the 2023 As-Applied met any threshold level of conservatism?

A. I don't see that a threshold was identified, nor do I see any evidence that a calculation was performed to see if the appropriate level was achieved.

Q. Okay. What technical issues may arise from not establishing these criteria?

A. So the technical issue is that these levels of conservatism can propagate more rapidly into higher levels than humans are intuitively able to understand. I do some work for groundwater modeling, and there's a threshold for the probability of a false positive occurring in a single year. And sometimes we miss that criterion by a few points, and we say, ah, you know, we're close, we're close.

But if you calculate those out, in that case, by missing that criterion only by a few points, you've almost guaranteed that in the course of 10 or 20 years you will have a false positive, and the regulatory implication of a false positive can be severe.

Q. Were you able to perform any technical work that would inform some policy decisions or some criterion that could be established in this regard prior to this hearing?

A. I started down that road, and I purged that from my report because I didn't have time to do a good enough job to present it, you know, where it may have a

consequence.

Q. Okay. Is it your belief that the -- that that analysis could have informed the Department on things it could do to establish some criterion?

A. Yes.

Q. But you were unable to do that?

A. I was unable.

Q. Time constraints?

A. Time constraints.

Q. Very good.

Is there any other items in your report that you would like to present at this time?

A. Let me just quickly thumb through here. I know that we all have other places we'd rather be.

There is one.

Q. Okay.

A. So there's been discussion about when would the Department have been available to perform analyses on a one-month basis, and there's two sides to that question. When would the model have been capable of performing such analyses. The answer to that question is since 1999. Actually, there's three.

One is when could that have been done with a model that was calculated on at least that time step -- or stress period. And the 1999 model was, the 2005,

2006 models were not. Though they could have been implemented that way, they were not calibrated that way.

The 2013 model was calibrated to one-month stress periods, so that's the answer of when could it have been done. The answer to when would it have been reasonable to do it depends on the criterion of accuracy, which is an administrative decision that can be informed technically that, to my knowledge, has not been made, and so I can't answer that question.

Q. And is that relevant to your discussion about the technical defensibility of moving to transient?

A. Yes. And I think there was some confusion in earlier testimony that may have not been possible until 2021, and the fact is that it's been possible for many years.

MR. JOHNS: At this time I'd like to move to admit Exhibit 500, Bryce's expert report.

HEARING OFFICER: Any objection to the admission of the document marked as Exhibit 500?

Hearing no objection, the document marked as Exhibit 500 is received into evidence.

(Exhibit 500 received.)

MR. JOHNS: Mr. Director, I don't have any further questions at this time. I reserve the right for any redirect.

HEARING OFFICER: Does the groundwater group wish to question Mr. Contor at all?

Mr. Harris?

CROSS-EXAMINATION

QUESTIONS BY MR. HARRIS:

Q. Good afternoon, Bryce. I have just a few questions about one aspect of your testimony here today.

You testified about supplemental groundwater use in the Methodology Order --

A. Yes.

Q. -- do you recall that testimony?

A. Yes.

Q. And as I recall, the Methodology Order doesn't have any supplemental groundwater use in it currently; correct?

A. There's -- the actual process does not consider supplemental groundwater.

Q. But it says that it may consider it?

A. Yes.

Q. And based on your employment with IWRRI, IDWR, and in your private consulting, have you become familiar with GIS programs?

A. Yes.

Q. Could you just describe what those programs

generally entail?

A. So they are computer programs that allow you to display spatial data in its spatial relationship and to produce maps. You can perform analyses. For instance, you could have a spatial representation of evapotranspiration. You could subtract from that a spatial representation of precipitation.

You could find out -- you could -- if IDWR has plotted a point in its data, you could see on a map where that point lies, and you could analyze its inclusion or exclusion or its proximity to any other feature of interest.

Q. And so a GIS shapefile is a polygon that the program creates and then talks to the underlying aerial photo; correct?

A. Yes.

Q. And different shapefiles or polygons or, you know, points, and there's also lines; correct?

A. Correct.

Q. And you're also familiar, through past experience, on how water rights are described?

A. Yes.

Q. And that would include a place of use?

A. Yes.

Q. And in the water right report, it describes it

as the number of acres per quarter quarter; correct?

A. Most do. Some large ones omit that detailed listing.

Q. Right. And so a shapefile -- so, for example, if a water right says there's 30 acres authorized to be irrigated in this 40-acre tract, a shapefile polygon for the place of use would actually depict which 30 of the 40 are authorized; correct?

A. It depends on whether it's a shapefile showing the actual irrigated parcel or if it's showing a permissible place of use. So I've seen water rights where the shapefile draws a boundary, maybe the boundary is 8,000 acres, and then the water right says within this box, you may irrigate 5,000.

Q. Correct. But on a private decreed -- say a groundwater right --

A. Yes.

Q. -- that does not have a permissible place of use, it would depict, in my example, which 30 of the 40 acres --

A. Yes, that's correct.

Q. And so in this case there would be -- if there were groundwater rights within the Twin Falls Canal Company service area, places of use of those water rights would be depicted with shapefiles; correct?

A. Yes.
Q. And would it be difficult, in your view, to do some sort of a clip or an overlap to see where those acres overlap with the, say, 2017 shapefile or any other shapefiles generated by the Department?
A. That would be a very straightforward operation.
Q. In fact, my office did it -- would it surprise you to know it took about an hour to do that?
A. Why so long?
Q. It's not hard to do; right?
A. No.
Q. So at a minimum, you'd have a starting point of which water right places of use overlap with the Twin Falls Canal Company place of use?
A. Yes.
Q. And do you agree that would be a starting point for determining whether there is supplemental irrigation occurring within the Twin Falls Canal Company area?
A. Yes.
MR. HARRIS: I have no further questions. Thank you.
HEARING OFFICER: Other questions from the groundwater group?

Cross-examination for the Surface Water Coalition?

Mr. Thompson?

CROSS-EXAMINATION

QUESTIONS BY MR. THOMPSON:

Q. Good afternoon, Mr. Contor. Travis Thompson for A&B Irrigation District, et al. Just a few questions today, Mr. Contor.

When were you hired by Bonneville-Jefferson Groundwater District?

A. It was probably December or January -- December of 2020 -- well, we've done work for the district in the past, and I don't recall when that was, but I started working in earnest on these issues in December, maybe November of 2022, maybe as late as January of 2023.

Q. And do you know, at least for purposes of the Surface Water Coalition delivery call, did Bonneville-Jefferson Ground Water District use Ms. Sigstedt and Mr. Higgs until that time?

A. I don't know. I know that they have used Mr. Higgs and still do for various functions. I don't know the nature of their relationship with Ms. Sigstedt.

Q. Have they retained any other consultants, to

your knowledge?

A. I think that they have. They're working on some projects unrelated to this that I think they have other folks working on.

Q. Do you know who that is?

A. I don't.

Q. What sort of projects?

A. So one of the project is a --

MR. JOHNS: Objection. I'd like to raise an objection. I think this kind of goes outside the scope of what was presented on direct.

HEARING OFFICER: Well, I think these are preliminary questions about where Mr. Contor has worked and for whom. Those were questions that were asked of him initially. Overruled.

Mr. Thompson.

Q. (BY MR. THOMPSON) I'm just curious. You had a list of four projects that you were tasked to do for this proceeding, and you've referenced they have other consultants, and you're aware of some projects that are being worked on. I'm just curious what those are?

A. So there's a piping project, there is a well design project. I don't think they've hired someone. I made recommendations. My understanding is that Mr. Higgs continues to perform their hydrographer

services. He still performs some analyses for them. Often I will hear somebody did this task, and I don't know whether they did it for Bonneville-Jefferson or if they did it for Idaho Ground Water Appropriators. So that's the extent of my knowledge.

Q. Thank you. Is a diversion volume of 5 acre-feet per acre for a large open canal system in the Snake River Basin reasonable, in your opinion?

A. So it would depend on the system, but it could be.

Q. Is that a common value for canals in Water District 1?

A. I think so.

Q. About 7 acre-feet?

A. I don't think that's unheard of.

Q. How about 10?

A. I don't think that's unheard of.

Q. Are those values reasonable?

A. You know, reasonable depends upon some criterion. And I think -- I haven't been asked to evaluate criteria. You haven't provided me criteria. I think there are criteria under which 10 could be considered reasonable.

Q. And you've testified you're familiar with the groundwater model and its prior versions; is that

correct?
A. Yes.
Q. You worked on water budgets for the model while you were at IWRRI?
A. I did.
Q. And you were -- presented those design documents to the Eastern Snake Plain technical committee; is that correct?
A. Yeah, the ones that I authored, I did.
Q. And you have been using the transfer tool that the Department's created; is that correct?
A. I have been.
Q. And that tool relies upon the model; is that your understanding?
A. Yes.
Q. And that tool looks at impacts to river reaches?
A. Well, so years ago, I was severely chastised for using the word "impact" because it has legal meanings. I would say that that transfer tool estimates effects or accruals.
Q. A response from a change in an aquifer condition resulting to the river, would that be --
A. So if a volume of water is put into the aquifer or removed from the aquifer, the tool estimates

when and where that would be expressed at the river or -- at the parts of the river and springs that are represented in the model.

Q. And has that been an acceptable use of the model?

A. Well, again, it has been accepted -- I've never liked it, but it has been accepted.

Q. And do you use for it for clients in transfer application?

A. I have.

Q. Has that been approved by the Department?

A. Yes.

Q. So you indicate in your report that the 1999 version of the model was created to be, quote, a planning and management tool; is that correct?

A. Yes.

Q. And I think you testified earlier with Mr. Johns that you stated management could be administration?

A. That's my opinion. That's not what was stated in those documents.

Q. So is the term "management" similar to administration?

A. I don't think so. I think they are different, but it's been my experience that, in Idaho, we use the

word "management" when we mean "administration."

Q. And the Department's conjunctive management rules use the word "management"; is that correct?

A. They do.

Q. So would you agree that the Department has used the ESPAM model for conjunctive administration for over a decade?

A. Yes.

Q. Would you agree that Idaho courts have approved the Director's use of the model for that purpose?

A. Yes.

Q. Would you agree that ESPAM2.2, which I think is the most current version of the model, can be used to represent temporary curtailment of groundwater rights?

A. Yes.

Q. And is that what is referred to as the transient use of the model?

A. Yes.

Q. Looking at specific reaches -- and you're familiar with how that model is calibrated to different reaches; is that correct?

A. Yes.

Q. -- would you agree that it's better calibrated to the near Blackfoot to Neeley reach compared to the

Neeley to Minidoka reach?

A. Yes.

Q. Would you agree that in the near Blackfoot to Neeley reach, that contains the majority of the springs and aquifer discharge --

A. Yes.

Q. -- between those two reaches?

So you talked about the R-squared values for those two reaches in that calibration document.

A. Yes.

Q. And it's in your report; is that correct?

A. Yes.

Q. Would you agree that those reaches' calibration values are within the range of values for upriver reaches as well?

A. So I looked at that, and I can't remember the result. I think that the Neeley to Minidoka is amongst the worst, but it's a small discharge. I think that the near Blackfoot to Neeley is neither the best nor the worst, but that may be incorrect. I, again, was constrained by time. I wish I could have done a better job.

Q. Let's turn to your Exhibit 512 when you get a second. It will be page 125.

A. Okay. I need a different book.

Okay. I have 512 here.

Q. I'm looking at page 125 of 190.

A. Oh, it's double-sided. That confuses me. Okay. Here we are.

HEARING OFFICER: Let me find that. And it's page what, 125?

MR. THOMPSON: 125. I think they're Bates-stamped on the bottom.

Q. (BY MR. THOMPSON) Mr. Contor, I believe these pages show the different river reaches -- I'll say above Milner and the different R-squared values assigned for the observed and model results; is that correct?

A. Yeah, starting with page 125 and then continuing for a few pages, yes.

Q. I guess my question was the near Blackfoot to Neeley within those range of values represented by those different reaches?

A. Yeah. And so we can look -- so Ashton to Rexburg is .16, so it's above that; Heise to Shelley is .61, so it's below that; Shelley to near Blackfoot is .21, so it's above that; near Blackfoot to Neeley, 42, as we discussed; Neeley to Minidoka, .0079.

So I -- without the specifics, my representation, I think, was correct that it's neither the best nor the worst. The near Blackfoot to Neeley is

neither the best nor the worst.

Q. And you testified you recommended a .5 R-squared value would be useful; is that correct?

A. That was an initial starting point. The actual determination of the threshold is administrative, but from a technical basis, that's a useful starting point.

Q. And has a certain criteria been evaluated by the modeling committee?

A. Not that I know of.

Q. Is it true they've accepted this model and the R-squared values for these various reaches?

A. So there's a long answer and a short answer. The short answer is that the committee, some of us with some reluctance, agreed to endorse ESPAM2.2 as a replacement for ESPAM2.1, acknowledging -- all of us acknowledging that there are things that we wish we could do better.

Q. So you talked about some comparisons of the two versions and that some versions varied by a factor of 5. Was that just for specific cells?

A. So if you look at the response from one cell to the reach, that was the analysis I performed. I did not have time to perform a regional analysis. But the way the model is configured, adjacent cells will have

similar results, and as you broaden that circle, the variability between the cells increases. But, yes, that was -- I performed that analysis on -- well, I had that analysis performed, and I reviewed it on just a small number of single cells.

Q. So has 2.2 been accepted as a better representation of aquifer changes and river responses?

A. I think it's been accepted that it should be moved forward because it ought to be better. And I think there are people who believe that it is better. In the particular case of near Blackfoot to Neeley, the R-squared value is better. To the extent that that reflects, as Sophia said, answering the -- getting the right result for the right reasons, then it appears to be better.

Q. And that work continues today on the model; is that correct?

A. Yes.

Q. Is it your opinion that a model should only be used when a, quote, ratio of relief to cost is considered?

A. It's my opinion that any tool should be -- when any tool is deployed, the gravity of the use of that tool should be weighed in terms of the precision of that tool. If I'm tapping on the carburetor of a

motorcycle, a crescent wrench is acceptable. If I have the opportunity to touch a million-dollar Ferrari, I would not tap on the carburetor with a crescent wrench.

Q. Is that, essentially, a cost-benefit analysis of what is more efficient?

A. It is a recognition of the principle that benefit -- it's a recognition of the principle that some calculations have tremendous gravity, both for the party seeking relief and the party being required to provide relief. And if you have a tool that doesn't work very good, it's sobering to pull the trigger and wonder where the bullet's going to hit.

Q. What type of gravity are you referring to?

A. I'm talking about the Surface Water Coalition in some years being indicated to be short by, perhaps, a quarter-million acre-feet of water. That's a serious block of water and could have serious consequences to folks needing that water and not receiving it.

Q. So you referenced the -- I guess -- the efficiency or how to use water that using 2 acre-feet may not be as efficient as 1 acre-foot?

Is that --

A. So I didn't mean to say that. I -- do you want a long answer, or do you want a short answer?

Q. Well, I think you have the general idea that,

hey, if we use groundwater more efficiently or for more acres, we shouldn't curtail -- we shouldn't curtail a lot of groundwater to produce less surface water; is that generally correct?

A. That wasn't what I meant to say.

Q. Okay. I must have misunderstood it, then.

So you're not advocating that water users should just abandon surface water systems and go to groundwater; that's not what you're saying?

A. No.

COURT REPORTER: Okay. Wait. Can you repeat your question?

Q. (BY MR. THOMPSON) You are not suggesting that surface water users abandon their surface water supplies and just transition to groundwater?

A. No.

Q. A few questions about supplemental groundwater use you talked about with Mr. Johns.

Your opinion -- your report identifies that measurement of groundwater use today is more reliable than it was in the early 2000s; is that correct?

A. Yes.

Q. And do you know when groundwater pumping data is available during the irrigation season?

A. So my understanding is that an individual

grower or a hydrographer can go to a meter at any time and read it, that it's recorded -- or reported annually, which is very compatible with the transit time of the effects of groundwater pumping.

Q. Could that be made available on a daily basis?

A. I suppose that it could. I suppose that every turnout of the Twin Falls Canal Company could be made available on a minute-by-minute basis. I don't know the purpose, but yes, it could be done.

Q. Weekly? Monthly? Would that be --

A. It could be done.

Q. Are you part of the technical modeling committee?

A. I'm part of the Eastern Snake Hydrologic Modeling Committee. I am not part of the technical working group for the Surface Water Coalition/Idaho Ground Water Appropriators agreement.

Q. And I'll correct my question. I was referring to the Eastern Snake Plain Modeling Committee.

A. Yes, I'm a member of that.

Q. And have there been suggestions in those meetings to update the model with measured pumping data?

A. There have been discussions. I don't know that -- suggestions -- maybe suggestions, but certainly discussions.

Q. Do you know why that hasn't been adopted?
A. I don't know all the reasons.
Q. Would that sort of data make it more reliable?
A. From the context of groundwater modeling, probably not.
Q. Is the priority date of a supplemental well an appropriate consideration?
A. I think so.
Q. Would you agree if that well was subject to a curtailment, that would affect its availability?
A. I think it would, and I think the WMIS data would reflect that.
COURT REPORTER: The what?
THE WITNESS: W-M-I-S. I'm sorry.
Q. (BY MR. THOMPSON) So going back to the ETRAN model, you've used that in your report, and I understand that to be just a comparison between two versions of the model.
You were using two versions of the ETRAN tool; is that correct?
A. That's what I did in the report, yes.
Q. And it provides for transient responses from the aquifer to the river; is that correct?
A. Yes.
Q. And it's true that wells near the river will

have their responses realized sooner than wells located farther away; is that correct?

A. Yes.

Q. That's what your analysis showed?

A. It did show that. That wasn't the purpose for the analysis, but that's one of the implications of the results.

Q. You talked about the Fifth Order and your -- you testified you did not have time to confirm the estimates identified in the Fifth Order relating to the steady state use of the model for the May to September accrual.

Do you recall that?

A. So I think it was the transient model that was used to estimate those accruals, but I did not have time to repeat those runs.

Q. I think there was a 9 to 15 percent number identified by the Department?

A. Yes.

Q. And you could replicate that if you wanted to; is that correct?

A. If I had time, I could.

Q. Do you have any reason to question that modeling run or those results?

A. No.

Q. But it's your opinion that the modeling runs should be consistent both for determining the curtailment date and then for apportioning mitigation responsibility?

A. Yes.

Q. So in looking at the two types of uses of the model, would a steady state curtailment run produce the demand shortfall in the same irrigation season if direct mitigation is not provided?

A. Not if it was as is currently done on a single-event basis. But for many curtailments, neither would a transient analysis.

Q. And that would depend on the location of the well being curtailed?

A. It would depend on the quantity of relief needed by the Surface Water Coalition.

Q. And the Department's order identified a December 30th, 1953, priority date --

A. For this particular shortfall.

MR. THOMPSON: That's all the questions I have. Thank you.

HEARING OFFICER: Further cross-examination?

MR. FLETCHER: I don't have any further.

HEARING OFFICER: Mr. Fletcher? Mr. Simpson? Redirect?

MR. JOHNS: Just briefly.

REDIRECT EXAMINATION

QUESTIONS BY MR. JOHNS:

Q. Bryce, Mr. Thompson asked you if the courts have approved the model, to your knowledge.

Do you remember that question?

A. Yes.

Q. Do you know if the courts have approved the model since its implemented transient analysis, as used in the Fifth Methodology Order?

A. I do not know.

Q. So to your knowledge, that hasn't been approved yet?

A. To my knowledge, it has not. And I do not know if ESPAM2.2 has been tested in the court.

MR. JOHNS: Nothing else. Thanks.

HEARING OFFICER: Okay. I assume, based on the short questions, there's no recross-exam.

Surface Water Coalition?

All right. Thank you, Mr. Contor.

All right. Let's just go off the record for a minute.

(Exhibit 366 marked.)

HEARING OFFICER: Mr. Harris, you may question

Mr. Olenichak.

Pardon me. Oh, I do need to swear him in.

So, Tony, I'll have to rely on your representation that you're standing. Raise your right hand, please.

Is somebody clairvoyant out there?

ANTHONY OLENICHAK,

called by the City of Idaho Falls, having been first duly sworn to tell the truth relating to said cause, testified remotely as follows:

HEARING OFFICER: Thank you. Please be seated, if you're not already.

Mr. Harris?

DIRECT EXAMINATION

QUESTIONS BY MR. HARRIS:

Q. Tony, can you please say and spell your name for the record.

A. Yes. Tony, T-o-n-y, Olenichak, O-l-e-n-i-c-h-a-k.

Q. Could you describe your educational background after high school.

A. I spent two years at the University of

Maryland in their biological science program and four years at Utah State University, where I obtained a master of science degree in watershed science in 1983.

Q. And what is your current occupation?

A. I am both watermaster and program manager for Water District No. 1.

Q. And how long have you held that position?

A. I've been watermaster for the past four years. For the past 17 years, I've been program manager, according to the IDWR employee records.

Q. What does Water District 1 do?

A. Water District 1 measures the natural flow in the river reaches within the district each day and allocates to the various reservoir and diversion and water rights the amounts that they're allocated to their diversions for each day of the irrigation season.

Q. What area of Idaho does Water District 1 cover?

A. It covers the Snake River and its tributaries above Blackfoot in Idaho, in addition to the Snake River main stem diversions from Blackfoot to Milner Dam.

Q. Does Water District 1 track fill of the Upper Snake Reservoir system?

A. Yes, with the exception of the reservoirs in the Blackfoot and Portneuf Basins.

Q. Prior to your election as the watermaster for Water District 1, what positions did you hold within Water District 1?

A. I was program manager from 2006 to 2019, and hydrologist from 1990 to 2005.

Q. Are you familiar with the April joint forecast issued by the United States Bureau of Reclamation and the United States Army Corps of Engineers for the unregulated flow at the Heise Gage?

A. Yes.

Q. Could you briefly describe what the forecast consists of and what data that forecast considers?

A. Well, it's changed over the years. Initially I think it only included the snow water equivalent content at certain snow survey sites upstream from Heise. Now I think it includes other factors, such as soil moisture and precipitation. But it's, essentially, the same as forecasting the unregulated flow that arises upstream from the USGS Heise station.

Q. And Heise is located near the city of Ririe, Idaho; correct?

A. Yes, just upstream from just about all the major diversions in Water District 1 on the Snake River.

Q. And the snowpack that is discussed in that forecast is measured by SNOTEL sites that are maintained

by the NRCS; correct?

A. Yes.

Q. And on the Water District 1 website, you have links to that data; correct?

A. Yes.

Q. Okay. And do you know how those SNOTEL sites measure and account for snowpack?

A. Yeah. They simply weigh the snow that's on top of what they call a "snow pillow," and by measuring the weight of the snow, you can determine the quantity of water in snow.

Q. Tony, I'm going to have you look at a map that I emailed you earlier today. It's the Mountain Snow Water Equivalent map. It's been marked here as Exhibit 366.

For the record, it is actually already in the administrative record. It was contained on page 7 of a motion for continuance that was filed on April 28th, 2023.

Tony, have you seen that sort of document before?

A. Yes. And also what I mostly view as the one that's issued by the NRCS, but they are, essentially, the same. I think the one done by IDWR brings up the snow and the subbasins above Heise also.

Q. So what, generally, does this map depict?
A. Well, it depicts the percentage of the median snowpack in various basins in the Upper Snake River Basin and across Idaho.
Q. And it's also a helpful reference for different basins. What basins directly contribute to the water supply of the Surface Water Coalition entities?
A. All the basins that are tributary to the Snake River above Milner Dam.
Q. And that would include the Henry's Fork (Teton) Basin depicted on that map; is that right?
A. Yes.
Q. And the Snake Basin above Palisades, Willow, Blackfoot, and Portneuf; is that right?
A. Yeah, I think they identify the Snake River above Heise instead of Snake River above Palisades.
Q. Okay. And in looking at this map, does water from the Henry's Fork (Teton) Basin come in below the Heise Gage?
A. Yes.
Q. How about from the Willow Creek drainage?
A. That also comes in below the Heise Gage.
Q. And the same for Blackfoot?
A. Yes.

Q. And finally, the Portneuf?
A. Yes. They're all tributary below the Heise Gage.
Q. And based on this map, as of April 3rd, the snowpack was 124 percent of average in the Henry's Fork (Teton), 120 percent for the Snake above Palisades, 178 percent for Willow Creek, 186 percent for Blackfoot, and 216 percent for the Portneuf; is that correct?
A. Yeah. I don't have the map in front of me, but, yeah, that seems like what I have seen in the past.
Q. And I believe you testified before, but I want to be clear, does the April joint forecast explicitly consider the water supply from the Henry's Fork, Willow, Blackfoot, and Portneuf drainages or does it not consider them?
A. No, the April joint forecast is only for the watershed above the Snake River at the Heise Gage.
Q. Okay. I have just a few more questions.
In your position as the watermaster, what have you observed this year in terms of water supply to the Coalition members as a result of the significantly above-average snowpack and runoff from the lower part of the basin?
A. Yeah, the advantage to the water rights in the Water District 1 from the runoff in those lower

watersheds, that supplies a greater amount of natural flow to those Surface Water Coalition canals that are further down on the -- on our distribution system, so they don't need to draw from the natural flow that arises in the upstream areas above Blackfoot, and so that allows us to store more water to the junior priority reservoirs upstream and -- instead of passing that natural flow down to the senior priority diversions downstream.

Q. So would you say this year that there was an unusually high amount of runoff from those drainages?

A. Yes. The further south you go into the Portneuf, the Blackfoot, and Willow Creek drainages, they had a higher percentage above median values for the April 1st runoff forecast than those areas further upstream above Palisades.

Q. Did that runoff also free up other natural flow rights in the basin?

A. Yes. What it allowed us to do is probably store more water into the reservoir water rights instead of having delivered that natural flow to senior priority irrigation diversions. That was helped not only by the snowpack but also the spring rains that we received over the last couple of months.

Q. Great. I want to ask you just a couple more

questions about storage allocation.

Are you generally familiar with the storage space held by members of the Surface Water Coalition?

A. Yes.

Q. And of the Coalition members, how about the Twin Falls Canal Company?

A. Yes.

Q. Do you know, approximately, how much storage space they have and in which two reservoirs?

A. Yeah. The two reservoirs they have space are in Jackson and American Falls, approximately 250,000 acre-feet.

Q. In the As-Applied Order that is part of what we're discussing today, the Director found material injury to the Twin Falls Canal Company in the amount of 75,200 acre-feet, and of that amount, 13,324 acre-feet was predicted of space that would not fill.

As of today, has all of Twin Falls Canal Company's storage space filled?

A. Yes.

Q. Is it possible that that fill determination could be affected by a flood control spill from Jackson Lake?

A. Yes. In the big runoff years, the Bureau of Reclamation sometimes has to evacuate previously stored

water out of Jackson for flood control, and if it's lost out of the system, that can result in a reduction from a full allocation to the space holders, Twin Falls Canal. But that seems unlikely at this point in time but could change if we get a lot of rain here over the next couple of weeks.

Q. Great.

MR. HARRIS: Director, that's all the questions I have. I would move to admit Exhibit 366 into the administrative record.

HEARING OFFICER: Any objection to the snow water equivalent map marked as Exhibit 366? Any objection to its admission?

Hearing none, the document marked as Exhibit 366 is received into evidence.

(Exhibit 366 received.)

MR. HARRIS: That's all the questions I have.

Thank you, Tony.

HEARING OFFICER: Any cross-examination by the Surface Water Coalition?

Mr. Budge?

MR. BUDGE: Yes. IGWA also identified Tony as a witness, so perhaps I'll just do my direct examination and the Coalition can handle their cross in one fell swoop.

HEARING OFFICER: Okay.

DIRECT EXAMINATION

QUESTIONS BY MR. BUDGE:

Q. Good afternoon, Tony. I don't know if you can see me or not, but this TJ Budge. How are you?

A. Yes, I can see you. Thank you, TJ.

Q. Okay. I just got a couple questions.

The first one follows up on Mr. Harris's questions about the storage water supplies. I understand as your duties -- among your duties as Water District 1 watermaster, you oversee the Upper Snake River storage water system?

A. Yes. We keep track of the amount of natural flow that accrues to those reservoir water rights.

Q. And are rentals or leases of storage water handled through your office?

A. Yes.

Q. You're generally familiar with how the transactions of storage water in the Upper Snake River Basin are handled from year to year?

A. Yes.

Q. Are you familiar with the 2004 Nez Perce water rights agreement?

A. Somewhat, yes, I'm familiar with it.

Q. Are you aware that storage water is frequently leased out of the Upper Snake River Reservoir system to meet some flow augmentation requirements under that Nez Perce agreement?

A. Yes.

Q. Do I understand correctly that participation in rentals of storage for flow augmentation under that agreement is a voluntary program?

A. Yes.

Q. And do members of the Surface Water Coalition frequently participate in renting storage water?

A. Yes.

Q. And I believe those who do participate in that program receive rent on the storage water they lease?

A. If you mean payment, yes.

Q. Okay. That's all I had on that topic.

The other topic that I wish to ask you about is just about the application of the futile call doctrine in the Teton River Basin?

I understand that water distribution in the Teton River Basin falls under your jurisdiction as the Water District 1 watermaster?

A. Yes.

Q. Are you familiar with the application of the futile call doctrine in the Teton River Basin?

A. Yes.

Q. Could you explain how that works?

A. Yes. If you look at the Teton Basin as a whole, the lower part of the basin, the downstream part of the basin was developed earlier than the upper part of the basin. So the Teton River, typically towards midsummer/end of the summer, can cut down to the 1885, 1884 priorities, and so the entire flow or natural flow in the Teton Basin was used up after those years.

As the upper part of the basin was settled and they developed water rights on the tributaries that fed the Teton River, they had -- they were later in time, had later priorities than the diversions off the Teton River downstream. But those tributaries that they diverted water from, typically in midseason, even when there's no diversions from them, that water and those tributaries doesn't reach the main stem of the Teton River.

So you have a situation where this irrigation that was developed in the Upper Teton Basin on these tributaries, when they go out of priority on the main stem of the Teton River if we shut off all those diversions on the tributary and the water still doesn't reach the channel of the Teton River, we say it's futile for the lower senior priority diversions to call for

curtailment of those junior priority water rights on those tributaries when shutting off those junior priorities won't make a difference to the water physically reaching the Teton River channel.

Q. Thanks, Tony. That's very helpful.

Just for clarification. When you refer to the Upper Teton Basin, you're referring to that area in the Driggs-Tetonia area?

A. Yes. That whole upper valley before the river reaches the canyon where it narrows down.

Q. And then when you refer to the Lower Teton Basin, is that down in the, you know, Teton-Sugar City area?

A. Yes. It's where the water emerges out of the canyon there and into the valley there in Newdale, Teton, Rexburg, Sugar City, that whole area.

Q. Okay. And then you mentioned that the call becomes futile once the tributary doesn't reach the main stem. You're referring to the surface water connection between the tributary and the main stem of the Teton?

A. Yes.

Q. And how do you know when the tributaries disconnect?

A. It is visual. You get to a point -- well, over the years, the deputy watermaster in that area

responsible for regulating the diversion usually has a sense of when he shuts off all the diversions, water won't reach the Teton River. And so at that point the tributary is on a different priority system than the Teton River.

If that judgment is contested, then we actually go through and do a process where we shut off all the diversions on that tributary and let the water run for a certain amount of days. Sometimes it's been three days in the past, it's been as long as five days, and after that three- or five-day period, if the water still hasn't reached the Teton River from that tributary, then we call a futile call, and then we start turning on diversions on that tributary according to priority until all of the water is diverted.

Q. When the tributaries don't reach, is that because the water is just sinking into the ground?

A. Yes. At some point, usually further upstream on the tributary in the higher elevations above your irrigation land, you'll see water -- plenty of water in those tributaries. And then as it moves further downstream into the valley before it reaches the Teton River, it just completely sinks into the ground.

Q. Do you have any idea where it goes once it sinks?

A. I don't.
Q. Are there a lot of springs along the main stem of the Teton River in that upper basin that feed the river?
A. Yes, there are some springs.
Q. Is it your understanding that the water that seeps into the ground from those tributaries accrues to the Teton River downstream through a spring in flow?
A. Yes, that's certainly likely.
Q. Just one last question, Tony. Did you contribute in any way to the development of the Fifth Methodology Order?
A. No.
Q. You weren't asked any questions by folks at the Boise office as they were developing that?
A. No. I think the only time we get questions concerning the data that goes into that concerns our storage carryover numbers. [Unintelligible.]
COURT REPORTER: Wait. Excuse me. Hold on. Wait.
HEARING OFFICER: Tony, the court reporter.
COURT REPORTER: I'm sorry, but I missed some of your answer a while back. So I can read what I have, and then I need you to go from there.
"Answer: No. I think the only time we get

questions concerning the data that goes into that concerns our storage carryover numbers."

THE WITNESS: I'm having trouble hearing you. You need to get closer to the microphone.

COURT REPORTER: Okay. So: "Answer: No. I think the only time we get questions concerning the data that goes into that concerns our storage carryover numbers."

THE WITNESS: Yes.

COURT REPORTER: And then can you keep going from there.

THE WITNESS: They may have asked some other questions about storage allocations or water delivery to that effect, but as far as how the model works, you know, what equations are incorporated into it and what the output is, no, they don't share that information with us.

MR. BUDGE: I don't have any further questions.

HEARING OFFICER: Thank you, Mr. Budge.

Any cross-examination, Surface Water Coalition?

Mr. Thompson, if you'll come forward.

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CROSS-EXAMINATION

QUESTIONS BY MR. THOMPSON:

Q. Hi, Tony. This is Travis Thompson for A&B Irrigation District, et al.

Can you hear me?

A. Yes, I can. Thank you.

Q. You talked about, with Mr. Harris, the joint Heise forecast. Is that something you look at every year?

A. Yes. We use that to determine how much flow augmentation volume is available to the Bureau each year.

Q. And do they issue that forecast monthly?

A. No. They do it annually, usually the week following April 1st.

Q. So the Bureau doesn't revise that in May?

A. Well, they -- well, yes, but that's not the April 1st forecast; that's the May forecast.

Q. That was my question. They do it monthly for a period of time starting in January?

A. Yeah. I have heard, yeah, but I don't pay any attention, usually, to those forecasts. It's only the April 1st forecast that I use in my job.

Q. So you didn't look at the May forecast to see if it went down or not compared to April?

A. I did not.
Q. Mr. Budge asked you questions about the rental pool and the Nez Perce agreement.
Do you recall those?
A. Yes.
Q. And under the rental pool procedures, do space holders have the ability to opt out of that rental pool?
A. Yes.
Q. In the context of the Surface Water Coalition, if they are injured and were to receive a storage mitigation assignment, could they receive that if they were not a participant in the common pool?
A. I don't know the answer to that question.
Q. Do the current procedures address that?
A. Well, to receive water, I don't think you need to be a participant. But to supply water, you do need to be a participant.
Q. So it's your testimony if somebody were to opt out of the rental pool, they could still receive a storage assignment if it was for mitigation purposes; is that true?
A. Yes.
Q. I think we emailed you a PDF. Do you have a copy of that, Tony?
A. A TDF? What's --

Q. A PDF file. I'm sorry.
A. Oh, PDF file. Thank you. Yeah, the watermaster report?
Q. Yes.
MR. THOMPSON: I'm just going to mark that as Exhibit 8.
(Exhibit 8 marked.)
Q. (BY MR. THOMPSON) And I'll represent to you, Tony, it's an excerpt from the 2011 annual report.
Have you had a chance to look at that?
A. Yes.
Q. And are you familiar with that document?
A. Yes.
Q. And can you identify it for the record?
A. It's an excerpt from the 2011 annual report of Water District 1 prepared by watermaster Lyle Swank.
Q. And does the water district keep this kind of information since that time?
A. Yes.
Q. And is that published?
A. Yes.
Q. And can you generally describe what those tables depict?
A. Those tables depict the amount diverted by each for diversions that are in our water right

accounting program.

Q. And are you familiar with the various canals and pumps listed in this exhibit?

A. Yes.

Q. And recognize that every year is different, but generally do these canals convert similar amounts every year?

A. Yes. Somewhat it varies just a little bit by water supply. Sometimes they're limited by water supply, and sometimes they're not.

Q. Do large open canal systems represented on this exhibit have different diversion needs compared to individual pumps?

A. Yes.

Q. Would that be reflected on the acre-feet per acre diverted column?

A. The acre-feet per acre diverted is simply the calculation of the volume that was diverted at the head of the canal and the amount of acres that the Water District 1 had on record at one point that the canal irrigated. But the problem with that acre-foot per acre diverted is we didn't know in any of these years these annual books were published the actual amount of acres that were being irrigated by the diversion.

Q. So the service area lists a number that may or

may not reflect the actual irrigated acres in a given year?

A. Right. That's the number that represents the maximum number of acres that could be irrigated by the diversion, but not, necessarily, the number of irrigated acres during that year.

Q. Based on your experience as watermaster, are any of these values unreasonable for the canals listed?

MR. HARRIS: Objection.

THE WITNESS: No. But at some point in the future years, we stopped listing those acres because --

MR. HARRIS: I'd like to lodge an objection.

THE WITNESS: -- because it gave some people the impression that those were the actual amount of acres being irrigated --

HEARING OFFICER: Just a moment, Tony. Sorry. Okay, Mr. Harris.

MR. HARRIS: We called Tony as a fact witness to talk about the contribution of the natural flow from those lower drainages. We did not identify him as an expert to talk about rate-per-acre diversions or anything like that. So I think this goes beyond the scope of my examination.

HEARING OFFICER: That's true, Mr. Harris. Do you want me to allow the Surface Water Coalition to call

Tony as their own witness down the road if they choose to do that to explore this?

MR. FLETCHER: We'd do it today as soon as he's done here.

MR. HARRIS: I don't believe they identified him, but maybe I'm mistaken.

MR. FLETCHER: You did.

HEARING OFFICER: Well, I'm not restricting testimony.

MR. HARRIS: Okay.

HEARING OFFICER: Overruled.

MR. THOMPSON: Tony, thank you. That's all the questions I have.

MS. McHUGH: I have a quick question.

MR. FLETCHER: I just have a question.

Did his last answer get on the record, Mr. Olenichak's last answer?

HEARING OFFICER: I didn't hear it.

COURT REPORTER: Well, it's kind of chopped up with speaking in between trying to interrupt him. So not --

MR. FLETCHER: To clear that up, can you ask that question so it's on the record.

Q. (BY MR. THOMPSON) Tony, I think we were talking about the acre-foot diverted of the service

area, recognizing that these service area number of acres list a potential maximum number of acres within these canals. And I was asking you if there's any contention that any of these diversion rates are unreasonable by these canals.

A. Yeah. And again, my answer was that the service areas, it may be the maximum service area of the canal but not, necessarily, the number of irrigated acres. And that acre-foot-per-acre-diverted number that you see in the far-right column is based on the assumption that all those acres are being irrigated by the volume that was diverted and the acre-feet in the first column, and that may not, necessarily, be the case if the canal was irrigating less acres than the maximum that was listed on this table.

Q. So that could change the acre-foot-per-acre calculation; is that correct?

A. Correct.

Q. I guess in your experience with the values represented in this exhibit, do you believe any of those are unreasonable?

A. I don't know how to answer that.

MR. BUDGE: Objection.

HEARING OFFICER: Tony, this is difficult. We've got another objection.

The basis for the objection?

MR. BUDGE: Well, it calls for a legal conclusion. But I think Tony explained that he doesn't -- he can't answer that question, so he recognized it as such.

HEARING OFFICER: Okay. I want the answer on the record again, because I had to interrupt the testimony to address the objection.

So ask it again, Mr. Thompson, and let's get his answer.

Q. (BY MR. THOMPSON) And, Tony, this table shows total volumes diverted by canals all throughout Water District 1.

Do you have any reason to contend any of these values are unreasonable?

A. The volumes are accurate. The service area probably represents the maximum number of acres that can be irrigated, but not, necessarily, the actual number of acres that were irrigated in this particular year. And therefore, since the total diverted was divided into the service area acres that were listed, the acre-foot per acre diverted in that last column may not be accurate since we don't know for certain the number of acres that were actually irrigated in this particular year. And in future years, we stopped listing this acre-foot acre

diverted for that reason.

Q. Yeah. I don't know if you answered my question, Tony.

I guess the volumes represented, they all vary. I think they go from like 1 to above 10.

Do you have any reason to believe any of those values are unreasonable for those canals listed?

A. No.

Q. Thank you.

MR. FLETCHER: Do you want to admit that exhibit?

MR. THOMPSON: Yeah.

I'd move to admit Exhibit 8.

HEARING OFFICER: Any objection to receiving Exhibit 8 into evidence?

Hearing no objection, the document marked as Exhibit 8 is received into evidence.

(Exhibit 8 received.)

HEARING OFFICER: Mr. Fletcher, you have questions?

MR. FLETCHER: I do.

HEARING OFFICER: Would you come to the table. Thank you. I know you like to examine watermasters or former watermasters.

MR. FLETCHER: Yeah. Well, that's -- yeah.

HEARING OFFICER: That's an inside joke.

MR. FLETCHER: Yeah, it is.

CROSS-EXAMINATION

QUESTIONS BY MR. FLETCHER:

Q. Hey, Tony. This is Kent Fletcher. How are you?

A. Good, thank you.

Q. That water that's coming in below Heise flows into the storage system as well as used for natural flow; isn't that correct?

A. Yes.

Q. And that storage system doesn't only benefit the Surface Water Coalition, does it?

A. No, it benefits many.

Q. Now, the storage -- the Surface Water Coalition's source of water is not only storage water; correct?

A. Correct.

Q. It includes natural flow?

A. Yes.

Q. What did you observe prior to -- well, at the end of last irrigation season, what did you observe in the storage system concerning the amount of storage?

A. It was below average. We finished the

irrigation season with less water in the -- remaining in the reservoirs than what's typical.

Q. And what did you observe this winter before runoff started on the inflows into the reservoirs?

A. Well, before the snowmelt started, it was below average, and then, of course, when the snow started melting, we've been above average since that time.

Q. So before the snowmelt started, the flows coming into the river were below average?

A. Yes.

Q. You had mentioned that -- I think you were asked a very generic question about do members of the Surface Water Coalition generally participate in renting storage.

There are many members of the Surface Water Coalition who do not regularly rent storage; isn't that correct?

A. Yes, but the reason I answered the way I did was the rental pool procedures have recently changed where all participating space holders now are responsible for supplying a portion of their storage allocation, if needed, by the common pool.

Q. I see.

And so you were talking about flow

augmentation water?

A. Yes.

Q. But as far as actually renting water to a third party, most of the Surface Water Coalition members do not rent water to third parties; isn't that correct?

A. Well, under the most recent procedures, we have the small pool which is 5,000 acre-feet maximum, very small amount, but under the current procedures, the participants, including the Surface Water Coalition, could provide a small percentage to their storage allocation towards that small rental.

Q. Yeah, that comes out of everybody's storage accounts; correct?

A. Yes.

Q. But I'm talking about private leases. I should have said it better.

Most of these do not -- most of the Surface Water Coalition members do not have private leases; is that correct?

A. Yes. I think the -- yes, I think that is correct.

Q. And the storage you're talking about as far as flow augmentation, that is a result of the Nez Perce agreement?

A. Yes.

Q. And that is to protect the water users from claims of the tribes; is that correct?
A. Yes.
Q. The futile-call scenario that you were talking about on the Teton Basin, that was purely a surface water system; correct?
A. Yes.
Q. And so when you talk about curtailing in-season, you're only dealing with water that would accrue that season; correct? You're not dealing with what would happen from curtailment into future years?
A. I don't understand the question, but...
Q. I don't either, so let me -- in fact, let me just withdraw that question.
I guess the point is that that is a 100 percent surface-water scenario you're talking about?
A. Yes.
Q. And that's true throughout the state, as far as you know, isn't it; that if a senior cannot get his water for whatever reason, he doesn't have a right to call out a junior. Correct?
A. Yes. I think they have the same type of practice in the Big Lost Basin and probably in some other basins around Idaho.
Q. But those calls are not typically made under

the conjunctive management rules, are they?

A. No.

MR. FLETCHER: That's all the questions I have. Thank you.

HEARING OFFICER: Redirect, Mr. Harris?

MR. HARRIS: I do.

MR. FLETCHER: I think Candice has a few.

MS. McHUGH: Can I just -- it's not really redirect, I wanted to clarify something.

Now that Kent asked about recent rentals from this common pool and the small pool, I just wanted to clarify a few things, and then he can redirect. We listed Tony as a witness, but I guess I would cross him on what --

At this point is he your witness? I'm not really sure how that works. I just want to ask a couple clarifying questions, and I'm asking if I can do that.

HEARING OFFICER: What do the parties want me to do?

MR. BUDGE: Well, it's Rob's witness and mine, so anyone else would be crossing, so this would be the time if Ms. McHugh wants to ask questions for cross-examination.

MR. FLETCHER: Yeah. I don't think we have a problem with that as long as if she opens up something

new, I guess we would have the right to address it.

HEARING OFFICER: Well, I have a hard time characterizing these questions as cross-examination, at least technically, but okay.

Ask your questions.

CROSS-EXAMINATION

QUESTIONS BY MS. McHUGH:

Q. Good afternoon, Tony. It's Candice McHugh on behalf of the Coalition of Cities and McCain Foods specifically.

I wanted to ask a question -- just a clarifying question about a statement you made relative to an answer -- I think it was given by -- or in response to an answer by TJ and then Mr. Fletcher expanded upon it. It had to do with the storage assignment for mitigation purposes.

Do you recall testimony relative to how storage is assigned for mitigation purposes?

A. No. The way you're characterizing that, I'm not sure I recall what specific question you're asking me about.

Q. Fair enough.

You said recently that there were some changes made on how water is provided to the small rental pool.

Do you remember that line of questioning of Mr. Fletcher?

A. Yes.

Q. Okay. And can you explain what those changes were?

A. Yes. Prior to the last couple years, we've used what we call "late season fill" to supply common pool rentals which can be comprised of the 5,000 acre-feet or flow augmentation rentals. What that resulted in was some space holders had to provide a higher percentage of their storage allocations towards those rentals than others. And so in the last year or two, we changed the rental pool procedures to spread that obligation out to the small rentals and towards flow augmentation to all participating space holders, so each of those participating space holders supplies the same percentage of their storage allocation towards those rentals.

Q. And if a person went to this small pool, my understanding is they're -- and wanted to rent water from the small pool for mitigation purposes, is there some new rule or is there some procedure that they would have to follow to do that?

A. Yeah, I think the -- this past year, we specifically excluded using the small pool, the

5,000 acre-feet supply, for mitigation purposes. The purpose of the 5,000 acre-feet was to supply to small diversions along the river that would reduce regulation costs incurred by the watermaster.

Q. And members of the Surface Water Coalition, if they were going to receive water from the storage system, would they have to agree to accept that mitigation water, or is there a limitation on their ability to accept that mitigation water?

A. No, I don't think so. If someone purchased some rental water, for example, and said, "I want to supply that to Twin Falls Canal," I would add that to the Twin Falls storage allocation whether they wanted to use it or not.

Q. Okay. So I think I might have misheard earlier. I thought you had said something about they could opt out of having a storage assignment for mitigation purposes. Is that just not correct?

A. No. The opt out part is an option for all space holders to not participate in the rental pool process. And by doing that, they don't have to contribute any of their storage allocation towards these common pool rentals.

MS. McHUGH: Okay. That's all I wanted to ask. Thank you.

HEARING OFFICER: Redirect, Mr. Harris?

REDIRECT EXAMINATION

QUESTIONS BY MR. HARRIS:

Q. Tony, just a couple follow-up questions: Mr. Thompson emailed you the 2011 annual report from Water District 1 or select portions of it.

Do you recall that testimony?

A. Yes.

Q. As a general matter, what was the 2011 water year like?

A. I don't remember.

Q. Was it an above average water year or below average?

A. I don't remember. I don't think it was below average because those always stick in my mind, but whether it was average or above average, I don't remember.

Q. And the canals that are in the select portions here, don't those systems have return or tail-out locations that put water back in the Snake River or other natural streams?

A. Yes, I think many of them do.

Q. But the Twin Falls Canal Company and North Side Canal Company tailwater would come in below Milner

Dam; correct?

A. Correct.

MR. HARRIS: I have no further questions.

HEARING OFFICER: Okay. Mr. Budge, further questions?

MR. BUDGE: You know how much I like to get the last word in.

HEARING OFFICER: Okay.

MR. BUDGE: But I'm going to pass, so we're done.

HEARING OFFICER: Recross?

MR. FLETCHER: I just have a few minor questions since Ms. McHugh wanted to open up the nuances of the common pool and the rental pool rules, so I guess we'll talk about what those restrictions are on that.

HEARING OFFICER: Well, as Mr. Fletcher comes forward, I hope that we don't get into the rental pool procedures, because just an elementary acquaintance with the rental pool procedures might take the next six months.

MR. FLETCHER: Yeah, I'm -- I just want to point out three issues and see if Mr. Olenichak agrees.

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RECROSS-EXAMINATION

QUESTIONS BY MR. FLETCHER:

Q. On the common pool that is referred to in the rental pool rules, Tony, how many acre-feet are available in the common pool?

A. Currently, the common pool consists of the pool augmentation water and the 5,000 acre-foot small rental pool.

Q. The flow augmentation water goes out for use by the Bureau for flow augmentation for salmon; isn't that correct?

A. Correct.

Q. None of the flow augmentation water is available to any water user in Water District 1; isn't that correct?

A. Correct.

Q. As far as the other 5,000 acre-feet we're talking about, in order to rent water out of that, you have to be a storage holder; isn't that correct?

A. No, that's not correct.

Q. Okay. Who are the -- what are the limitations on the people who can rent water out of the common pool?

A. Diversion regulated by Water District 1 for less than 100 acre-feet.

Q. So it would have to be a diversion above

Milner, then; correct?

A. Yes.

Q. And the most you can rent out of the common pool is 100 acre-feet; correct?

A. Correct.

Q. And isn't there a limitation in the rental pools that it cannot be used for mitigation?

A. Yes. I think there was a clause added during this past year for groundwater recharge or mitigation.

MR. FLETCHER: Thank you.

HEARING OFFICER: Any more recross?

All right. Thank you, Tony, for hanging in there.

Okay. I guess we're done for the day. We'll start at 9:00 a.m. in the morning again.

I would like to ask before convening tomorrow, Andrea, if you can work with Sarah Tschohl and maybe with Pete, maybe we can get a list of all the exhibits that have been admitted into evidence. Is that possible to distribute to the parties?

And then I think that would be helpful for everybody to look through and determine whether there are exhibits that the parties wish to offer prior to our adjournment and, all of a sudden, an attempt to try to identify what exhibits are in or out.

Would that be helpful to everybody?

Sarah?

MS. KLAHN: Are you going to want closing briefs or proposed orders?

HEARING OFFICER: I thought I would allow some opportunity for a short period of time, if people want to offer something in writing. I don't want to hear oral argument, however.

MS. KLAHN: Right. That's what I was wondering, if you wanted something in writing. Okay.

HEARING OFFICER: Yeah.

Okay. We'll see everybody at 9:00 in the morning.

(Hearing adjourned at 5:21 p.m.)

REPORTER'S CERTIFICATE

I, ANDREA L. CHECK, CSR No. 748, Certified Shorthand Reporter, certify;

That the foregoing proceedings were taken before me at the time and place therein set forth, at which time the witness was put under oath;

That the testimony and all objections made were recorded stenographically by me and transcribed by me or under my direction;

That the foregoing is a true and correct record of all testimony given, to the best of my ability;

I further certify that I am not a relative or employee of any attorney or party, nor am I financially interested in the action.

IN WITNESS WHEREOF, I set my hand and seal this 19th day of June, 2023.

ANDREA L. CHECK, CSR No. 748, RPR, CRR
Notary Public
P.O. Box 2636
Boise, Idaho 83701-2636
My Commission expires July 20, 2028.

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BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF	**) DOCKET NO.**
WATER TO VARIOUS WATER RIGHTS	**) CM-DC-2010-001**
HELD BY OR FOR THE BENEFIT OF A&B	**)**
IRRIGATION DISTRICT, AMERICAN	**)**
FALLS RESERVOIR DISTRICT #2,	**)**
BURLEY IRRIGATION DISTRICT,	**)**
MILNER IRRIGATION DISTRICT,	**)**
MINIDOKA IRRIGATION DISTRICT,	**)**
NORTH SIDE CANAL COMPANY, AND	**)**
TWIN FALLS CANAL COMPANY	**)**
_____	**)**

BEFORE

HEARING OFFICER: GARY SPACKMAN

VOLUME IV

Date: June 9, 2023, 9:03 a.m.

Location: Idaho Department of Water Resources
322 East Front Street, 6th Floor

REPORTED BY:

ANDREA L. CHECK, CSR No. 748, RPR, CRR

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P R O C E E D I N G S

HEARING OFFICER: The 9:00 o'clock hour has arrived. Let's go on the record.

Okay. Are there preliminary matters we need to discuss this morning?

MR. THOMPSON: I just have one, Director.

This is Travis Thompson.

HEARING OFFICER: Yes.

MR. THOMPSON: Yeah. One of our witnesses, Chuck Brockway, had a procedure Tuesday. He thought he would recover in time to get here, but he's still feeling the effects of that. So I asked the parties last night if they would stipulate to allowing him to participate remotely. With your permission, he's able to do that, so I'd like to bring that up.

HEARING OFFICER: Any objection from the parties?

Okay. We've allowed that remote participation earlier in the hearing, so I'll allow it again. It causes some difficulties, but I recognize that there are circumstances that may arise.

I also, last night, received word from Sarah Klahn that she had an emergency and will not be here today, so she is excused. She said that her

interests will be adequately represented today by Mr. Bricker or others.

So thanks for being here, Mr. Bricker.

I also asked that Sarah, Andrea, and Pete Wood compile a list of exhibits.

Have those been compiled and distributed? Pete or Andrea, do you know?

MR. WOOD: I don't know. Let me send Sarah an email. I didn't do --

COURT REPORTER: She's was working on it, so --

MS. TSCHOHL: They were distributed to everyone, and they should be on your desk as well.

HEARING OFFICER: Okay. So the parties, apparently, have a list of those exhibits. And either at recess or lunchtime if you could review that exhibit list and ensure that the exhibits that you want received into evidence at least have been offered. And any that are -- have not been offered, we'll do some cleanup at the end, or you can offer those as testimony as presented.

Okay. Other matters we need to talk about?

The next witness?

MS. McHUGH: Sorry. So many cords. Sorry.

MR. THOMPSON: Two for two.

MS. McHUGH: Two for two. It's because I have flip-flops on, and I shouldn't be wearing those.

HEARING OFFICER: Apparently, you're calling a witness.

I'm glad to see you're light on your feet this morning, Ms. McHugh.

MS. McHUGH: I know.

Yes. McCain Foods would call Scott King.

HEARING OFFICER: Mr. King, if you'll come forward.

SCOTT KING,

called by McCain Foods, having been first duly sworn to tell the truth relating to said cause, testified as follows:

HEARING OFFICER: Please be seated here.

MS. McHUGH: And can the witness have exhibit -- the McCain exhibit book. I think it should be --

Is it in front of you?

Okay. And then also there will be exhibits -- the volume that includes Exhibit 317.

And, Mr. Director, I'll let you know, I had asked the parties if they would stipulate to the

exhibits offered by McCain, which were Exhibits 600 -- well, I'll wait a minute -- Exhibit 600, which is water rights for the McCain factory. In your book you should have Water Rights 2749, 7130 -- oh, that's wrong -- 2747, 2748, 2758, and 13970.

And just for the parties' notes, when I submitted these originally, I had three additional water rights included in there, and those have been removed from Exhibit 600.

And then Exhibit 601, 602, 603, and 604, the parties have agreed to have those -- to stipulate to their admission.

And then Exhibit 317, that exhibit has also been stipulated for admission.

HEARING OFFICER: Is the stipulation that's represented by Ms. McHugh -- is the stipulation accurate, and the parties agree to the --

MR. FLETCHER: It is, from our extent.

HEARING OFFICER: -- to the admission of these documents?

MR. FLETCHER: Yes, the Surface Water Coalition has stipulated.

HEARING OFFICER: Okay. And no objection from anyone else?

Okay. So the documents marked as Exhibit 601

through 604 -- well, let's recite all of them, 601, 602, 603, 604, and Exhibit 317 are received into evidence.

MS. McHUGH: And Exhibit 600.

HEARING OFFICER: Pardon me?

MS. McHUGH: And Exhibit 600.

HEARING OFFICER: Oh, I'm sorry. That's right. It started at 600. I apologize. And 600.

Thank you for the correction.

(Exhibits 600 - 604 and 317 received.)

DIRECT EXAMINATION

QUESTIONS BY MS. McHUGH:

Q. Good morning, Scott. Candice McHugh on behalf of McCain Foods.

Would you please state and spell your name for the record.

A. Scott King. S-c-o-t-t, K-i-n-g.

Q. And would you provide a brief background as it is relevant -- as it relates to today's proceeding?

A. I'm currently employed as a civil engineer with HDR, Inc. Previously with SPF Water Engineering, SPF --

COURT REPORTER: Okay. Slow down a little bit for me. Okay?

THE WITNESS: Will do. Sorry. Thank you.

SPF Water Engineering and HDR merged about a year ago, and I've been with SPF since around 2004.

As it relates to this hearing, I have worked on water right issues for McCain Foods going back to my time at SPF and continuing to HDR.

Q. (BY MS. McHUGH) And are you familiar with McCain's groundwater rights that divert from the Eastern Snake Plain Aquifer and serve the Burley facility?

A. Yes, I am.

Q. And could you look at Exhibit 600.

A. Yes.

Q. And you've been a consultant for McCain for, roughly, ten years? A little over ten years?

A. Yes. I believe I first started working for McCain Foods in late 2014.

Q. Does Exhibit 600 accurately show the water rights that McCain Foods uses for the Burley facility -- currently uses for the Burley facility?

A. Yes.

Q. Are there other water rights that McCain has at the Burley facility?

A. Yes.

Q. And why aren't they included in Exhibit 600?

A. Those ones are not being used, and I understand that they're part of a mitigation plan

already. So they're unused water rights. McCain doesn't need them.

Q. Is it your understanding that they're already curtailed under maybe a nonused -- because of a different water --

A. Yes. If I said "mitigation plan," I was incorrect. It's unused because they're curtailed because of their junior priority.

Q. In this particular case relative to McCain's interests, what were you originally tasked with doing?

A. In 2014 -- currently or in 2014?

Q. Currently.

A. Okay. I was tasked with providing technical analysis of McCain's water use as it related to developing a mitigation plan to address shortfalls in curtailment due to the Surface Water Coalition call.

Q. And when did you start working on that task with McCain?

A. That was March of this year.

Q. And why did you start working on it in March of this year? Do you know?

A. That's when I was asked to begin working on it.

Q. Are you aware of the proposed curtailment date that's pending on the aquifer back to December 31st,

1953?

A. Yes.

Q. And when you learned that as a consultant with McCain, what was the response to that?

A. We had conversations. We met and discussed the plans that we had considered for mitigation before and were trying to develop alternatives to meet this deadline, this date.

Q. And when did you learn of the proposed curtailment back to 1953?

A. Sometime late in April.

Q. And did you assist McCain in figuring out what to do in response to that curtailment date?

A. Yes.

Q. Could you look at Exhibit 601.

A. Yes.

Q. And could you identify that document?

A. This is a letter from McHugh Bromley, your law office, to Southwest Irrigation District petitioning to join the district for mitigation purposes.

Q. And what happened after that letter was sent to Southwest Irrigation District?

A. The district accepted the petition and allowed McCain to join the district for mitigation purposes.

Q. And why did McCain decide it needed to send a

letter to Southwest Irrigation District rather than continue your work on developing its own mitigation plan?

A. We didn't have sufficient time to develop McCain's own plan, so Southwest Irrigation District was the best alternative to meet that deadline.

Q. Was it your understanding there was a deadline that McCain had to meet in order to avoid curtailment this season?

A. Yes.

Q. Do you remember what that date was?

A. I think that was May 5th.

Q. And was that based on an order by the Director?

A. Yes.

Q. Once the letter was sent to Southwest Irrigation District and they accepted McCain within their boundary, do you know what happened next?

A. That I believe you notified the Department of Water Resources that McCain Foods had been accepted into Southwest for mitigation purposes.

Q. Can you look at Exhibit 602.

A. Yes.

Q. Can you identify that document.

A. Yes. This is your notice of mitigation to the

Department of Water Resources that McCain Foods was accepted into Southwest Irrigation District for mitigation.

And in the last paragraph they're requesting some kind of acknowledgment from the Department of Water Resources that they had been accepted.

Q. Okay. And if you could turn to Exhibit 603.

A. Okay.

Q. Have you seen that document before?

A. Yes.

Q. And what is that document?

A. This is an email from Garrick Baxter to you acknowledging that IDWR understands that these four McCain Foods water rights that were in Exhibit 600 were brought into Southwest Irrigation District for mitigation.

Q. And what is your understanding of what will happen if Southwest Irrigation District is not in compliance with their mitigation plan?

A. Part of this email also states: "So long as Southwest Irrigation District is in compliance with its approved mitigation plan, the four rights should be protected from curtailment."

So I would understand, there, if Southwest is not in compliance, that it could mean that McCain Foods

could be curtailed.

Q. Does McCain have any water rights senior to December 31st, 1953?

A. No.

Q. And do you have an understanding of what would happen if McCain did not have any water rights -- valid water rights at its Burley facility?

A. My understanding that McCain Foods would not be able to operate without having water.

Q. And throughout this process, has McCain had any concern about the process relative to understanding when the curtailment date was announced and being able to protect its water rights?

A. Yes, that there was insufficient time to develop their own mitigation plan to meet the deadline.

Q. Was McCain Foods' interest in developing its own mitigation plan its first priority, or was it -- how did that work?

A. McCain Foods wanted to have their own mitigation plan that they would be in control of.

Q. Do you know whether McCain can or could mitigate for its own groundwater pumping for itself?

A. I believe that they could develop a mitigation plan to operate on their own, to have their own mitigation plan, but we have not been able to construct

that by this deadline.

Q. Can I have you look at Exhibit 317.

A. Yes.

Q. Have you seen that document before?

A. Yes.

Q. And can you tell me what that document is.

A. This is a FAQ document that's on the Department of Water Resources front page address, "Surface Water Coalition delivery call and the Amended 5th Methodology and April 2023 As-Applied Orders."

Q. And can you turn to the -- I think it's the last page in that; I think it's page 3. It's a three-page document.

A. Yes.

Q. And do you see where that document discusses what would happen if you're a food producer and were under a mitigation plan or if you're a food producer without a mitigation plan?

And then I think the last paragraph says, "Can I file my own mitigation plan?"

Do you see that?

A. Yes.

Q. Can you read the last paragraph, question and answer.

A. The question: "Can I submit a mitigation plan

now and get it approved in time for this coming irrigation season?"

And the answer is: "It is unlikely that a mitigation plan can be approved before a potential curtailment order is issued. Once a plan is submitted, the plan must be advertised and is then subject to protest deadline. The plan is subject to hearing if protested or if the Director determines a hearing is necessary. This process can take many months."

Q. Can you turn to Exhibit 604.

A. Yes.

Q. Have you seen that document before?

A. Yes.

Q. Can you tell me what it is.

A. "This is the Notice of Possible Curtailment Call for Groundwater Rights with Priority Dates Junior to December 30th, 1953 - Surface Water Coalition Delivery Call," dated May 1, 2023.

Q. Is it your understanding that this is the letter that McCain received at its Burley facility?

A. Yes.

Q. I believe towards the end of that document -- I think it's in bold and it may be underlined -- it says something along the lines that "during the consideration of the mitigation plan, curtailment will not be stayed."

Do you see that?

A. No, I don't. I'll have to read this. What was it?

MS. McHUGH: I'm sorry, can I approach the witness, Director?

Q. (BY MS. McHUGH) It's the end of the fifth paragraph.

A. Okay. Gotcha. I was looking at the last paragraph.

Q. If you would look at the fifth paragraph there.

A. Yes.

Q. Can you read the last, I think, three sentences.

A. Yes. Beginning about halfway through this paragraph: "Upon receipt of a proposed mitigation plan, the Director will publish notice for two successive weeks, after which ten days will be allowed for the filing of protests. The Director may hold a hearing if necessary to determine whether a proposed mitigation plan will mitigate an injury to the SWC," Surface Water Coalition, "caused by diversions of groundwater authorized by junior priority groundwater rights. If the proposed mitigation plan is protested, the Director will hold a hearing. Please be advised that a

curtailment order is not stayed pending evaluation of a mitigation plan."

Q. Was it your understanding as a consultant for McCain Foods and McCain's understanding that if they filed a mitigation plan, that they would still be subject to the curtailment order?

A. Yes.

Q. And do you know when that May 1st letter was received at the Burley facility from McCain?

A. I understand McCain received that on May 12th.

MS. McHUGH: I have no further questions.

HEARING OFFICER: Other questions of Mr. King from the groundwater users?

Cross-examination?

MR. FLETCHER: I don't have any.

MR. SIMPSON: No.

MR. THOMPSON: I've got one.

HEARING OFFICER: Thank you, Mr. King -- Mr. Simpson.

Mr. Thompson, do you have some questions?

CROSS-EXAMINATION

QUESTIONS BY MR. THOMPSON:

Q. Good morning, Mr. King.

A. Good morning.

Q. Travis Thompson for A&B Irrigation District, et al.

A. Good morning.

Q. Just one question -- a couple questions.

Ms. McHugh asked you about timing of when McCain's could file a mitigation plan this spring.

Do you recall that?

A. Yes.

Q. Has McCain Foods attempted to file a mitigation plan anytime in the past?

Do you know?

A. Under this delivery call, not that I'm aware of.

Q. Anything that would prevent them from submitting a plan prior to this spring?

A. The only thing that I think that might prevent them is knowing what they need to submit the mitigation plan for, the details, the requirements of what they're mitigating.

Q. As far as the priority date?

A. Yes.

Q. I guess any of their rights junior to '53, would they have any reason to put a plan together before this year?

A. We weren't aware of what priority date would

require a mitigation plan, so -- and we didn't have water rights -- the 1953 date is new.

Q. Are they aware of the Surface Water Coalition's priority dates for their senior surface water rights?

A. I assume that they are, yes.

MR. THOMPSON: Thank you.

HEARING OFFICER: Any more cross-examination? Redirect, Ms. McHugh?

MS. McHUGH: No.

HEARING OFFICER: Thank you, Mr. King. Next witness?

MS. McHUGH: Amalgamated Sugar Company would call Dean Delorey.

HEARING OFFICER: Mr. Delorey, if you would come forward, please. Would you raise your right hand.

DEAN DELOREY,

called by Amalgamated Sugar Company, having been first duly sworn to tell the truth relating to said cause, testified as follows:

HEARING OFFICER: Thank you. Please be seated.

Ms. McHugh.

DIRECT EXAMINATION

QUESTIONS BY MS. McHUGH:

Q. Thank you. Good morning, Mr. Delorey.

A. Good morning.

Q. Could you state and spell your name for the record, please.

A. Yes. Dean Delorey, D-e-a-n, D-e-l-o-r-e-y.

Q. And, Mr. Delorey, have you ever been a witness in a judicial or administrative proceeding before?

A. No.

Q. Would you briefly explain your position at Amalgamated Sugar Company?

A. Yes, I'm the director of environmental affairs. My primary focus is on environmental compliance. I've worked with the company for over 30 years. I'm familiar with the -- each of our sugar beet processing facilities, and so my primary work is environmental compliance.

Q. Are you familiar with Amalgamated Sugar's groundwater rights that divert from the Eastern Snake Plain Aquifer for one of its beet processing facilities?

A. Yes, I'm familiar with the Mini-Cassia facility.

MS. McHUGH: And, Mr. Director, I probably should have done this before I started my examination, but you should have in front of you exhibits for Amalgamated Sugar Exhibits 700, 701, 702, and 703, and the parties have stipulated to the admission of those four exhibits.

HEARING OFFICER: Based on Ms. McHugh's statement that the parties have stipulated the admission of these documents, I will receive the documents marked as Exhibits 700, 701, 702, and 703 into evidence.

(Exhibits 700 - 703 received.)

Q. (BY MS. McHUGH) And so you are saying that you are familiar with the water rights for the Mini-Cassia facility that Amalgamated Sugar operates?

A. That's correct.

Q. Would you just generally tell me where that's located?

A. The Mini-Cassia facility?

Q. Yes.

A. The Mini-Cassia facility is located just outside Paul, Idaho.

Q. And if you look at Exhibit 700 in the binder in front of you.

A. Yes.

Q. Does that exhibit accurately show the water

rights for the Mini-Cassia factory except for the small domestic rights that are not subject to curtailment?

A. Yes.

Q. Are you aware of the proposed curtailment of the aquifer back to December 31st, 1953?

A. Yes.

Q. And what was Amalgamated's response when they learned that there was a potential curtailment back to December 31st, 1953?

A. Well, our initial response was to get legal involved. We've hired -- we've worked with you, and you're our groundwater expert and water rights expert, so that was our initial response. And I understand based on the initial response was for us to join the Magic Valley Ground Water District and see if we could be covered under their mitigation plan.

Q. If you could look at Exhibit 701.

Do you recognize this letter?

A. Yes.

Q. And what is it?

A. This is a letter requesting to allow Amalgamated to join the Magic Valley Ground Water District as a mitigation-only member.

Q. Was there any consideration of Amalgamated trying to develop its own mitigation plan, or was the

only option to look at Magic Valley?

A. We just haven't had time to look at our own mitigation plan, so this was the most efficient way of getting covered under a mitigation plan.

Q. And what happened after this letter was sent to Magic Valley Ground Water District?

A. We were just awaiting response from -- to find out if we would be part of the Magic Valley Ground Water District.

Q. And did they respond?

A. Yes.

Q. And if you would look at Exhibit 702.

In addition to some other things, could you explain what Exhibit 702 does relative to Amalgamated's enrollment in Magic Valley Ground Water District?

A. The primary purpose of this is a request to IDWR for notice of mitigation and for us to be covered under the Magic Valley Ground Water District and their approved mitigation plan.

Q. And would you look at Exhibit 703.

Have you seen this document before?

A. Yes.

Q. And what is it?

A. This is a response from IDWR stating that Amalgamated could be part of the Magic Valley Ground

Water District.

Q. And what is your understanding of what will happen if Magic Valley Ground Water District is not found to be in compliance with their mitigation plan?

A. There's potential for curtailment of our junior water rights.

Q. And Amalgamated has a couple water rights that are senior -- if you look back at Exhibit 700 --

A. Yes.

Q. -- that are senior to the December 31st, 1953, priority date.

What would Amalgamated -- what would happen to Amalgamated's operation at Mini-Cassia if it lost its water rights junior to the 1953 date?

A. Well, I would just say this -- are you saying the junior or the senior?

Q. I'm saying: What would happen if you lost your -- the water rights junior to 1953?

A. Well, we would -- to be honest, we just need time to evaluate or do a water balance to understand what -- how it would impact our facility.

So we would have to have -- I'd have to have discussions with the plant manager there to know what -- in terms of what that potential -- if there would be any potential issues, so...

Q. And Amalgamated hasn't had -- hasn't done that yet or is in the process of doing that, I suppose, because it takes some time because the water use in your facility is pretty complex?

A. Yeah. The water balances are complex, so we just need the time to be able to evaluate the overall water balance in term of groundwater usage.

Q. And --

COURT REPORTER: Can you guys please slow down for me.

THE WITNESS: Oh, sorry.

Q. (BY MS. McHUGH) And when did Amalgamated become aware of the December 31st, 1953, curtailment date?

A. That was back in early May.

Q. And did you understand that there was a deadline that you needed to comply with at that time?

A. Yeah. Talking with you, I understand there's a deadline, yes.

Q. Okay. And was there any time for Amalgamated to evaluate its own mitigation plan and the impact of the curtailment date on its operations?

A. We haven't had time to evaluate a mitigation plan.

Q. Okay. And you're in the process of

understanding kind of how to react to curtailed water use, potentially?

A. Yeah. Based on my understanding and my short course on water rights, we would likely hire someone to assist us with a mitigation plan.

Q. And what is your understanding of whether Magic Valley Ground Water District is in compliance with its mitigation plan?

A. Magic Valley is not in compliance with their mitigation plan. And, likely, we need to put together a mitigation plan as a corrective measure.

Q. I guess what I was asking is: What's your understanding of whether Magic Valley Ground Water District is in compliance with its mitigation plan?

Do you know whether it's in compliance or not?

A. I guess, based on my discussions with you, I'm not sure that it's going to be approved. And they may not be in compliance with their plan.

MS. McHUGH: I have nothing further.

HEARING OFFICER: Cross-examination?

Nothing?

Okay. Thank you.

THE WITNESS: Thank you. Appreciate it.

HEARING OFFICER: Next witness?

Are we shifting now? Are these Surface Water

Coalition witnesses that are being called?

MR. THOMPSON: Director, I think we'd call Chuck Brockway next. We might take a minute off the record to get it set up.

HEARING OFFICER: Let's go off the record for a moment.

(Break taken.)

HEARING OFFICER: Back on the record.

So we're back on the record, and it appears that Mr. Brockway is ready. And I think when you start to question him and he responds, Mr. Thompson, perhaps we'll see his full image on-screen.

Mr. Thompson, you -- oh, I need to swear him in, I forget, as they are online.

Mr. Brockway, if you'll stand, please, if you can, and raise your right hand.

Thank you.

CHARLES BROCKWAY, Ph.D., P.E.,

called by the Surface Water Coalition, having been first duly sworn to tell the truth relating to said cause, testified remotely as follows:

HEARING OFFICER: Thank you. Thanks for audibly responding.

Mr. Thompson, you may question Mr. Brockway.

DIRECT EXAMINATION

QUESTIONS BY MR. THOMPSON:

Q. Good morning, Chuck.

Can you hear me okay?

A. Good morning, Travis. I can hear you. I can't see you, though.

Q. Okay. That's probably better for you.

A. That's fine with me.

Q. Can you please --

HEARING OFFICER: Just a minute.

Why is that? Do we know?

MS. TSCHOHL: I believe our signal is just a little bit weak, so it's prioritizing audio.

HEARING OFFICER: Okay. Well, we can see Brockway. But anyway, let's -- we'd rather see the witness than Mr. Thompson anyway; right?

MR. THOMPSON: Absolutely.

HEARING OFFICER: All right. Here we go.

Q. (BY MR. THOMPSON) Chuck, can you please state and spell your name for the record.

A. Charles G. Brockway; C-h-a-r-l-e-s, G., B-r-o-c-k-w-a-y.

Q. And where do you work?

A. Brockway Engineering.
Q. And what is your current occupation?
A. Civil engineer and owner of the company.
Q. Is your CV attached to what's been marked the Surface Water Coalition Exhibit 4?
A. Yes.
Q. And does that generally describe your education and work history?
A. Yes.
Q. Have you been qualified as an expert witness before IDWR in prior cases?
A. Yes.
Q. Can you generally describe what Exhibit 4 is.
A. It's an expert report that was prepared by myself as well as Erick Powell, who also works for Brockway Engineering, and Dave Shaw, ERO, relative to the Fifth Methodology Order and the As-Applied Order.
Q. And can you just generally describe what you were asked to do for that report.
A. We were asked to review the Fifth Methodology Order and the As-Applied Order and provide technical comments on those orders primarily as it relates to irrigated area, project efficiencies, and the baseline year.
Q. And it looks like this report is broken up

into parts by letters; is that correct?

A. Correct.

Q. And I'll try to just walk through some of these parts with you.

Could you please summarize your opinion for Part A, describe what that is?

A. So Part A has to do with a comparison of the project irrigated areas that the Twin Falls Canal Company utilized in the Fifth Methodology relative to the other members that are out there, primarily the 2011 and the 2017 products that IDWR has set forth based on the irrigated lands dataset.

So we did a GIS comparison of those three shapefiles. I'll call them the methodology acres, the 2011 acres, and the 2017 acres. Rasters filed were provided by IDWR for those --

COURT REPORTER: Okay. What kind of files? Can you repeat that? What kind of files were provided?

THE WITNESS: Raster files, r-a-s-t-e-r.

COURT REPORTER: Okay. You can keep going. Just maybe slow down a little bit.

THE WITNESS: All right.

Raster files were provided by IDWR. Shapefiles were created in ArcMap. The shapefile files were intersected to determine their differences.

And we found that the 2011 and 2017 shapefiles were nearly identical, so we focused on the 2017 difference shapefile. And we, to the extent we could, explored the reason for the differences between the 2017 shapefile and the methodology shapefile for the Twin Falls Canal Company.

So we found that there were a number of factors that entered into the differences between those two shapefiles, and those are outlined in the report: Primarily ditches, ponds, other waterways that were taken out in the '17; there were fields that were not, apparently, irrigated in the 2017 photo; some pivot corners that, apparently, were not irrigated.

And then the other primary category would be developed areas around the fringe of municipalities, as well as roadways.

So that's what we did for Part A.

Q. (BY MR. THOMPSON) And, Chuck, can you turn to Exhibit 5.

Do you have that?

A. Yes.

Q. And can you generally describe that, for the record?

A. So this is an exhibit that shows the acreage comparison between the 2017 and the methodology acres.

The red line is the Twin Falls Canal Company service area, and the blue lines in that map are the differences between the 2017 acres and the methodology acres.

Q. And is there a date for the photo that this is overlaid on?

A. It's the 2021 aerial photo.

Q. If you could turn to Exhibit 6 -- or is there anything else on Exhibit 5?

A. No.

Q. Could you please describe Exhibit 6, for the record.

A. Exhibit 6 is just an example of where the 2017 irrigated area shapefile omits some fields that are definitely irrigated. So this is not meant to be a comprehensive analysis by any means. We simply pulled a snippet from a section of the shapefile to illustrate that there's a half-pivot that was omitted from the '17 shapefile and a small field on the right side of the map that was also omitted.

Q. And does this exhibit depict what could be waterways or canals that have been taken out as well?

A. It does, yes.

Q. Can you describe Exhibit 7, for the record, please.

A. Exhibit 7, again, is a snippet that we pulled

from the overall shapefile just as an example, not meant to be comprehensive of another problem that we found with the 2017 and the 2011 shapefiles, which is that there are registration differences between the '17 and the methodology shapefile. And by that -- when I say "registration," by that I mean the rectification of the aerial photo with the section lines.

And what you see there, there is a shift. And so what that results in is a -- an inconsistency in the acres delineation. Because there are roadways that were rightly removed in the 2013 Methodology delineation and roadways that were rightly removed in the 2017 delineation. However, in the 2017 delineation they were not added back in, so we have a double-counting of acreages that are removed.

Q. Now, turn your attention to the left side of that exhibit -- I guess the -- I'll call it the west side of the map if we're looking north.

A. Yes.

Q. Do you see a number of thin yellow lines horizontal in between the fields.

Do you see those?

A. Yes.

Q. Do you know what those may be depicting?

A. Those are likely --

COURT REPORTER: Can you start your answer over again? Because I had trouble hearing.

THE WITNESS: Those are likely depicting waste ditches that were present when these areas were gravity-irrigated. And now that it's been converted to a center pivot, those ditches are not there.

Q. (BY MR. THOMPSON) And over to the southeast side of that exhibit, I see some curved yellow lines.

Do you have an idea what those might be depicting?

A. Those are likely depicting, again, ditches or laterals that were removed in the 2017 delineation.

Q. Chuck, in your opinion, is it appropriate to remove ponds and waterways and consider them to have no consumptive use?

A. No, not in terms of demand, because a canal and a lateral and a ditch all evaporate from the water surface and have evapotranspiration from the vegetation on the ditch banks, and those are real consumptive demands that have to be met by the project diversion.

Q. So even if that is not an irrigated acre, would that still be considered a use or a demand of the water diverted from the Snake River?

A. Yes.

Q. I'd like to turn back to Exhibit 4, Part B. I

think it begins at page 6.

A. Travis, if you wouldn't mind, if I could just hit one more thing on Part A before we leave that.

Q. No, go ahead.

A. Well, one primary category of areas that are removed from the 2017 delineation are developed areas around the fringe of municipalities. These represent, typically, rural or semirural subdivisions on the edges of cities that are being developed. I think there are just some comments to keep in mind relative to that.

One is that these subdivisions are entitled to the same share delivery as the agricultural field was prior to the development. So the canal company has to be prepared to meet that same demand, even though the area is being developed and the actual irrigated acreage is going down. So while the consumptive use may be going down, the demand will usually not. And this is just a function of the nature of small residential developments.

Water use occurs in these developments at a much higher rate over a shorter period. So to even get the demand to stay the same as it was with the agricultural use, you have to enforce a strict rotation. So I think that's just an important demand side of the equation to keep in mind relative to subdivision

developments.

Q. At least in Twin Falls County, are you aware of requirements when land is developed to retain surface water for continued irrigation use?

A. Yes. The City of Twin Falls has that ordinance.

Q. If we could turn to Part B, page 6.

A. Okay.

Q. Can you generally describe what you reviewed and what this part addresses?

A. This section describes a statistical analysis of the annual water diversions for the Twin Falls Canal Company from Water District 1 adjusted for wheeled or recharge water for the years 2000 through 2021.

Figure 4 in our report shows those data points as well as a statistical trend line calculated for the data. In order to assess whether there was a trend in the data, we subject the data to a Mann-Kendall analysis -- that's M-a-n-n, dash, K-e-n-d-a-l-l -- to determine if there was a statistically significant trend in the data, and we found that the data shows that there was no trend.

And let me clarify something I said earlier.

The whole dataset was from 1977 through 2022, but the wheeled and recharge adjustments were only from

2000 through 2021 --

COURT REPORTER: Wait, wait. I apologize, Mr. Brockway. I couldn't hear that very well, so, "The whole dataset was from 1977 through 2022, but the wheeled and recharge adjustments were only from"?

THE WITNESS: 2000 through 2021.

I'm sorry, I'll speak more clearly.

Q. (BY MR. THOMPSON) Anything else on that part before we move on, Chuck?

A. No, Travis, other than just to make the observation that when you do a trend analysis, it's important to be very careful because the period that is selected for analysis can have a strong influence on whether or not a trend is detected. So, for example, if one were to use the period 2005 through the current, the analysis would likely show a trend upward. If one were to use the period 1990 through 2005, it would likely show a trend downward. So we felt that in order to get the full picture of what was happening to the Twin Falls Canal Company demands, we used the entire period of record.

Q. That period would capture years of above average water supply and below; is that correct?

A. That is correct.

Q. I'd like to turn to Part D, page 11.

Could you generally describe that section and what you looked at?

A. Part D was a general exposition on factors that affect project efficiency in any canal company but in particular large canal companies like the Twin Falls Canal Company.

And, again, just to restate what has been stated before, the project efficiency is defined as the crop water need, which is the consumptive irrigation requirement times the irrigated acres divided by the adjusted diversion. And the Fifth Methodology Order spells that out.

The project efficiency is a lumped parameter that essentially accounts for all of the operational water requirements that are needed for -- to operate the project but that do not directly go toward meeting the evapotranspirative demand of the crop.

So for a large company, these would, of course, start with the on-farm efficiency, which ranges from roughly 50 percent for gravity methods to roughly 80 to 85 percent for a high-efficiency center pivot system. Then you, typically, have a significant amount of canal seepage or conveyance loss, which varies from project to project but may range from 20 to 30 percent of the total diversion.

Related to that, you have the required wetting of the canal system that has to occur during the spring, the initial startup of the project when the canal beds are dry.

Another big factor in a large company is the operational spill. And I think we heard Jay Barlogi testify to this earlier. This is always necessary to -- in order to deliver water to users within the system, particularly those near the tail end of the system.

That spill has to be maintained in order to allow the buffering, if you will, for variations in demand by irrigators on the system. If you don't have that spill, you won't be able to reliably serve the tail ends of the system.

Another big factor is variations in meteorological conditions which affect on-farm demand by irrigators. For example, if a cool, rainy period comes in, that could lead to rapid decreases of on-farm demand as irrigators turn off, but that doesn't mean that a large canal company can simply reduce its diversion at the river. If it tried to do that, if it tried to follow every little variation and meteorological demand, then when the ordinary warm weather returned, they wouldn't be able to ramp up quick enough to meet that demand of returns. It's only if that cool period were

sustained for, you know, a number of days, maybe weeks that the project diversions could, potentially, be adjusted.

The other factor in project efficiency that's been talked a lot about is the conversion to sprinkler irrigation, which has happened across the plain, including on the Twin Falls Canal Company. And I think we heard some testimony that the current estimated sprinkler irrigation percentage on the Twin Falls Canal Company is about 50 to 60 percent.

So the important thing to keep in mind on sprinkler conversion is that it always leads to an increase in on-farm efficiency; that is, a center pivot system will, as a general statement, but will be more efficient than a gravity irrigation system. However, that does not always, necessarily, translate to an increase in overall project efficiency for a large system. And there are two general reasons for that.

One is a sprinkler irrigation farm has more of an on/off demand structure as opposed to a more continuous demand for a gravity irrigation system. So the canal company has to be prepared to deal with that on/off situation. So they have to maintain, essentially, the same diversion in the canal that they had before. And this goes, again, back to the

operational spill requirement.

The second factor, which is not unique to Twin Falls but it certainly occurs, to a great extent, on the Twin Falls Canal Company system, is that conversion to sprinkler irrigation results in a reduction of incidental recharge from irrigation, which leads to a reduction in drain flows that are relied upon for redelivery. So with gravity methods, there's a lot of irrigation infiltration, a lot of subsurface storage that occurs, drain flows are sustained, and that water is released later in the season. And that drain water is treated as project water that can be rediverted to meet obligations downstream and, again, potentially later in time.

So if there's -- if that drain flow goes down, that water that can't be rediverted has to be made up from somewhere, and so it has to come from a river. So -- and this is all very case-specific, of course, but in the Twin Falls Canal Company tract, when irrigation began -- or since irrigation began, the groundwater levels have increased, you know, from a low of 20 to 30 feet up to more than 100 feet in some areas.

And so that resulted in waterways flowing that ordinarily didn't flow. It augmented existing perennial streams. It created seeps and springs that didn't exist

before. And it created -- or it necessitated the development of hundreds and hundreds of drain tiles and seep tiles to lower the water table and capture that water and redivert it downstream.

So that's a factor that has to be taken into account in the Twin Falls Canal Company tract. And it is too simplistic just to say, well, diversion to sprinkler automatically must lead to a commensurate increase in project efficiency.

Finally, the other big factor in any big canal company is that in the shoulders of the irrigation system, efficiencies naturally tend to be low. So when the water is turned on in April, a major amount of water is needed to charge the system, to fill the canals, and that may take several days.

Similarly, that high initial seepage rate in the canals has to be overcome. During this time the crop water need is relatively low and so the overall project efficiency is, therefore, very low.

Similarly, in the late season, say in October, crop water need is lower, but the water is still in the canal system in order to convey the water to the end of the system to meet those tail end delivery obligations. Those don't go away just because we're in the tail end.

And my understanding and my reading of the

Fifth Methodology Order is that it does incorporate some provisions to ensure that the reasonable in-season demand is not underestimated in April or overestimated in October.

So I'm sorry, that's a very lengthy explanation of what we did, but it was just an overview of all the factors that have to be taken into account for a large canal company much beyond simple on-farm efficiency and conveyance losses.

Q. Do you have any other comments about challenges with project efficiency in large open canal systems, or does that pretty much cover it?

A. I think that pretty much covers it.

Q. Would you agree that changes in irrigated acres is not the only factor that would affect canal project efficiency?

A. Yes.

Q. Chuck, could you look at Part F, beginning at page 13. Can you generally describe that opinion?

A. Yes. So in Part F, we looked at the effect of an irrigated area reduction on the reasonable in-season demand as calculated in the methodology order.

Now, obviously, as a general principle, if there are fewer acres irrigated, everything else being equal, you would need to divert less for those acres.

However, in the methodology, the diversion demands are taken as a given whatever the acres may be for a project. Those diversions and those acres are used to then calculate the project efficiencies -- again, as the consumptive irrigation requirement times the acres divided by the diversion. Then those project efficiencies are used to calculate the reasonable in-season demand adjustments.

So, again, it's -- the diversions -- the actual observed diversions are taken as a given. So if the -- say the -- for example, the true acres, if we knew that, were 5 percent lower, then the project efficiencies would also be 5 percent lower, and the reasonable in-season demand adjustments, in theory, wouldn't change.

Now, I had time to look into the guts of the reasonable in-season demand spreadsheet to see what it may actually be doing, but what I just described is an accurate statement of the equations that are found in the Fifth Methodology Order.

And then, of course, the baseline year demand doesn't depend on acres at all, it's simply a selection of a year from, again, actual observed conditions -- sorry -- actual observed diversions.

So I don't think it's valid to simply say,

well, if your true acres are 5 percent less than what you say they are, your demands ought to be 5 percent less. The equations and the methodology are not set up that way.

Q. So removing one irrigated acre would not automatically equal a reduction in that amount of water needed to divert at the river?

A. Correct.

Q. Anything else on that before I turn to Part G?

A. No.

Q. Could you generally describe the -- what was offered at Part G on page 14 of your report?

A. Well [unintelligible] --

COURT REPORTER: Mr. Brockway, can you start your answer over again.

THE WITNESS: Part G talks about supplemental groundwater usage, which is the usage of private wells for supplemental purposes on surface water irrigated lands, which does occur within the Surface Water Coalition members' service areas and within the Twin Falls Canal Company service area.

The percentage of land in the Twin Falls Canal Company service area is -- that is served by supplemental wells, in my experience, is fairly low due to the overall reliability of the surface water supply

within the company.

A couple of things that should be taken into account when determining -- or evaluating the effect of supplemental groundwater usage:

One is that these groundwater supply systems, in my experience, on a particular farm, they are rarely nice, clean-cut, stand-alone systems. They're always hydraulically interconnected with the surface water supply systems somehow. There's usually multiple fields, multiple pumps and booster pumps and application systems that may be interconnected and used in some complicated and sometimes mysterious fashion that's only known to the irrigator.

And so, really, it's hard to assess -- to make an accurate assessment of the degree to which groundwater usage is employed. Really, to do it right, you'd almost have to ground truth each individual system of the farm operator.

The second point to make is that, similarly to what I said in the previous section, if you could quantify an acreage or an equivalent acreage, if you will, of land that was supplied by groundwater, that could, potentially, reduce the number of acres that are irrigated with surface water.

But, again, since the diversions are taken as

a given, that would simply reduce the project efficiency a little bit, which is based on those diversions, and those lower efficiencies would then be utilized in the methodology to calculate the reasonable in-season demand adjustments.

So, again, it's not valid, I don't think, to say there's just a one-for-one reduction if we were to identify the acres that are irrigated with groundwater based on the methodology equations.

Q. (BY MR. THOMPSON) Chuck, just one last part, I guess.

Could you look at Part H and describe opinions offered in that section?

A. Yes. Part H talks about the baseline year selection. And it is a brief recapitulation of the requirements for selection of the baseline year in the methodology order and a reproduction of Matt Anders' chart that was presented on November 11th, 2022, to the technical working group, where it was indicated that 2018 and 2020 were the only years that met all of the evaluation criteria, and those are highlighted in yellow; and then just a brief discussion as to the position, if you will, of 2018 within the overall dataset.

And there's different ways to do that. You

can look at a ranking analysis. You can look at different probability distribution fits. We chose to fit a normal distribution to the annual diversion volume data, which is a reasonable fit.

And, based on that, the 2018 year, which was selected by IDWR in the methodology, was at the 84th percentile. So it was certainly above average, and it was reasonably conservative, but it wasn't an extreme year like the highest year ever or the 95th percentile or 99th percentile.

So, again, consistent with the goal of being conservative to protect the senior surface water right holders, we felt that an 84th percentile was, again, reasonably conservative but not extreme.

Q. Chuck, in your opinion, I guess, does -- how that is used at the beginning of the year, protecting senior water rights in the event the water year does not turn out as forecast, is that a reasonable approach?

A. I think it's reasonable.

Q. That's all of the questions I have, Chuck.

MR. THOMPSON: I would move to admit Exhibits 4 through 7.

And we've tendered Dr. Brockway as an expert on the subjects addressed in the report.

COURT REPORTER: I'm sorry. I didn't get

that.

"And we tender Mr. Brockway" --

MR. THOMPSON: Dr. Brockway as an expert on the subjects addressed in the report.

HEARING OFFICER: It's my understanding that Mr. Brockway has been recognized as an expert through stipulation of the parties, so he is so recognized.

Any objection to the admission of the documents marked Exhibits 4 through 7?

Hearing no objection, the documents marked 4, 5, 6, and 7 are received into evidence.

(Exhibits 4 - 7 received.)

HEARING OFFICER: Mr. Simpson?

MR. SIMPSON: Mr. Hearing Officer, if I could have a moment with Mr. Thompson?

HEARING OFFICER: Sure.

MR. FLETCHER: Go off the record just a second.

HEARING OFFICER: Let's go off the record.

(Discussion held off the record.)

HEARING OFFICER: Let's go back on the record.

Further questions, Mr. Thompson?

MR. THOMPSON: No, thank you.

HEARING OFFICER: Any further questions from the Surface Water Coalition?

MR. FLETCHER: No, thank you.

HEARING OFFICER: Okay. What do we want to do at this point? Do we want to break for 15 and give the parties a chance to regroup and prepare?

All right. Let's break and come back at 10:30.

(Break taken.)

HEARING OFFICER: Let's go on the record, Andrea.

Mr. Brockway, are you there?

THE WITNESS: I am here.

HEARING OFFICER: Good. It looks like Mr. Budge has come forward for cross-examination.

Mr. Budge, you may examine.

CROSS-EXAMINATION

QUESTIONS BY MR. BUDGE:

Q. Good morning, Chuck.

How are you?

A. Hey, TJ. Doing good.

Q. Chuck, how long have you worked for Twin Falls Canal Company?

A. Oh, goodness, probably since the '90s.

Q. And just generally speaking, what type of work do you do for the company?

A. We work as needed, whatever they may need relative to the water rights or water supply evaluations or general advice at board meetings. A little bit of everything.

Q. Do you do fieldwork for them as well, analysis out in the field?

A. No, haven't really done that, at least recently.

Q. Let me have you turn to your expert report, Exhibit 4.

A. Yes.

Q. And if you'd turn to -- the pages aren't numbered, but I guess the second page or the first page with text, Section A: "Evaluation of TFCC Project Evaluation Acres." I've got some questions about that section.

A. Yes, I'm there.

Q. In that first paragraph you referred to the acreage used in the Fifth Methodology Order, the 194,732-acre figure. And then you say: [As read] "This is based on detailed aerial photo inspection and a delineation created by Twin Falls Canal Company consultants in 2013."

Did you participate in creating that shapefile?

A. I may have had some input into that, but I believe the primary consultant on that was Dave Shaw.

Q. Okay. Are you familiar with that GIS shapefile?

A. Yes.

Q. Are you sufficiently familiar with it that you're comfortable testifying about it today, or is that something I need to discuss with Dave?

A. Well, you know, I haven't looked at every part of it, for sure, but I can certainly take a stab at it.

Q. Are you familiar with the parts of that shapefile that are included in your expert report?

A. Yes.

Q. Okay. Let me have you turn to that page of your report. I think it's page 5.

A. Yes.

Q. Page 1 of the report says that this was created with a detailed inspection of photo or satellite imagery aerial or satellite imagery.

Can you explain the process that was used to create the 2013 shapefile?

A. That's a better question for Dave, but I think it just involved examination of the aerial photo and drawing lines on the map, if you will, in the GIS system to represent areas that were irrigated and excluding

those that did not appear to be irrigated.

Q. Okay. And looking at Exhibit 4, there's an excerpt of a portion of Twin Falls Canal Company's service area. And that image at the bottom, at the footer, says it's showing the difference between the 2013 and 2017 area. And I want to make sure that I understand correctly what it depicts.

The yellow areas marked in that image, are those areas that the 2017 irrigated lands dataset shows as not being irrigated but the 2013 GIS shapefile shows as being irrigated?

A. That is correct.

Q. So if we were looking solely at the 2013 GIS shapefile, all of the land in yellow would have, you know, been blue, essentially?

A. Yes.

Q. In terms of the process to generate the 2013 GIS shapefile, your request is that I discuss that with Dave Shaw?

A. I think he can shed more light on it than I can, yes.

Q. Okay. Do you know if, in 2013, those involved in that, if they excluded, from the irrigated area, what I would call rural farmsteads? They're, like, homes out in the country that you can see some of those, you know,

on this image?
A. I don't know.
Q. Do you know if they compared Twin Falls Canal Company delivery records to see if the water deliveries corroborated the aerial imagery?
A. I don't know.
Q. Do you know if there was any field verification involved with water users?
A. I don't know.
Q. Do you know if they took into account groundwater rights within the company's service area?
A. I don't know.
Q. Do you know if they took time to carve out private roads and subdivision roads, things of that nature?
A. It does appear so because they are excluded.
Q. There's some roads excluded?
A. It does appear so, yes. Again, certainly did not look at every square inch, but it does appear that roadways including major roads and driveways were excluded.
Q. Do you utilize GIS mapping frequently as part of your professional work?
A. Yes.
Q. If you were asked by Twin Falls Canal Company

to prepare a precise map that depicted irrigated acres, is that something you could do?

A. Yes.

Q. Twin Falls Canal Company has not asked you or your firm to do that?

A. No.

Q. Let me have you turn to page 4 of your report. I understand this is also an excerpt -- an image showing an excerpt of Twin Falls Canal Company service area; is that correct?

A. Yes.

Q. Did you create Exhibit 4?

A. Yes.

Q. And I understand the land that's highlighted in blue on Exhibit 4, that's land that is shown as irrigated in the Department's 2017 irrigated lands dataset?

A. Correct.

Q. And it looks like the irrigated lands dataset carves out things like roads, ditches, farmsteads, and some fields that were not irrigated at that time?

A. Correct.

Q. Do you know why the 2017 irrigated lands dataset was created?

A. Not exactly.

Q. Do you know who created it?
A. Well, my understanding is it was the Department staff.
Q. Do you understand they created that for use in the ESPA model?
A. I have heard that testimony, yes.
Q. Are you familiar with the ESPA model?
A. Yes, somewhat.
Q. Do you understand that that dataset is used in the ESPA model?
A. That is the testimony I've heard.
Q. You don't have personal knowledge of that?
A. No.
Q. Would you agree that when Department staff is evaluating irrigated acreage, their sole priority is to make sure that the data is as accurate as possible?
A. Well, I will give them that benefit of the doubt, TJ.
Q. You would agree that Department staff don't have any self-interest in showing more or less acreage than is actually irrigated?
A. Not that I'm aware of.
Q. If I just make a rough comparison of the 2013 GIS shapefile versus the 2017 dataset, would it be fair to say that the 2013 GIS shapefile was created with more

of a brush approach, whereas, the 2017 dataset was created with more of a scalpel approach?

A. Oh, I'm not sure I would characterize it that way. Again, I haven't been able to examine every bit of both datasets.

Q. So I'm just -- Chuck, I'm just looking at the GIS -- the 2013 shapefile, and the only thing that's excluded are what appear to be two public roads. And then if I look at the 2017, it's much more precise. There's a lot of smaller areas and ditches and homesteads that are excluded.

Would you agree that the 2017 process was a more precise process?

A. Well, I would agree that it does exclude more areas.

Q. But your opinion today is that the 2013 GIS shapefile is a more accurate depiction or analysis of irrigated acreage than the 2017 irrigated lands dataset?

A. Well, I think it goes back to my direct testimony as just one example. I don't think that ditches and laterals should be excluded, because they are a real consumptive demand that has to be met by the system. So that would be one quibble.

Another quibble with the 2017 would be these --

Q. Hey, Chuck. Chuck.
A. Yes, sir.
Q. I'll just interrupt because I understand that. But just on the whole --
A. Yeah.
Q. -- is it your testimony today, this is your opinion, that the 2013 GIS shapefile is a more accurate representation of irrigated lands in Twin Falls Canal Company than the 2017 irrigated lands dataset?
A. I don't have enough information to say that, TJ.
Q. Okay. So --
A. My testimony is that -- yeah. Go ahead.
Q. Okay. So you're not rendering an opinion that the 2013 shapefile is more accurate than the 2017 dataset?
A. Correct.
Q. Do you know why Twin Falls paid its consultants to develop the 2013 GIS shapefile?
A. Not exactly.
Q. You understand that that analysis was done prior to the 2015 settlement agreement between IGWA and the Surface Water Coalition?
A. Yes.
Q. You understand at that time, the way IGWA

provided mitigation is by renting and delivering storage water to members of the Surface Water Coalition?

A. Yes.

Q. You understand that if Twin Falls Canal Company could demonstrate a greater number of irrigated acres than had been used previously in the methodology order that the methodology order would calculate higher water demand for Twin Falls Canal Company?

A. If the order calculation methodology stayed the same, was not changed by the Department, then, yes.

Q. And so you understand that if Twin Falls Canal Company could show higher acreage, the methodology would create larger mitigation obligations, which means IGWA would have to provide larger amounts of storage to Twin Falls Canal Company to avoid curtailment?

A. Well, again, this goes back to my direct testimony relative to the equations and the methodology that are employed. The diversions from the river are taken as a given, whatever the acres may be, so --

COURT REPORTER: Wait. Mr. Brockway, sorry, I missed something. "The diversions from the river are taken as a given, whatever"?

THE WITNESS: Whatever the acres may be.

COURT REPORTER: Okay. And then you can continue.

THE WITNESS: If the true acres were larger, the same diversions would be used to calculate the project efficiencies. So the project efficiencies would just be a little bit higher. And then those efficiencies would be used in the reasonable in-season demand calculation.

Q. (BY MR. BUDGE) So, Chuck, do you agree that it would benefit Twin Falls Canal Company to be able to have a -- have the methodology order use as large of an irrigated acreage figure as possible?

A. No, for the reason I just described.

Q. Okay. You understand that the 2013 GIS shapefile was developed solely by Twin Falls Canal Company personnel and the company's consultants?

A. That's my understanding.

COURT REPORTER: "That's my understanding"?

THE WITNESS: That's my understanding.

Q. (BY MR. BUDGE) Chuck, I apologize there's occasions when we can't -- when there's like a technical glitch, and we don't hear your testimony, so if needed, we'll just ask you to repeat the answer.

A. I understand. That's fine.

Q. We did catch that one.

That process of creating the 2013 shapefile, that was not a collaborative process with the Department

of Water Resources?

A. I don't know that for sure, but I don't think it was. It may have been.

Q. And that was -- there was no collaboration with groundwater users or others outside of the company besides the company's consultants?

A. Not that I'm aware of.

Q. It was not performed by an independent third party?

A. You mean other than Twin Falls Canal Company consultant?

Q. Correct.

A. Not that I know of.

Q. And it was not presented in a hearing where it was subject to scrutiny by the parties to this case?

A. I don't know.

Q. Okay. Let me have you flip back to page 2 of your report. And you'll see at the bottom of page 2, there's a series of numbered paragraphs where you identify factors that influence the determination of acreage within a large canal company.

Do you see that?

A. Yes.

Q. I want to ask you about some of those. Paragraph 1 discusses ponds and other waterways whether

private or company owned.

You understand that Twin Falls Canal Company's water rights are for irrigation; correct?

A. Correct.

Q. And you would agree that the Department should not be curtailing groundwater irrigation rights to deliver -- so that Twin Falls could deliver water to private ponds and waterways?

A. Well, let me clarify. What I mean is privately owned irrigation ditches and ponds used for an irrigation system.

Q. Okay. So to clarify your report, you're not talking about other types of waterways; you're talking solely about what we would call regulating ponds for irrigation purposes and then irrigation ditches?

A. Correct.

Q. Let me ask you about No. 2. You refer to fields not being irrigated some years, and then you say: "Fields may have been left idle due to a limited water supply."

Were you here when Jay Barlogi testified that he's not aware of any fields that have been dried up due to lack of water?

A. Yes.

Q. You don't have any personal knowledge as to

whether any farmer within Twin Falls Canal Company has dried up a field because they did not have adequate water?

A. No.

Q. And you understand that fields are sometimes left idle as part of a fallowing program?

A. Yes.

Q. You understand that fallowing is sometimes used as part of a crop rotation to maintain soil health?

A. Yes.

Q. And every year there's going to be some number of acres within Twin Falls Canal Company's service area that are idled as part of a fallowing program; right?

MR. THOMPSON: Objection; foundation.

THE WITNESS: I think that's a fair statement.

MR. BUDGE: There was an objection from Travis.

HEARING OFFICER: Oh, I didn't --

MR. THOMPSON: Sorry.

HEARING OFFICER: I heard a voice.

MR. BUDGE: I should have just kept going.

MR. THOMPSON: I objected to the foundation of the question. I think Mr. Budge was asking about every year that there are acres in a fallowing program, and I didn't see the foundation for that question.

HEARING OFFICER: Okay. I'm not sure all of that was audible, but, Andrea?

MR. THOMPSON: You can sustain it.

(Record read by reporter.)

HEARING OFFICER: Overruled.

Q. (BY MR. BUDGE) Chuck, let me ask you about paragraph 4. And you're discussing there development of ag land into residential subdivisions. There's been quite a bit of that happen around Twin Falls in the last decade or two; right?

A. Yes.

Q. You give an example that if you have a 40-acre parcel that's converted to a subdivision, you may end up with, you know, half of that land actually being irrigated?

A. Yeah.

Q. This is just a hypothetical, I understand?

A. It is, yes.

Q. And the remaining 20 acres that irrigation is typically going to consist of grass and maybe some, you know, gardens or other landscaping?

A. Yes.

Q. Is it your testimony that grass consumes twice as much water as other crops grown on Twin Falls' tract, like hay, corn, sugar beets, et cetera?

A. No.
Q. So you would agree that the amount of crop ET would decrease when a 40-acre tract of farmland is converted into a residential subdivision?
A. Yes.
Q. I think your testimony was that the timing of irrigation changes because subdivision water use typically happens during a shorter period of time with maybe higher diversion rates?
A. Yeah, that is correct. Just the nature of small residential systems. For example, in a typical quarter-acre lot with a sprinkler system, each circuit may be designed for 18 gallons per minute, let's say, which is 2 inches -- 2 miner's inches, or about 3.2 shares in Twin Falls Canal Company.
I mean, that's about 12 times the amount on strictly a per-acre basis as compared to an agricultural parcel. It's just because small residentials have an extremely high flow rate for short periods of time. So unless there's a strict rotation in force, the actual demand will go up compared to an agricultural scenario.
Q. And in that context when you refer to "demand," you're referring to diversion rate?
A. Correct.
Q. You're not saying that the actual crop water

need, or ET, goes up. That actually goes down; right?

A. That actually goes down.

Q. Okay. Let me have you turn to the next page. In Item 5 you talk about land being fallow because the land is not fully covered by canal shares.

Do you understand that Twin Falls Canal Company does allow stockholders to buy and sell shares within the company?

A. Yes.

Q. So a farmer could sell shares they didn't need or if they needed income or something, but a farmer could sell part or all of their canal shares?

A. I believe that's the case, subject to company policies.

Q. And if a farmer utilized a fallowing program where, say, you know, one-fourth of its farm was fallow every year, it may not -- that farmer may not need enough shares to irrigate the whole farm every year?

A. I'm sorry, TJ. Run that scenario out again. I'm sorry.

Q. If a farmer utilizes a fallowing program as part of their crop rotation and leaves 25 percent of their farm fallow each year, that farmer may not desire or need to keep shares sufficient to irrigate the entire farm every year; correct?

A. He may not, yeah. Or he may keep his full shares and just use them on the remaining land.

Q. Okay. Let me ask you about paragraph 7.

You say: "The company's obligation is to be prepared to deliver water under all outstanding shares regardless of the status of the underlying land."

You're not testifying that when it comes to making curtailment decisions the Director should assume that parking lots, roads, driveways, and things like that are irrigated? You're not rendering that opinion, are you?

A. No, that's not what it says there.

Q. In terms of what the company needs to be prepared to deliver water to, they need to deliver water to land that's actually irrigated. Would you agree with that?

A. From the company's standpoint, their obligation is to deliver a particular user's shares at his authorized headgate. And what the user does with those shares or how many acres he irrigates with them is not governed by the company or even usually known by the company.

Q. So if the company has a tract of land in its service area that was formerly irrigated farmland and now it's a strip mall, should the company divert

water -- is it your opinion that the company should plan to divert water from the Snake River for delivery to that strip mall?

A. Well, I don't know. That's an extreme scenario. I mean, that would be a question for the company.

I mean, if a shareholder had shares and had a headgate, maybe his ditch goes somewhere else, to some other land that's being irrigated. I don't know.

Q. Yeah, but I'm talking about shares that are associated with the strip mall. You've put in your report that the company has to be prepared to deliver water to that strip mall.

Is it your testimony that the Director should curtail, potentially, junior groundwater users so that the company can deliver water to a strip mall?

A. No, I'm not making any opinion as to what should be curtailed or not curtailed.

Q. Would you agree that no irrigation occurs on a strip mall?

A. Correct.

Q. So you would agree, then, when crop water need is calculated, there shouldn't be an ET calculation or a demand calculation for land that's not actually irrigated?

A. The ET calculation could take that into account; that's right.

Q. Okay. And you would agree that the Department should not assume that acres that aren't capable of being irrigated -- they should not treat those as irrigated acres in the methodology order?

A. I think that's reasonable.

Q. At the bottom of page 2 -- and I do see a page number at this point -- you've got -- that last paragraph there, there's one sentence.

And at the bottom of that, you say: "the acreage used in the Fifth Methodology is reasonable, and there is no clear and convincing evidence at this time to adopt a different figure."

A. Yes.

Q. You're not a licensed attorney, right, Chuck?

A. That's right.

Q. And you understand that "clear and convincing evidence" is a legal standard?

A. Yes.

Q. And you understand you're not qualified to render opinions as to satisfaction of legal standards?

A. Yes.

MR. BUDGE: Director, based on the witness's testimony, I would move to strike, from his report, the

bottom paragraph on page 2 and have it redacted from the record.

HEARING OFFICER: I'll deny the motion. I think there's been enough reference in previous material, both submitted by the groundwater users, referring to "clear and convincing evidence" that I'm not going to start striking these references from individual reports.

Denied. Go on, Mr. Budge.

MR. BUDGE: Okay. And I will just note, for the record, that the groundwater users expert reports do not reference the clear and convincing standard. They do reference what is reasonable.

And I appreciate the ruling but did want to make that clear.

HEARING OFFICER: Well, certainly reasonable if you want to start -- if you want to start distinguishing between one legal standard and another, as it being appropriate, Mr. Budge, we can go through that. But the ruling is denied.

Go on, please.

MR. BUDGE: Okay.

Q. (BY MR. BUDGE) Chuck, are you familiar with the METRIC ET dataset used by the Department?

A. Somewhat.

Q. What's your experience with that dataset?
A. I personally don't have much experience with it, TJ --
Q. Okay.
A. -- just as a recognition that it's out there, general knowledge of how it's calculated, but not much direct experience.
Q. Thanks, Chuck. I appreciate that.
Chuck, were you involved or did you assist Twin Falls Canal Company in resolving their water right claims in the Snake River Basin Adjudication?
A. Yes.
Q. I understood from Mr. Barlogi's testimony that there was a process where the company and the Department worked together to identify the number of acres that were irrigated for purposes of the adjudication.
Were you involved in that process?
A. That was a long time ago, but I do remember being involved somewhat.
Q. Okay. Do you recall reviewing satellite imagery and working with the Department to determine the number of acres decreed under Twin Falls' water rights?
MR. THOMPSON: I'd like to lodge an objection, Director.
I guess the line of questioning regarding the

pre-partial decree process in the SRBA, I believe, is beyond the scope of this proceeding, isn't relevant.

We've had clear court decisions that say conjunctive administration is not a place to readjudicate a water right, so I think anything predecree, going into the process, what was done, is beyond the scope and irrelevant.

HEARING OFFICER: Well, thank you for the objection. I'll allow some exploration in this area, recognizing your statement is correct.

Mr. Budge, go ahead.

Q. (BY MR. BUDGE) Yeah, Chuck, were you involved in preparing the GIS shapefiles that were used in the -- as part of the adjudication to define irrigated acres for Twin Falls Canal Company?

A. So, again, TJ, that was a long time ago, but my recollection is we had -- we did some work in aerial photo analysis.

I think -- my recollection was this may have been pre-GIS days, so it may have been some hand calculations. But, I'm sorry, I don't have a clear recollection of that.

Q. That's fine. And I appreciate that.

Let me have you turn back to your expert report, and we'll flip to page 14, I believe, involving

supplemental groundwater use.

A. Yes.

Q. I am looking at heading G on page 14 in the first paragraph. And you discuss there that there are groundwater wells used for supplemental purposes within Twin Falls Canal Company's service area, but the percentage of the water supply is generally low due to the overall reliability of the surface water shares.

Do you understand, Chuck, that the methodology order does not account for supplemental groundwater use?

A. Yes.

Q. And you understand that the methodology order assumes that every acre within the company is irrigated solely with surface water?

A. I would have to examine the methodology order closely, TJ, but I think that's probably implicit in the analysis, yes.

Q. Have you analyzed how many acres within Twin Falls Canal Company have supplemental groundwater rights?

A. No.

Q. Do you have a rough idea?

A. No.

Q. Is this something you could do if you were asked?

A. We could analyze the areas that are covered by groundwater rights. That would be what could be done without field investigation.

Q. And you could do that analysis because the Department has, in its database, groundwater right points of diversion and places of use?

A. Correct.

Q. And then you would have to work with the canal company to figure out how much of that groundwater irrigated land also receives surface water?

A. Yes.

Q. It's the --

A. I'm sorry. We work with the canal company and the water user.

Q. Okay. It would be both; you would have to have the canal company's cooperation so you know where they deliver water, and then you may also want to work with the individual farmers?

A. Correct.

Q. Without access to Twin Falls Canal Company's water delivery records, there wouldn't really be a very good way of calculating or determining which acres receive supplemental groundwater use?

A. I don't understand the question, TJ.

Q. So in order to evaluate supplemental

groundwater use in a reliable fashion, it would be important to know which parcels of farmland the company delivers surface water to?

A. Yes.

Q. And that's data that's held by the Twin Falls Canal Company; that's not data that's held by the Department of Water Resources; correct?

A. Correct.

Q. So that's not data that IGWA or other groundwater users have access to?

A. Not that I know of.

Q. So you would agree, then, that neither IGWA or the other groundwater users in this case even have access to the data that would be needed to analyze supplemental groundwater use within the company?

A. Well, that's a broad --

COURT REPORTER: Mr. Brockway, can you start your answer again, I apologize.

THE WITNESS: That's a broad question. Some analysis could probably be done given available public data. But, yes, I believe to the extent that actual share locations and delivery locations are needed to make that analysis. I'm not sure that's public information.

Q. (BY MR. BUDGE) So it would require Twin Falls

Canal Company's cooperation for somebody to do that type of analysis; correct?

A. I think to do it right, yes.

Q. Okay. So for that to be done right, the canal company holds the cards, essentially?

A. I don't know. That's a judgment call.

Q. Let me ask you a little bit about the Fifth Methodology Order.

I assume you've read that?

A. Yes.

Q. Have you been familiar with the methodology order prior to your preparation for this case?

A. Somewhat.

Q. Do you generally understand how the methodology functions as defined in the order?

A. I think so.

Q. If you'll turn to Exhibit 300 -- and I believe Mr. Thompson emailed that to you today -- that's the Fifth Methodology Order.

A. Yeah, I have it.

Q. And then, Chuck, if you could flip to page 9 and draw your attention to paragraph 19.

A. I am there.

Q. Do you see in that paragraph where it talks about current conditions needing to be represented by

the net area of irrigated crops?
A. I see that.
Q. You understand that that net area is referring to actual irrigated acreage?
A. I'm not sure of the definition of the net area, frankly.
Q. Okay. Do you understand that the methodology order uses irrigated acreage to calculate water demand for members of the Surface Water Coalition?
A. Yes.
Q. And so you would agree that it's important to have --
A. Partially.
Q. I'm sorry, you would agree that it's important to have accurate irrigated -- accurate irrigated acreage information for use in the methodology by the Department?
A. Yes, I would agree that more accuracy is better.
Q. Thank you.
I believe Exhibit 337 was also emailed to you today. It's a collection of letters from legal counsel for certain members of the Coalition to the Director.
A. Yeah, I have that.
Q. Are you aware that members of the Surface

Water Coalition are required annually to submit their irrigated acreage to the Department for use in Step 1 of the methodology order?

A. Yes.

Q. Have you seen these letters before?

A. No.

Q. Does the company ever consult with you about its irrigated acreage in connection with preparing these letters?

A. No.

Q. So you don't maintain any type of database or analysis of irrigated acreage within the company?

A. No.

Q. Let me ask you just a couple other questions about the supplemental groundwater usage portion of your expert report. That's Exhibit 4, I'm on page 14, Section G.

A. Yes.

Q. That paragraph at the top that I quoted earlier states that "the percentage of water supply provided by groundwater is generally low due to the overall reliability of the surface water shares."

Can you explain that sentence?

A. The Twin Falls Canal Company water supply is generally reliable, obviously, during the shortages.

However, there hasn't been the need to develop supplemental groundwater on the Twin Falls tract as there has been, for example, on the North Side tract.

COURT REPORTER: On the what tract?

THE WITNESS: North Side.

COURT REPORTER: Thank you.

Q. (BY MR. BUDGE) So, Chuck, you're aware of other surface water delivery entities where there's larger percentages of supplemental groundwater wells?

A. Yes.

Q. And that typically occurs when the surface water supply is less reliable?

A. That's been my observation and experience.

Q. Okay. Were you here for the testimony of Jay Barlogi earlier this week?

A. Yes. I had to step out for a few moments of it, but I think I heard the bulk of it.

Q. During part of his testimony, I was asking him about the types of crops grown within the company's service area, and there were quite a few, including wheat and barley.

Do you recall that part of his testimony?

A. Yes.

Q. And you understand that wheat and barley are typically harvested in, you know, early August?

A. Yes.
Q. And you would agree that once those crops are harvested, the crop water need within the company would decline?
A. Yes.
Q. Mr. Barlogi also testified about some of the efficiencies that the company has implemented in recent years.
Do you remember that part of his testimony?
A. Yes.
Q. He mentioned automation and the Kinyon Pond and also some lining projects.
Do you recall that?
A. I do.
Q. One of the projects he mentioned was a large canal lining project that happened in 2019 on the High Line Canal.
Is that something you are familiar with?
A. No, other than to know that it occurred.
Q. Okay. And then he mentioned an upcoming large lining project that's, I think, slated for 2024.
Is that something you're involved with?
A. No.
Q. Okay. You understand when a canal company is lined, that's typically done to minimize or eliminate

the amount of seepage out the bottom of the canal?

A. Yes.

Q. And so if the water is diverted into the canal, that results in a decrease in the total amount of water lost through the bottom of the canal?

A. Yes, that's the objectives.

Q. And when those lining projects are implemented, the canal efficiency improves; correct?

A. Correct. Well, sorry, TJ. Efficiency is calculated lots of different ways. Let's say it this way: The conveyance loss from the canal decreases.

Q. That's a better way of saying that. Thank you, Chuck.

And I sometimes hear canal companies say that through these types of projects, they're able to stretch their water further. Would that be fair to say?

A. Generally that's true.

Q. Let me ask a few questions about the increase in sprinkler irrigation efficiency within Twin Falls Canal Company, and I believe you mentioned that it's gone from about 25 percent to 50 to 60 percent.

Was that based on Mr. Barlogi's earlier testimony in this case?

A. Yes.

Q. And you testified that when a shareholder

converts from flood irrigation to sprinkler irrigation, less water is applied to the farm field?

A. I think that's generally true. The on-farm efficiency can improve.

Q. And then the corollary to that is on that particular field, less water is diverted from the canal?

A. To that particular field. The same shares may be diverted to other lands, but for that particular field that got converted, generally that on-farm diversion will increase.

Q. And also as a result, you have less wastewater runoff under sprinkler irrigation than flood irrigation?

A. Generally, yes.

Q. And wastewater is typically collected in drains or what's sometimes called waste ditches; is that right?

A. Yes.

Q. And Mr. Barlogi testified that some of those drains or waste ditches come back into the canal system. Are you aware of that?

A. Yes.

Q. And others leave the system. They may discharge into a creek or into the canyon or something like that?

A. Yes. They may be lost from the system, if you

will.

Q. And so when a farmer converts from flood to sprinkler irrigation, there's some amount of system loss that is essentially saved to the system.

Would you agree with that?

A. When a farmer converts -- I'm sorry, say that again.

Q. When a farmer converts from flood to sprinkler irrigation, there's some amount of system loss that is saved to the system?

A. Well, by system loss, if you mean runoff from his farm.

Q. Yeah, that's --

A. I assume that's what you mean.

Q. That's a better way of saying it.

So there's some amount of farm runoff that is conserved or saved?

A. Or it decreases, the runoff decreases.

Q. And there's also a decrease in the amount of deep percolation or aquifer recharge when somebody converts from flood to sprinkler irrigation?

A. Yes.

Q. Let me ask a few questions about project efficiency.

You testified there's many factors that affect

project efficiency, including canal seepage, wetting of banks, operational spills, and sprinkler irrigation.

Do you recall that testimony?

A. Yes.

Q. And you testified that these and other factors should be taken into account when analyzing project efficiency?

A. When making a determination on evaluation or a judgment as to the reasonableness of a calculated efficiency. They're all factors that contribute to the need for water diversion that does not directly go to meet the ET of the crop.

Q. Okay. And you understand that the methodology order does not take any of these factors into account when it calculates project efficiency for members of the Surface Water Coalition?

A. Not directly, that's right.

Q. If I understood your testimony right, the methodology order uses an equation that simply divides the diversion volume by crop water need?

A. It divides the crop water need by diversion volume.

Q. I have that backwards. Thank you for the correction.

And so if the conveyance efficiencies of

Twin Falls Canal Company improve, the methodology order makes no change in the reasonable in-season calculation?

A. That is correct. Yes. That's a true statement.

Q. So when Twin Falls Canal Company installed their canal lining project in 2019, the methodology order didn't make any adjustments to account for that improvement?

A. Well, not directly, but to the extent that may have showed up as a change in the diversion volume, then the equation that you just spoke of would have picked it up.

Q. So if the company had reduced its diversion volume as a result of that improvement, then you would have seen some change in the diversion volume input into the methodology?

A. And some change in the efficiency, project efficiency.

Q. Okay. And we talked earlier that there's been a pretty substantial increase in the amount of sprinkler irrigated land, from 25 percent to 50 to 60 percent.

The methodology order does not do anything to directly account for that added efficiency?

A. Not directly.

Q. So if I understood your testimony, if

Twin Falls Canal Company becomes more efficient in using water, the equation used in the methodology order does not change the reasonable in-season demand?

A. Not directly, only if it shows up as a change in the diversion plan.

Q. And if irrigated acreage declined in the company, the methodology order would not change the reasonable in-season demand volume?

A. It's the same answer. The diversion volume is the baseline -- basis for the methodology calculation of the project efficiency.

So it's crop water need, which is a consumptive irrigation requirement, times irrigated area divided by the diversion point. The measure they observed diversion volume.

Q. So if Twin Falls' irrigated acreage decreased by one half, as long as they continued to maintain a stable diversion volume, their reasonable in-season demand would not change?

A. That's what the equations and the methodology set forth.

Q. Let me go back to your expert report. And we can turn to page 7.

A. Okay.

Q. And I'm looking at Figure 4, which you

discussed with Mr. Thompson.

And I understood your testimony to be, in your report, that this shows that Twin Falls Canal Company's diversions have remained relatively constant since the late 1970s?

A. Yes.

Q. And there's a statement in your report that diversions have all been within plus or minus 150,000 acre-feet of the average?

A. Yes.

Q. So do those gray horizontal lines that parallel the average -- there's one above and one below -- does that reflect the plus or minus 150,000 acre-feet figure you're talking about?

A. Yes.

Q. Okay. So I can see there's just a couple orange dots that are kind of outliers that reach that 150,000 acre-feet figure?

A. Yes. The 150,000 figure, plus or minus -- excuse me. Let me back up.

The average value plus or minus 150,000 acre-feet represents the range of the data.

Q. Okay. I understood that correctly, then.

And then if we took out those outliers, you know, like 2005 and 2020 and we go back to, say, 2000,

it looks to me like diversions have probably been plus or minus maybe 50- or 75,000 acre-feet?

A. I would agree. It does appear to be -- it does appear that the variability in the data has been less in recent decades.

Q. And at the bottom of that section of your report -- and I'm looking right above the heading number "C" -- or labeled "C" -- you state at the end that: "there's no statistically significant trend in the data set, and if any trend exists, it is a very weak downward trend."

You're referring to the time period of 46 years shown in that graph?

A. Yes.

Q. And I believe you testified earlier that if we were to look at a shorter time period, say, from the early 2000s, it would show an upward trend?

A. It could if you select the right starting and end date. That's the -- that's one of the bugaboos with trend analysis.

Q. Did you run that analysis with a shorter time frame to see what it would show?

A. I believe we did do some interdecadal, if you will, analysis to see what that would show, but I don't remember what the results were.

COURT REPORTER: A what kind of analysis?

THE WITNESS: Oh, let me change that word.

Let me say: We did analysis on certain periods within this dataset, but I don't remember what the results were.

Q. (BY MR. BUDGE) Just looking, you know, at the graph, isn't it obvious that if we used, like, from 2000 to today, so the last two decades, there's an increasing trend?

A. I think so. I think the data would probably show that.

Q. And during your -- during the discussion we had just a moment ago about project efficiency and crop water need and reasonable in-season demand, reasonable in-season demand is driven largely just by diversions; correct?

A. In the methodology order, you mean?

Q. Yes.

A. Yes.

Q. So increasing diversions will show -- will produce increasing demand within the methodology order irrespective of whether crop water need is going up or down or efficiency is going up or down?

A. I'm not sure you can make that blanket statement, TJ. But it is -- again, it's -- the

methodology assumes that the diversions are what they are, they're a given, and those are used to calculate project efficiency. And those are used, together with the crop water need, to calculate the reasonable in-season demand adjustments. So those factors go into that equation.

And then, of course, the baseline year demand doesn't have anything to do with acres, it's just based on diversion.

Q. So as diversions go up, the baseline year goes up?

A. No. The baseline year is a discretionary selection by the Department.

Q. Do you understand the baseline year has to be above the average?

A. Yes.

Q. So as diversions go up and push the average up, that forces the baseline year to go higher?

A. It could if, as happened this year, the average becomes greater than the previously used baseline year, then I assume the Department would reevaluate that.

MR. BUDGE: I don't have any further questions.

Thanks, Chuck.

THE WITNESS: Thanks, TJ.

HEARING OFFICER: Further cross-examination by the groundwater users?

Mr. Harris?

MR. BUDGE: Hey, Director, do you mind if I ask -- there's a document I left on my desk that I forgot to ask Chuck about.

HEARING OFFICER: You're asking to displace Mr. Harris?

MR. BUDGE: He hasn't taken his seat yet.

MR. HARRIS: Come on up.

HEARING OFFICER: All right.

MR. THOMPSON: TJ, I just had a question about the numbering of that exhibit.

I think you had numbered that as a Coalition exhibit. I wonder if you can just renumber it to whatever IGWA's exhibit number is?

MR. BUDGE: Yeah, we can do that. And it's not labeled on its face, so when we get to the admission portion of it, we'll do that.

Q. (BY MR. BUDGE) Chuck, I had your attorney email to you a couple copies of your expert report. It's pages 4 and 5 that I've added some red highlighting on.

Do you have those?

A. I see those. Yes, I have those. Yes.
Q. Chuck, except for the red highlighting, do you recognize those as Figure 2 and Figure 3 from your expert report?
A. Yes.
Q. I'll represent that I've added the highlighting. And what I've done is identified areas that do not appear to be irrigated with water from Twin Falls Canal Company.
And I'll give you some examples. I'm looking at Figure 2 to begin with; that's the 2017 irrigated lands dataset, and I'll just start in the upper-right-hand corner. That upper-right-hand red box is what I call a farmstead. It's a house and a yard that's out in the country.
Do you see that?
A. Yes.
Q. I assume you are aware that rural farmsteads like this typically have domestic wells?
A. Yes.
Q. And they're typically using their domestic wells for their culinary use and their, you know, yard and garden and things of that nature?
A. They --
COURT REPORTER: Mr. Brockway, sorry. You're

going to need to start your answer over.

THE WITNESS: They are using it for in-house purposes for sure. Sometimes they irrigate their half-an-acre allowance with the domestic well; sometimes they use their surface water shares, in my experience.

Q. (BY MR. BUDGE) Okay. If you can just take a moment to look at the areas I've highlighted in red. There was some pivot corners, and then the others are all farmsteads.

If you can just confirm that you agree that that's what I've identified?

A. Yes, I see them, TJ.

Q. Okay. And so these are areas that are not irrigated with the canal water unless the farmstead is using canal water for its landscaping and gardening around the house.

Do all the red areas look okay on that, Chuck?

A. I'm sorry. What's the question?

Q. Okay. And maybe you answered this already, but you've had a chance to review the areas that I marked in red on that?

A. Yes.

Q. Okay. And you agree that they're representing either pivot corners or rural farmsteads?

A. It looks that way, yes.

Q. And then I've done the same thing on Figure 3. The one difference for Figure 3 is there's that chunk in the middle where the red is shaped like an E.

And on this hard copy version it's kind of hard to see, but as you're aware -- as you're familiar with the original, that highlighted area that looks like an E is actually some subdivision roads. It looks like a newly created subdivision that has roads but no homes yet.

Do you recognize that?

A. Yes.

Q. Other than that subdivision, as I've just described, the other areas, you'd agree, represent rural farmsteads or pivot corners?

A. It does appear that way.

MR. BUDGE: I would move to have this document marked as the next IGWA Exhibit No. --

MS. PATTERSON: 838.

MR. BUDGE: -- 838 and admitted into evidence.

(Exhibit 838 marked.)

HEARING OFFICER: Any objection to the admission of this document?

Hearing no objection, the document marked as Exhibit 838 -- is that correct -- is received into evidence.

(Exhibit 838 received.)

MR. BUDGE: Thank you. And thank you for the accommodation.

HEARING OFFICER: Mr. Harris.

CROSS-EXAMINATION

QUESTIONS BY MR. HARRIS:

Q. Mr. Brockway, good afternoon.

Can you still only hear us? Or can you see us yet?

A. I can hear, but not see.

Q. Okay. Rob Harris here on behalf of the City of Idaho Falls.

Is it okay if I call you "Chuck" today?

A. Absolutely.

Q. Do you have, close to you or on your computer, Exhibit 300, which is the Fifth Methodology Order?

A. Yes.

Q. Your report, which is Exhibit 4, and then the expert report of Greg Sullivan with Spronk Water Engineers, that's Exhibit 347A. I'll be referring to those. So I wonder if you could just have those pulled up.

MR. THOMPSON: Rob, I think I'll have to email him that.

THE WITNESS: Okay. I have those pulled up, Rob.

MR. HARRIS: Okay. Great.

Q. (BY MR. HARRIS) You are described as one of the three authors of Exhibit 4; correct?

A. Correct.

Q. Did the three authors prepare different sections, or did you contribute to all of it and are able to testify as to all parts of it?

A. The three authors wrote different sections.

Q. What sections did you prepare?

A. I prepared -- well, let me clarify.

Brockway Engineering, myself and Erick Powell, prepared all but Section C; Dave Shaw prepared Section C.

Q. Okay. Thank you.

How long did it take you to prepare this report?

A. Probably three days.

Q. Would you have liked to have had more time to prepare it?

A. Yes.

Q. Okay. The Fifth Methodology Order describes the steps that the Director takes to calculate a material injury number for each member of the Coalition;

correct?

A. Yes.

Q. So it's essentially a formula. Would you agree with that?

A. Yes, or perhaps algorithm would be more appropriate.

Q. And it is an update to the Fourth Methodology Order that was issued in 2016; correct?

A. Correct.

Q. And the report is to be based on, "the best available science and underlying water data"; correct?

A. I don't know. Are you quoting from the order?

Q. I am. So if you look at page 2 of the Fifth Methodology Order, it uses a phrase there: "Apply the best available science and underlying water data."

Do you see that?

A. I do see that. Thank you.

Q. So from a technical standpoint, what does it mean to you to apply the best available science and underlying water data?

A. Well, goodness, that's, obviously, a broad question. That's open to interpretation by different people. Some things that occur to me would be that it would be using standard mathematical protocols, standard protocols for analyzing agricultural water use. The

underlying data should be available and reasonably accurate. I don't know, Rob, that's a -- that's not one that you can pin down precisely.

Q. I think you gave a good answer. And what I'm getting at is you said it had to have some reasonable accuracy; correct?

A. I would adopt that, yeah.

Q. So it doesn't, necessarily, mean that the data has to be perfect or 100 percent certain, does it?

A. No.

Q. Okay. I want to turn to page 1 of your report, so it's Section A, "The Evaluation of Twin Falls Canal Company Project Acres."

And would you agree with me that irrigated acres identifies land where there is the artificial application of water to grow crops?

A. Well, I -- that's a very narrow definition, but in the case of the methodology, it does need to include things like that, in my opinion, waterways that are a real consumptive demand that the system has to meet even though they don't meet your narrow definition.

Q. And I'll get to that here in a moment, but just in terms of irrigation, you would agree with me that it's the artificial application of water to land to grow a crop; right?

A. Yes.
Q. That didn't come through, but I think you said "yes"?
A. Yes.
Q. And so that would not include roads, sidewalks, parking lots, and other hardened acres?
A. Yes, right.
Q. And, in fact, if you have the Fifth Methodology Order in front of you, on page 10 --
A. Okay.
Q. -- paragraph 21, could you read paragraph 21 for us. You don't need to read the citations, but go ahead and read that.
A. "Estimates of irrigated acres from the hearing show a trend of decreasing irrigated acreage. According to the Hearing Officer, beneficial use cannot occur on acres that have been hardened or otherwise not irrigated."
Q. So you would agree that the number of irrigated acres for each Coalition entity feeds into the Fifth Methodology calculation; correct?
A. Correct.
Q. And so the number of irrigated acres would affect the end result of projecting material injury, would it not?

A. Well, this goes back to my previous testimony that the equations in the methodology order assume that the diversion volumes, the observed diversion volumes are -- again, whatever the number of acres are -- the project efficiencies are calculated based on crop water need divided by diversions, and then those project efficiencies go back into the -- those calculated project efficiencies go back into the reasonable in-season demand adjustment equation.

Q. So I'll have you look at page 9 of that methodology order and look at paragraph 19.

And, Chuck, I understand your argument, and I would categorize your argument as twofold. One is the one you're making where you're saying irrigated acres don't really matter, but there's also a component of your report that indicates that because there are some errors that could happen with generation of a shapefile, that the acreage shouldn't be updated.

And I'm asking you about the latter one, which is whether or not acres can be depicted through shapefiles and how that factors into this methodology.

So paragraph --

A. Oh, I see.

Q. So paragraph 19, you would agree with me, says: "A baseline year must be recent enough to

represent current irrigation practices. Current conditions should be represented by (a) the net area of the irrigated crops."

Do you see that?

A. I do.

Q. And so is it your position, then, that the Director was in error to look at irrigated acres as he indicated he has in the Fifth Methodology Order?

A. No.

Q. Okay. So in terms of just calculating irrigated acres, you and your office are familiar with GIS software; correct?

A. Yes.

Q. You know how to generate and amend shapefiles?

A. Yes.

Q. You've used them in water transfers and other analyses; correct?

A. Correct.

Q. In fact, on your website, you indicate that you employ Jennifer Jennings who is, quote, a specialist in GIS mapping and analysis using ArcMap; is that right?

A. That is -- that was right up until a few days ago, but she's no longer with the firm.

Q. Oh, I'm sorry to bring that up.

Okay. But that's something you're personally

trained and others in your office on how to do that; right?

A. Yes.

Q. So as for polygons that are created with GIS, would you agree that they represent the best available technology to calculate the size of areas that are covered by the polygon?

A. Yes, I would say so.

Q. Pretty accurate in calculating acreage; right?

A. If the area photo is rectified properly, it can be quite accurate.

Q. And with the update to the Fourth Methodology Order from 2016 to the Fifth in 2023 to have the best available science, that would include an update to the actual irrigated acres; correct?

A. It would.

Q. And if we look at what qualifies as irrigated acres, would you agree that open water in ditches, ponds, or other waterways are not -- they're not irrigated, are they?

A. Under the definition you provided, no.

Q. And as I understand your testimony, I think what you're, essentially, saying -- and I'll get to your other arguments in paragraphs 2, 3, 5, and 6 -- but it's that irrigated acres don't matter; what matters is just

the diversions.

That's the second position in your report; correct?

A. Well, we can talk about that when we get there. It's just -- it's not that they don't matter. It's important to understand how they're utilized or not utilized in the methodology equations.

Q. I understand.

But you're basically -- well, let me -- if I were to say I'm not sure I understand your answer, could you just describe what it is you're arguing, then? If you're saying that it doesn't matter what the irrigated acres are, it's the baseline year, and that's determined by the historic diversions?

A. Right. The baseline year demand doesn't have anything to do with acres. It's simply a discretionary selection that fits the criteria outlined in the methodology order.

Q. Okay. I appreciate your answer. I'm just going through my questions because I think that answers a fair amount of them.

And actually TJ gave a hypothetical, but does that -- that I'll just ask again -- but does that mean that if Twin Falls Canal Company's acres go down 100,000 acres, do we keep considering the diversions as

a given and compute project efficiency values lower and lower, say, down to 20 percent?

A. Well, that is a big hypothetical, obviously. If the acres were to reduce by 50 percent, it probably would show up as a reduced diversion demand, and so then, over time, that would show up as changes in the calculations that are in the methodology order.

Q. And I think Travis gave you an example of 1 acre, so I gave you 100,000 just to cover the range.

But the -- based on at least some calculations, there's been approximately a 15,000-acre change in the system based on the shapefiles; correct?

A. Yeah, I've seen those numbers.

Q. And overstating the number of actual irrigated acres, from a technical standpoint, would result in a higher determination of material injury; correct?

A. Well, again, it's not that clear. It's not a one-for-one calculation like that based on the methodology equations.

Q. Okay.

A. I could go through that again if you'd like.

Q. No, I think I understand your testimony. Thanks.

A. Okay.

Q. I do want to turn to Part B of your report,

which is the trend in the Twin Falls Canal Company diversion.

And I think you've taken the position that they've actually decreased over time; correct?

A. No. Rob, I don't think I would take that position. It's just if you look at the numerical value of the trend to calculate it, it's very slightly downward but not enough to be statistically significant and not enough to render that opinion.

Q. But your analysis of that begins in 1977; correct?

A. Correct.

Q. Okay. In the Fifth Methodology Order on page 3, the Director states: "To capture current irrigation practices, identification of a baseline year" -- abbreviated "BLY" -- "is limited to years subsequent to 1999."

Do you see that?

A. I do see that, yes.

Q. So the Director began his analysis in 2000.

Is it your position that the Director was incorrect to pick a time period after 2000 in his analysis?

A. No.

Q. Okay.

A. No. That's just a discretionary decision.
Q. Okay. And, in fact, I'll -- you indicated in your testimony to Mr. Budge that -- kind of just eye-balling recent diversions that it's likely increased.
I want to have you look at Greg Sullivan's expert report just a few pages from the very back. It's Table 2-1.
A. Uh-huh.
Q. And there's a chart in there that -- well, let me know when you get there.
HEARING OFFICER: What is the exhibit number?
MR. HARRIS: 347A.
HEARING OFFICER: Thank you.
THE WITNESS: Table 2-1. Okay. I'm there.
Q. (BY MR. HARRIS) Great.
This is a chart that summarizes the historic diversions of each of the Coalition entities.
Do you see the column for Twin Falls Canal Company?
A. I do.
Q. And do you see that there's some averages below them where you can actually see the average diversions from 2000 to 2014 of 1,045,120 acre-feet?
Do you see that?

A. Yes. Yes.
Q. And then do you see that there's an average of 2015 to 2021 of 1,098,477 acre-feet?
A. I do see that.
Q. So, at least based on those time frames, it appears that there's been an increase of over 50,000 acre-feet per year during the 2015-to-2021 time frame; correct?
A. I'm just checking to make sure these are adjusted volume. Yes. Yes. So assuming Greg's math is right, which I'm sure it is, then that is correct.
Q. Great. And so since the Fourth Methodology Order was issued in 2016 -- now we're in 2023 -- certainly since 2016 Twin Falls Canal Company diversions have increased; correct?
A. Well, I'd have to do the analysis just for that short period, Rob. I don't know if I can answer that today.
Q. Well, it's got a time period of 2015 to 2021. I'm just saying since 2016, based on these data, up to 2021, it looks like they've increased.
A. So you're asking me if the period 2016 to 2021 is greater than --
Q. I said -- yeah, greater than 2000 to 2014.
A. Well, I'd have to calculate the average of

2016 to 2021. That's not shown on Table 2-1.

Q. Okay. But at least from 2015 to 2021 it appears it's increased?

A. Yes.

Q. On -- I'm now going to have you turn to Part D of your report.

A. Uh-huh.

Q. And so that's on page -- well, I'll have you turn to page 13.

You gave a hypothetical there in the middle paragraph. You say: "A simple example calculation demonstrates this."

Do you see that?

A. I do.

Q. So the example assumes 56 percent on-farm efficiency, 20 percent canal loss at the diversion, and operational spill of 15 percent with an overall project efficiency around 42 percent; right?

A. Yes.

Q. And --

A. Well, that's -- the 42 percent is a calculated number based on above assumptions.

Q. Right. And you were here -- or I believe you said you were listening in on Mr. Barlogi's testimony that sprinkler irrigation comprises 50 to 60 percent of

Twin Falls Canal Company's irrigation practices today?

A. Yes.

Q. So in your hypothetical, would you expect Twin Falls Canal Company's on-farm efficiency to be 65 percent, in that range?

A. Oh, I think that may even be a little high, Rob. But that's maybe in the ballpark.

Q. But in your hypothetical you arrive at a calculated 42 percent project efficiency; right?

A. Right.

Q. In the methodology order it projects an efficiency that's 35 percent; correct?

A. On average.

Q. On average.

And so doesn't that mean that the company's collective losses, either conveyance losses or operational spills, must be greater than those in the hypothetical?

A. No. Because as I said in the last sentence there, this doesn't account for factors that are very difficult to even put a number on, such as the seasonal shoulder effects and the weather -- the short-term weather changes that reduce the crop water need but don't result in a diversion reduction.

So my only point with this paragraph is to say

using numbers that we have, that we can reasonably estimate, it's really easy to get to a number like 42 percent.

So my point here is that it's not at all unreasonable for a large canal company with a thousand miles of ditches and laterals to have an efficiency of something like 35 percent.

Q. Did you review the project efficiency of other Coalition members?

A. No.

Q. Was there a reason you did not look at those numbers?

A. Our task was, in the interest of time, primarily to focus on the hot-button company for this matter, which was Twin Falls Canal Company.

Q. So you don't know why the other members have been able to operate with much greater project efficiency values? You wouldn't have any knowledge of that?

A. I have general knowledge, but I don't have any specifics for you.

Q. I have one more area of inquiry, and then I'll be done. And it's Part G under "Supplemental Groundwater Usage."

A. Yes.

Q. You testified before that you're familiar with GIS shapefiles; correct?
A. Yes.
Q. And your office utilizes ArcMap, which I'm also familiar with, so you know how to use the clip, merge, buffer, intersect functions that can show areas where groundwater shapefiles overlap with company shapefiles?
A. Yes.
Q. And you could perform a function that would yield a shape that would show where that overlap occurs; right?
A. Yes.
Q. And the same thing with points of diversion?
A. Well, clarify that, if you would.
Points of diversion for wells would be the individual private wells.
Q. Correct.
A. Whereas --
Q. Yeah. And you could at least get an initial list of the privately decreed groundwater rights that exist within Twin Falls Canal Company's service area?
A. Yes.
Q. Okay. And those shapefiles have attribute data associated with them; correct?

A. Yes.
Q. It would have things like legal descriptions or IDWR metal tag numbers or even WMIS diversion numbers in it; correct?
A. Yes.
Q. And in terms of knowing who owns the properties where these shapes are, have you utilized tax parcel data that's generated by the counties to show land ownership?
A. Yes.
Q. And that's fairly readily available these days; right?
A. It is.
Q. And so wouldn't that be a starting point of where groundwater may be used within the company?
A. Yes.
Q. Are you familiar with the -- well, you are familiar with the WMIS database maintained by the Department; correct?
A. Yes.
Q. And that's an acronym for Water Management Information System?
A. Yes.
Q. And that system tracks groundwater diversions either measured by flowmeters or calculated through PCC

calculations; correct?
A. Yes.
Q. Okay. And, in fact, I believe you've used those in transfers and other situations, have you not?
A. Yes.
Q. And so do you consider them to be a reliable source of information, albeit maybe not perfect, for historical groundwater diversions?
A. Yes.
Q. I believe you said "yes"?
A. Not perfect. Yeah, I would agree with you, Rob. Not perfect, but reasonably reliable in most cases.
Q. And best available; right?
A. I think so.
Q. Okay. And I think the point of the Director's order is that supplemental groundwater use may be looked at because it may contribute to the overall water supply.
Do you agree with that?
A. Sorry. Could you restate that?
Q. Yeah. I believe that the Director's order -- the reason supplemental groundwater use is even mentioned is that it could be considered a source of water supply to irrigate acres within the Twin Falls

Canal Company's service area; correct?

A. So my apologies. I'm not familiar with where that's mentioned in the order. I would have to go reread that again.

Q. I'll refer you to page 10 at the bottom, paragraph 23.

Do you have that in front of you?

A. Okay. I'm there.

Q. It says: "There are lands within the service area of SWC entities that are irrigated with supplemental groundwater."

Do you see that?

A. I do see that.

Q. And that's under the section of the order under "Irrigation Practices," which is also under the available water supply to those that irrigate within the service area.

Do you see that?

A. I do see that.

Q. So as I understand the order, the analysis of supplemental groundwater is that it would provide another source of supply as to what could be irrigated acres within the company; right?

A. Right.

Q. Okay. And wouldn't WMIS data that's matched

to places of use points of diversion groundwater rights be a reliable starting point to determine how much supplemental groundwater is used?

A. It would be a starting point.

Q. And may be subject to some ground truthing as you said before; right?

A. Right.

Q. All right. I just have one more question. The last one is on the baseline year discussion.

Isn't it true that so long as Twin Falls Canal Company continues to increase its diversions, then the average will increase, and then in a few more years, there would be a higher baseline year with higher demand? Isn't that the end result of just looking at diversions?

A. If Twin Falls Canal Company diversions continue to increase, under that hypothetical, then, mathematically, their average will also continue to increase. What the Department does with that in the future is not something I can say.

Q. But if they continue to base mitigation obligations on that calculation, wouldn't that require the groundwater users to provide more upfront water?

A. Well, if -- under your assumption that a new baseline year is selected?

Q. Yes.
A. It could, yes.
MR. HARRIS: Director, I believe that's all of the questions I have.
Thank you.
HEARING OFFICER: Thank you, Mr. Harris.
THE WITNESS: Thank you, Rob.
HEARING OFFICER: I assume there is more cross-examination?
MR. BRICKER: Yeah.
HEARING OFFICER: Okay. Well, let's break for lunch. Come back at a quarter after 1:00. Thank you.
(Lunch break taken.)
HEARING OFFICER: Okay. Let's go back on the record. Next to examine.
Are we on, Andrea?
COURT REPORTER: Yes.
HEARING OFFICER: All right. Thank you.
Mr. Anderson, you may examine.
MR. ANDERSON: Thank you.

CROSS-EXAMINATION

QUESTIONS BY MR. ANDERSON:
Q. How are you, Mr. Brockway?
A. I'm doing fine, thank you.

Q. Good. I'm Dylan Anderson. I've seen you before. I don't know if we've actually met in person or not, but I just have a quick question for you.

As you explained with irrigated acres, as they would go down, the efficiency would go down, or as they would go up, the efficiency would go up, so they don't really affect the reasonable in-season demand. Is that an accurate representation as you've explained it?

A. They don't affect it on a direct proportionate basis; that's right.

Q. So if the Department wanted the actual irrigated acres to be reflected in the reasonable in-season demand, would they, then, need to somehow fix efficiency? "Fix," I mean make it static or control for that number?

A. That could be a way to do it.

MR. ANDERSON: That's it. That's the only questions I have.

Thanks.

HEARING OFFICER: Okay. Next?

Mr. Bricker, come forward.

MR. BRICKER: Before I begin the examination, Director, I believe the parties, we've all stipulated to admitting Exhibit 316 into evidence, and I just wanted to make that clear now.

HEARING OFFICER: 316?
MR. BRICKER: Yeah.
MR. FLETCHER: Which is the same as 914; right?
MR. BRICKER: Also 914, the same document.
HEARING OFFICER: Okay. There's a stipulation to the admission of 316 and what? Corresponding 914?
MR. BRICKER: Correct.
MR. FLETCHER: It's the same exhibit.
MR. BROMLEY: They just need 316.
MR. FLETCHER: Mr. Director, are we on the record?
HEARING OFFICER: We are.
MR. FLETCHER: Can we go off for just a second?
(Discussion held off the record.)
HEARING OFFICER: Back on the record.
So the parties have stipulated to the admission of Exhibit 914, which also corresponds to what was marked as 316. Thank you. It's received into evidence, Exhibit 914.
(Exhibit 914 received.)
MR. BRICKER: Good to go?
HEARING OFFICER: Yes.
///

CROSS-EXAMINATION

QUESTIONS BY MR. BRICKER:

Q. Good afternoon, Mr. Brockway.

A. Good afternoon.

Q. My name is Max Bricker. I represent the City of Pocatello. I have a few questions for you here.

So in your report, you state that: "The diversion volume in the Fifth Methodology baseline year of 2018 is at the 84 percentile and provides a reasonable factor of safety to protect senior water right holders."

Is that right?

A. I am getting there. One second. Are you looking at the conclusions?

Yes. Okay, I see that. Uh-huh.

Q. And you also state that: "Using 2018 as the BLY provides a reasonable factor of safety without being extreme."

Right?

A. Yes.

Q. Isn't it possible that diversions from a baseline year at a percentile lower than the 84th could still provide a reasonable factor of safety?

A. Well, obviously, the word "reasonable" was up to interpretation. So in general, yes.

Q. Thanks.

Isn't there already an additional safety factor by using the forecast supply minus one standard deviation?

A. Yes.

Q. If the safety factor is too high, then won't the forecast shortage almost always be greater than the actual shortage determined at the November 1st reconciliation?

A. The conservatism built into the system or into the algorithm could be set such that that would be the case.

Q. And similarly, if the groundwater users have to provide mitigation water based on an overly conservative forecast shortage, won't they almost always end up overmitigating?

A. That is the same answer to my previous question.

Q. Thanks. Doesn't that suggest that there is a point at which too much conservatism in the forecast ends up being a waste of the resource?

A. That's a policy question not a technical question, so I don't have an opinion on that.

Q. Okay. Also in your report you state that: "Operational spill is always necessary in order to

deliver water to users within the systems. Spill must be maintained in order to account for variations in demands by irrigators. Without spill it would be impossible to reliably serve the tail ends of the system."

Correct?

A. That's true.

Q. Even if operational spills were necessary, the amount can be reduced with more prudent management; correct?

A. Possibly.

Q. And isn't there a point when operational spills become excessive?

A. Again, there's no bright line there. I think there would be, but there's no set point or a bright line.

Q. Fair enough.

Okay. Also in your report, you state that: "It is not unreasonable to see flat or declining project efficiencies even though sprinkler conversions are continuing to occur."

Is that right?

A. Yes.

Q. So if on-farm efficiencies increase as sprinkler conversions continue and conveyance losses

stay constant but project efficiencies stay flat, that must mean that operational spill rates have increased; right?

A. Well, that's one possibility, but there could be other operational factors that might enter into that, as I've indicated.

Q. You also state that: "It has been demonstrated herein that the project efficiency is reasonable."

Right?

A. Yes.

Q. How are you defining the term "reasonable"?

A. Well, the hypothetical calculation that Mr. Harris and I went through, I think, is a good foundation for that. There are just certain levels of system losses, if you will, that can be reasonably achieved. There's no set definition for reasonable, but there are, certainly -- I think the term has been used -- "industry standards" that can be used to define whether waste is going on. So my only point of that calculation was just to demonstrate how very easy it is for a large, slow-moving canal system to have efficiencies that are very low.

Q. And you agree that project efficiencies can change; right?

A. Yes.
Q. And you also agree that a project whose operations are reasonable at one point in time could at some point in the future cease to be reasonable?
A. No. That's -- I don't know about that.
Q. So as an example, just because something was reasonable in the year 1910 doesn't, necessarily, mean it's reasonable today; right?
A. Well, I believe the definition of reasonable is to compare it with current industry standards or current state of the art. I think I would generally agree with that.
Q. So if the technology changes, that could render an outdated operation no longer reasonable; right?
A. Possibly.
Q. Isn't it true that Twin Falls Canal Company's baseline year demands are equal to its 2018 diversions in the Fifth Methodology Order?
A. What are you asking me, if the Department chose 2018 as the baseline year?
Q. Yes.
A. That's true.
Q. And its diversions in that year are the baseline demand?

A. Correct.
Q. Isn't it also true that Twin Falls Canal Company claims to divert roughly 1,100,000 acre-feet annually?
A. I think that's the round number that is often cited or stated.
Q. Okay. So hypothetically here, when multiplying 1,100,000 acre-feet by an average project efficiency of .35, that equals an annual crop water need of roughly 385,000 acre-feet; right?
A. Yes.
Q. Now, in your example in your report, you arrived at a project efficiency of .42; right?
A. For that purely hypothetical example.
Q. Sure. So in my hypothetical, if you were to divide that calculated crop water need of 385,000 acre-feet by a project efficiency of .42, doesn't that equal 917,000 acre-feet, roughly?
A. Yes.
Q. So if that crop water need were to stay consistent and the canal company in this hypothetical were to achieve a project efficiency of .42, its diversions could decrease by a magnitude of roughly 200,000 acre-feet; right?
A. Yes.

Q. Doesn't that indicate that a change -- a minor change in project efficiencies -- we'll call it a few decimal places -- can make a significant difference in demand by a magnitude of tens of thousands of acre-feet?

A. Yes.

MR. BRICKER: That's all of the questions I have. Thank you.

HEARING OFFICER: Other questions from the groundwater group?

I don't see anybody.

Redirect, Mr. Thompson?

MR. THOMPSON: Good afternoon, Chuck. This is Travis Thompson back here for a few redirect questions.

THE WITNESS: Hey, Travis. I can see you this time, so that's good.

MR. THOMPSON: Good for you or me? I don't know.

THE WITNESS: Well, I don't know.

REDIRECT EXAMINATION

QUESTIONS BY MR. THOMPSON:

Q. Can you -- you had a long discussion with Mr. Budge about irrigated acreage in the context of reasonable in-season demand and how that's calculated in the methodology.

Do you recall that?

A. I do.

Q. Can you provide a summary of your understanding?

A. Yes. Let me try to tidy this up because it's sort of been, I think, saved in a fractured manner. So let me try to summarize.

As a general principle for irrigation systems, of course the number of irrigated acres matters. You know, a diversion requirement is generally a requirement of irrigated acres. I don't think that's in dispute.

So my testimony is not that irrigated acres don't matter. But just looking at the mathematics outlined in the methodology that are required to make the reasonable in-season demand calculation right now for this year, the observed diversions are a given, and the historic project efficiencies are calculated as the consumptive irrigation requirement times the irrigated area divided by the observed diversions. Then the project efficiencies are used to calculate the reasonable in-season demand adjustments for this year. And, of course, the baseline year is not a function of acres at all.

So if the acreage s in the methodology are wrong, if you somehow knew that, then you would have to

go back and recalculate the historical project efficiencies, otherwise they would also be wrong. Then those different efficiencies will be used to calculate the reasonable in-season demand for this year.

Theoretically, the reasonable in-season demand calculated in that way might not change. Again, just talking about the specific calculation for this year.

Now, that may not exactly be true because things are confounded somewhat by the fact that the Department actually used different acres, historically, for some period in the past. And I have not delved into the guts of the reasonable in-season demand calculation spreadsheet to know exactly what it's doing. I'm just observing the mathematics in the methodology.

If the -- if a different acreage were used, it would not result in a direct proportional reduction in the reasonable in-season demand calculation for this year, as has been claimed.

So that's kind of a -- as tidy as I can make it a summary of how the acres play into or don't play into the calculation of the reasonable in-season demand.

MR. FLETCHER: Somebody needs to mute. They did.

Q. (BY MR. THOMPSON) Okay. Chuck, we're still here. Just had somebody, I think, that was off mute.

A. Okay.
Q. Did you hear the testimony of Jay Barlogi, that the Twin Falls Canal Company has over 100 miles of main canals and roughly 1,000 miles of laterals?
A. I did.
Q. And do you know the length of the lining project completed on the High Line in 2019 that Mr. Budge was discussing with you?
A. I don't know the exact length.
Q. I guess, would that be an important factor to consider to determine the impact on overall canal seepage?
A. Yes.
Q. And you've looked at the diversion data for large open canal systems in southern Idaho; is that correct?
A. In general, yes.
Q. Is 5 to 6 acre-feet per acre a reasonable diversion rate, in your opinion?
A. Yes.
Q. Getting back to these -- we talked about the regression analysis on trends and diversions for Twin Falls Canal Company.
Do you recall that discussion?
A. Yes.

Q. I think Mr. Harris pointed out to you the Fifth Methodology Order looking at a period of 1999 to 2021.

A. Right.

Q. And do you recall if 2001 to 2005 were multiple years of drought?

A. Yes.

Q. Would those be considered years of limited supply?

A. I'm not sure if they all were, but, in general, yes.

Q. And I think Mr. Budge talked about a trend of -- 2015 to 2021 showing an increasing trend in diversion; is that correct?

A. I believe so.

Q. I guess by that same analysis, would -- what would 2020 through 2022 show?

A. Well, it's only three years, but they will be decreasing.

Q. So it certainly depends on the number of years and what you're looking at for a trend analysis; isn't that correct?

A. It does. That's correct.

Q. Mr. Budge asked you some questions about Exhibit 838.

Do you recall those?
A. Yes.
Q. And I think that was an exhibit that he had overlaid some red-shaded areas in.
Do you recall that?
A. I do.
Q. Would you agree that the interpretation of what is actually irrigated can vary depending upon the individual involved?
A. Yes, very much so.
Q. So an attorney's interpretation, like Mr. Budge's, could vary from an engineer's. Would you agree with that?
A. Yes, I agree with that.
Q. And the particular year could change what actually happens on the ground; is that correct?
A. Yes.
Q. So a corner left out of irrigation in 2021 could actually be irrigated in 2023?
A. Yes, that's right.
Q. Finally, just a question Mr. Harris asked you about desiring to have more time to prepare your report in this case.
Do you recall that?
A. Yes.

Q. Do you work within the deadlines set for contested cases and adapt to what is required?
A. Oh, yes.
Q. Is that what you did here?
A. That's what I did here.
MR. THOMPSON: That's all of the questions I have.
Thank you, Chuck.
THE WITNESS: Thank you.
HEARING OFFICER: Recross, Mr. Budge?
Mr. Harris?
MR. HARRIS: I actually have just a couple.

RECROSS-EXAMINATION

QUESTIONS BY MR. HARRIS:
Q. Chuck, Rob Harris again.
Just to follow up, more of a foundational question to Mr. Thompson's question.
You said that you looked at the diversion data of large canals in southern Idaho.
What -- specifically, what canals were you looking at?
A. Well, let me clarify, Rob. Not for this case. My testimony is that I'm generally familiar with diversion data and volumes for large canal systems.

Q. Okay. And I guess, again, just a foundational question is: How are you familiar with those? Or what canals did you look at?

A. Just in the course of my general work. So it would be companies such as North Side -- excuse me -- Aberdeen-Springfield and some of the other eastern Idaho canal systems.

Q. And North Side Canal Company is an on-demand system like Twin Falls Canal Company is; correct?

A. I believe so, yeah.

Q. And the tailwater from that system comes in below the Milner Dam into the Snake River Canyon?

A. Yes.

Q. Mr. Thompson asked you some questions about Exhibit 838 about those red-shaded areas and about individual interpretation, that it can be different.

Do you recall that testimony?

A. Yes.

Q. Would you say it's often different or -- based on the photos, you can typically see green vegetation growing to indicate it's growing; right?

A. You can. And then there are those areas that are not green and are subject to interpretation.

Q. But wasn't that the same process that was used in the Snake River Basin Adjudication to determine

irrigated acres, in your experience?

A. I think generally, yeah. I mean, they started as a -- from a -- as a first cut, if you will, looking at land that was green or showed an infrared signature and then applied some human brain power to look at some areas that may not have been so clear.

MR. HARRIS: That's all of the questions I have. Thank you.

HEARING OFFICER: Mr. Anderson --

THE WITNESS: Thank you.

HEARING OFFICER: Mr. Anderson, further questions?

MR. ANDERSON: No, Director. Thank you.

HEARING OFFICER: Mr. Bricker, further questions?

MR. BRICKER: Nope.

HEARING OFFICER: Any other recross?

All right. Thank you, Mr. Brockway, for participating today.

THE WITNESS: Thank you, Director. I appreciate you for accommodating my situation here.

HEARING OFFICER: Yep.

Next witness.

MR. THOMPSON: The Surface Water Coalition will call Dave Shaw.

HEARING OFFICER: Mr. Shaw, if you'll come forward, please.

DAVID B. SHAW, P.E.,
called by the Surface Water Coalition, having been first duly sworn to tell the truth relating to said cause, testified as follows:

HEARING OFFICER: Thank you. Please be seated.

Mr. Thompson?

MR. THOMPSON: Thank you, Director.

DIRECT EXAMINATION

QUESTIONS BY MR. THOMPSON:

Q. Dave, could you please state and spell your name for the record.

A. David, D-a-v-i-d, middle initial "B" as in "boy," Shaw, S-h-a-w.

Q. And where do you currently work?

A. I work for ERO Resources Corporation.

Q. And what is your occupation?

A. I'm an engineer.

Q. Is your CV attached to what's been labeled as Exhibit 4 in this case?

A. Yes, it was.
Q. Does that generally describe your education and work history?
A. It hits the high spot, yes.
Q. Have you been qualified as an expert witness before IDWR in prior cases?
A. Yes.
Q. Can you generally describe what you were asked to do for the report identified as Exhibit 4?
MR. HARRIS: Director, real quick.
Dave, could you pull the microphone a little closer just so we can hear a little better.
Thank you.
THE WITNESS: I was asked to look at the methodology order and the As-Applied Order and evaluate its implementation.
Q. (BY MR. THOMPSON) And if you could turn to that Exhibit 4, page 7. It should be behind you.
A. Okay.
Q. Does that Part C of pages 7 through 11 generally reflect your work product in this report?
A. Yes, it is.
Q. And can you describe those opinions that you've offered there?
A. This was as a result of looking at

efficiencies. Mr. Sullivan and others were looking at the efficiencies and trying to do a trend analysis for changes in efficiencies over time. I thought it would be important to look at how the efficiencies were calculated, and that's primarily where I focused my effort.

Efficiency, I think everyone has talked about it before, it's crop water need times acres divided by diversion. Acres has been discussed here a lot. Crop water need, not so much. We know AgriMet is used for the ET values. Mr. Sullivan called them a CIR, consumptive irrigation requirement. But there wasn't -- hasn't been such discussion about crop mix. And that's also an important element in determining water use efficiency and crop water need.

Q. And is that crop data layer, is that CDL data that the Department uses?

A. The Department's used that since 2007. Prior to 2007, that data was not available. The information was reported on a countywide average. My recollection is the Department averaged the crop mix for the county or counties in which a delivery organization was located, and then from that, created some kind of an average that they used for the water delivery organization.

Q. And do you have some recommendations on the use of that data in the methodology going forward?

A. I do.

Q. And could you describe those?

A. My understanding of the current methodology and the technical work group was provided with a copy of what IDWR calls their calculator worksheet during the TWG meetings during last fall and winter.

My understanding is for the period 2000 through 2014, the crop mix for all of those years has been averaged together. So any trends, changes over time, have been lost. So the crop water need is calculated by the ET or CIR for a particular year against an average of the crops that have been raised over that 2000-to-2014 period.

Starting in 2015, IDWR took the prior three years -- so '12, '13, and '14 -- averaged that crop mix or those crop mixes and then used that average to calculate crop water need for 2015, and that's continued through last year.

Q. And does that data become available like as the actual data at the end of the year?

A. I understand it's available after the first of the year, so 2023 data will be available January 2024.

Q. And is there a question whether they'd go back

and insert the actual data into that number?

A. To have a true estimate of system efficiency, yes, they need to use the crop mix for the year they're using the diversion data from.

Q. Can you generally describe Figure 6 on page 11, what that depicts?

A. This is an estimate of alfalfa and corn from the CDL data for Twin Falls Canal Company for the period 2007 through 2022.

And then there's a third line that are the diversions for Twin Falls Canal Company adjusted for recharge.

And it shows the trends of increasing both alfalfa and corn, and there's a slight increase in diversion. I did not test it to see if it was significant or not.

Q. Those graphs confirm what you heard from Twin Falls Canal Company's manager Jay Barlogi earlier this week?

A. He has said there have been recent increases in alfalfa and corn, yes.

Q. And does that sort of crop mix, increases in those type of crops, impact water demand within the project?

A. It does. Alfalfa, Twin Falls AgriMet on

average is a little over 40 inches per year. Small grains -- wheat, oats, barley -- is low, 20 inches per year. So not quite 100 percent increase, but pretty significant increase going from small grains, for example, to alfalfa. Corn is in the upper 20s, lower 30, so even going from small grain to corn is roughly a 50 percent increase.

Q. And do you have any comments on, I guess, challenges with project efficiency in large, open canal systems?

A. I've heard there are challenges, yes.

Q. Do you have familiarity and experience with large, open canal systems in Idaho?

A. I do.

Q. And do you have any opinions on how the Twin Falls Canal Company operates and maintains its system?

A. Compared to other water delivery organizations I've seen in Idaho, I think they're well-managed. They do a good job with maintenance. I think their delivery system and their plan for delivery is reasonable.

MR. THOMPSON: I don't have any other questions. We'd just tender Mr. Shaw as an expert in the fields that he testified to in his report.

HEARING OFFICER: Excuse me. You want

Mr. Shaw recognized?

MR. THOMPSON: As an expert for the subjects that he's testified to in his report.

HEARING OFFICER: And I believe the parties have stipulated to recognize Mr. Shaw as an expert, so he is so recognized.

No further questions, Mr. Thompson?

MR. THOMPSON: No, thank you.

HEARING OFFICER: Cross-examination?

Mr. Budge?

CROSS-EXAMINATION

QUESTIONS BY MR. BUDGE:

Q. Good afternoon, Dave. How are you?

A. Good, TJ. How are you?

Q. Very good. Thank you.

A. Besides wanting to go home.

Q. Yeah, I'm looking forward to that.

MR. FLETCHER: It's all up to you, TJ.

MR. BUDGE: It's only going to take me ten minutes, Kent.

MR. FLETCHER: Oh, gosh, the TJ multiplier coming on.

Q. (BY MR. BUDGE) Dave, if would please turn to page 2 of your report for the heading "Evaluation of

TFCC Project Acres."

A. What page was that?

Q. It's just on the second page. It's heading A. Are you looking at Exhibit 4?

A. I am.

Q. And this is part of the expert report that you submitted?

A. Yes.

Q. And do you see at the top of page 2 a heading A?

A. Yes.

Q. Titled "Evaluation of TFCC Project Acres"?

A. Oh, okay. Yes.

Q. You were here when I discussed this with Mr. Brockway earlier today?

A. Yes.

Q. You recall I was asking him about the process used to create the 2013 GIS shapefile of Twin Falls Canal Company's irrigated lands?

A. Yes.

Q. And I understand that you participated in developing that shapefile?

A. Yes, I did.

Q. Can you explain the process that you went through to develop that?

A. As we looked at both 2011 and, I believe, 2013 aerial photography, we had done some prior work for Twin Falls where we had some historical photography for -- I think mostly areas along the boundary of the delivery organization, so we had some history on what had happened on some of those lands. So we tried to, very carefully, identify acres that were either irrigated in 2011 or 2013 or appeared they had been irrigated in recent years.

Q. And the data that went into that was you had aerial photography, I understand?

A. Yes.

Q. Or was it satellite imagery?

A. Aerial photography.

Q. Aerial photography.

And then you said on the fringes of the company, you had some other type of information. Could you clarify what that was?

A. Yes. We had some historical photography, some old black-and-white photos from Department of Ag.

Q. Okay. And your goal was to identify acres that were irrigated or had been irrigated in years past?

A. In recent years past, yes.

Q. Going how far back?

A. Well, the oldest photography I recall we used

was 2011, so it would have been that.

Q. And if you'll turn to page 5 of your report.

A. Okay.

Q. And my understanding is this is an aerial image of a portion of Twin Falls Canal Company's service area that shows which -- that uses highlighting to identify which lands were shown as irrigated in the 2013 GIS map versus which lands are shown as irrigated under the Department's 2017 irrigated lands dataset; is that correct?

A. That's my understanding also, yes.

Q. So if I want to use this map to understand just what was identified as irrigated in the 2013 GIS shapefile, I should consider everything with blue highlighting and yellow highlighting as having been identified as irrigated lands in the 2013 shapefile?

A. Yes. It looks like there's some yellow over the top of some of what we had already excluded. So it isn't everything that was yellow.

Q. So this photograph with the highlighting in blue, it has "2017 Irrigated Shape."

Do you see that?

A. Yes.

Q. So am I understanding correctly that everything in blue is identified as irrigated lands in

the 2017 dataset?

A. That's my understanding, yes.

Q. And then the yellow there in the legend says "2017 Difference." My understanding from talking to Mr. Brockway is that the land identified in yellow was shown as irrigated in the 2013 GIS shapefile but is not shown as irrigated in the 2017 dataset.

Am I understanding that correctly?

A. I don't think so. If you look at -- this is laying on its side, but the north/south yellow line kind of through the middle, some of those -- some of that area shows up as not being irrigated in the 2013 dataset, but is kind of merged with the yellow.

Q. Yes, I see that. So if I look approximately in the center of the image, there's a horizontal sliver that's not highlighted with either blue or yellow.

Do you see that?

A. Yes.

Q. And my understanding is that is the roadway that had been excluded from the 2013 GIS analysis?

A. That's correct.

Q. And just north of that excluded sliver there's a yellow parallel sliver, it's highlighted yellow that refers to a roadway.

Is it your assumption that that roadway

identified in yellow, that's parallel, is the roadway that was excluded in 2013?

A. The area that has no color on it is what was excluded in 2013.

Q. Okay. And you heard me discuss with Mr. Brockway or identify a number of farmsteads, and there's a subdivision or development that shows as being irrigated under the 2013 GIS shapefile?

A. Yes.

Q. And none of those farmsteads were excluded from the 2013 GIS shapefile at least in this section of the service area; correct?

A. Yeah, I don't have that in front of me. But, yes, I understand that.

Q. As a general rule, when you were creating the 2013 GIS shapefile, you did not exclude these residential properties that I've referred to as "farmsteads"?

A. No, I -- I think I tried to exclude hardened areas around farmsteads if there were large buildings or something like that.

Q. Okay. But none of those are excluded from either of these images?

A. Not from these images, no.

Q. Okay. And where there were subdivisions that

had been developed within the canal company service area, did you go through and carve out the roads and houses, or did you include the subdivision?

A. It's been too long, TJ. I remember I excluded the whole Twin Falls metropolitan area, but I can't remember for sure what we did with subdivisions.

Q. Okay. Generally, you were excluding land that was not capable at all of being irrigated, like parking lots and roads, things like that?

A. Yes.

Q. If it was irrigated or was capable of being irrigated, you generally included those lands?

A. Yes.

Q. As part of your analysis, you did not make an evaluation of supplemental groundwater rights within the company's service area?

A. That's correct.

Q. Did you compare your -- the 2013 GIS shapefile with company water delivery records to see if service water deliveries corresponded with the shapefile?

A. I didn't do that. Mr. Barlogi, at the time, was working in the central office, and I worked with him to get -- to do that kind of analysis and review what I had done.

Q. And you're not sure what he did in that

regard?

A. I'm not.

Q. You could have, with some additional time and effort, carved out farmsteads and subdivision roads and things like that if you had been asked to do that?

A. Well, at least as they existed in 2013, whatever the latest photography we had.

Q. And had you been asked to make an analysis of supplemental groundwater use, you had the ability to do that at that time?

A. Well, you could make an estimate. I've worked with place-of-use shapefiles from IDWR in other areas, and I keep being reminded not to put a lot of confidence in them.

I've also worked with WMIS data in other areas, and it's difficult to get like minds to agree on what the numbers are.

Q. You're familiar with the WMIS database?

A. Somewhat, yes.

Q. And, of course, you're very familiar with the Department's water rights database?

A. Yes.

Q. And if somebody asked you to do your best to analyze the extent of supplemental groundwater irrigation, it's within your expertise to do that?

A. Yes.
Q. But you've not been asked to do that for Twin Falls Canal Company?
A. That's correct.
Q. When that 2013 shapefile was created, I understand that was created strictly by Twin Falls Canal Company personnel and their consultants?
A. Yes.
Q. The Department was not involved as part of a collaborative process?
A. That's correct.
Q. And groundwater users or others were also not involved in that process?
A. That's correct.
Q. You understood at that time that it would benefit Twin Falls Canal Company to have as many acres identified as being irrigated as possible?
A. My direction was to accurately identify the acres being irrigated.
Q. I understand that, but you did understand that it would benefit the company to have as many acres identified as irrigated as possible?
A. Well, within their decree, yes.
MR. BUDGE: Okay. I have no further questions. Thank you.

Thanks, Dave.

HEARING OFFICER: Further cross-examination of Mr. Shaw?

Mr. Bromley?

MR. BROMLEY: Just a few.

CROSS-EXAMINATION

QUESTIONS BY MR. BROMLEY:

Q. Hi, Mr. Shaw.

A. Mr. Bromley.

Q. Okay. Figure 5 --

Do you have your report there? It's on page --

A. Yes.

Q. -- page 9.

So the Department's using the average of the three preceding years to determine the crop mix; is that correct?

A. That's the average crop mix, yes.

Q. But the Department's using the reference ET from the current year and methodology; correct?

A. Correct.

Q. So isn't it true that the differences between the 2018 to 2020 line and the 2021 line in Figure 5 are largely due to discrepancies in reference ET between

those years not due to differences in cropping?

A. And this is just for illustration purposes to show the difference that can occur between a three-year average and the next year.

Unfortunately, I didn't have CDL data to show here. So it's simply for illustration purposes.

Q. Thank you.

At the top of page 10, the first full sentence, I'll just go ahead and read that.

It says: "In Manager Barlogi's deposition we heard about the continual improvements being implemented by the Twin Falls Canal Co. (TFCC), and when CWN's were appropriately calculated, we believe those improvements will show continued reasonable use of the water resource."

Do you see that?

A. Yes.

Q. But as Dr. Brockway testified, if Twin Falls Canal Company doesn't actually reduce its diversions, then those improvements won't have any effect on the efficiencies used in the methodology; correct?

A. No. That was a no. Okay.

Q. Thank you.

All right. Let's look at the bottom of page 10, the last full sentence there, Mr. Shaw. And

I'll go ahead and read that.

A. I think we're -- maybe we're talking past each other.

Q. Okay.

A. I did not agree with Dr. Brockway.

Q. Oh, you don't agree with Dr. Brockway?

A. No.

Q. How is that?

A. Can you read your original question back to me?

Q. Sure thing. Absolutely.

So what we heard Dr. Brockway testify to a few times, both on cross with Mr. Harris and then, again, on, I believe, with City of Pocatello's attorney and, possibly, then with groundwater district's attorney, was that a number of statements that if Twin Falls Canal Company doesn't reduce its diversions, then a lot of what goes on in the calculations and the methodology order just continue to show increased need, even if, for example, acreage was reduced.

A. But if increases on diversions are necessary to meet increased crop demand because of improved efficiency from sprinklers or raising more water-intensive crops, then that would show up in improved efficiency, but it would not reduce diversions.

Q. Okay. So let me just ask the question one last time. And just answer it, please, so we can make sure that we're not talking past one another and that I didn't mishear what you said and you didn't mishear the question.

So as Dr. Brockway testified, if the canal company doesn't reduce its diversions, then these improvements won't have any effect on the efficiencies used in the methodology; correct?

A. No, I don't think that is correct.

Q. So at bottom of page 10, then, I'll just read this sentence -- the last sentence at the bottom of page 10.

"Figure 6 below shows the changes in alfalfa and corn acres since 2007 along with an increase in diversions by Twin Falls Canal Company to meet the demands of the more water-intensive crops."

And then we flip over to the next page, and we see Figure 6. So Figure 6 is a little "apples and oranges," isn't it? Because you're comparing alfalfa and corn acres to Twin Falls Canal Company diversions in acre-feet; correct?

A. Correct. That's why there are two y-axes.

Q. So you haven't actually computed the effect that the changes in alfalfa and corn acres has on crop

water need in acre-feet, have you?

A. No, I haven't.

Q. Still on page 11, Mr. Shaw, above paragraph D, the last paragraph there, there's discussion about changes in delivery that have occurred within the area of A&B Irrigation District.

Do you see that?

A. Yes, I do.

Q. Do you know if the A&B water rights have been updated through transfers to allow for surface water use on Unit B?

A. My recollection is they have a new permit for those acres.

Q. So this is the pipeline, then, from the river that's bringing surface water into some of those acres on Unit B?

A. Yes.

Q. Okay. When I read it, it was a little unclear to me if it was using -- I guess I would say, more senior A&B rights for irrigation.

But you've answered my question, which is it's that pipeline.

A. Yes.

Q. So thank you for that.

In your direct with Mr. Thompson, you said

Twin Falls Canal Company is a well-managed company compared to other Idaho canal systems.

Do you remember that?

A. I do.

Q. Have any of the systems that you were thinking of placed delivery calls?

A. Well, on some of those systems there are people shut off every year to supply water for the canal. That could be managed better.

Q. Okay. But have any of those companies filed a delivery call under the conjunctive management rules?

A. I don't know.

Q. Thank you.

Let's flip back to page 2, and this is paragraph 7.

And it says: "The company's" -- I'm sorry. Let's go to the second sentence of paragraph 7.

"The company has no way of knowing whether land covered by shares will or will not be irrigated and must prepare to meet the share delivery obligation."

Do you see that?

A. I do.

Q. Wouldn't you agree, based on your experience, Mr. Shaw, that farmers typically know which lands will be irrigated prior to the irrigation season because

they've already made cropping decisions, bought seed, bought chemicals?

A. Typically, yes.

Q. And in your experience for permissible places of use, is it a typical condition that the Department sometimes places, on rights with PPUs, to notify the Department as to which acres are going to be irrigated?

A. If there is a --

COURT REPORTER: Okay. Wait. I didn't hear that.

THE WITNESS: If there is a permissible place of use placed on the water right, then, yes, to Mr. Bromley's question.

Q. (BY MR. BROMLEY) So wouldn't it be reasonable for the company to ask its shareholders to notify it over the winter as to which acres will be irrigated and what crops will be planted?

A. No. I think it's up to the water user. If I am a water user, like Mr. Barlogi says, this is going to be a short year, and I've got 80 acres in new alfalfa and 40 acres of winter wheat, and I was going to plant potatoes but decided, no, I'll save my water for the crops I've got in the ground, I'm not going to irrigate that 40. And I wouldn't get my full water delivery, whatever it happens to be for the year, and I don't

think that matters to the companies.

Q. Okay. When I go over your Section 5 on crop water need, Mr. Shaw, I see a lot of suggestions to the Department as to how to get better and use more current data to better understand crop water need.

Is that a fair summary of what you're asking?

A. Yes.

Q. And then in Part A, though, of your report about Surface Water Coalition irrigated area, particularly Twin Falls Canal Company, you're advocating to use the 2017 shapefile for irrigated area for Twin Falls Canal Company; correct?

A. Not the 2017 shapefile, I don't believe.

Q. So you're using the 2017 shapefile, and then what are you doing with it?

A. We took the 2017 -- Mr. Brockway -- Dr. Brockway and his shop the 2017 raster irrigated lands dataset and overlaid it over the 2013 shape that had been prepared for Twin Falls Canal Company. I don't think there's a recommendation that the 2017 be the determination of acres for Twin Falls Canal Company.

Q. So the methodology order is using 2017 acres, the 2017 shapefile; correct?

A. No.

Q. No?

A. To my understanding, it's using the 194,000 acres from the 2013.

Q. Oh, that's correct. I'm sorry. That's a bad question.

So what you're advocating, though, for, with acres, is something that's from 2013, 2017 that's old data; correct?

A. Yeah. Well, its four years old, yes.

Q. But with crop water need, you're asking for current data, last year's data, as recent data as you can get; correct?

A. Well, crop water -- crop mixes can change from year to year, we know that, and that's a critical element in calculating crop water need that hasn't been, in my opinion, appropriately used. Irrigated acres may change over time. If there were resources to update that shapefile every year, you would have -- that would be the best solution. But we haven't seen that happen.

Q. And it would be seem to be consistent that if we're looking for use of best available information to use, in fact, what is best available information; correct?

A. And right now that's the 2013 shape.

Q. Even though that's from 2013 and we're in 2022?

A. That's the best available we have, yes.
MR. BROMLEY: Nothing further. Thank you.
HEARING OFFICER: Additional cross-examination?
I don't see any hands in the air.
Redirect, Mr. Thompson?
MR. THOMPSON: I don't have anything.
HEARING OFFICER: Okay. Thank you, Mr. Shaw.
Next witness?
Do we have another witness? I'm looking at the list, and I don't recall whether Alan Jackson intended to testify, whether the parties intended to call Alan Jackson.
MR. ANDERSON: No.
HEARING OFFICER: Do not intend to call Mr. Jackson?
MR. ANDERSON: No.
HEARING OFFICER: Are there any other witnesses slated to be called?
Mr. Anderson?
MR. ANDERSON: I don't think so. I just had a quick offer of proof I was going to put into the record.
HEARING OFFICER: Okay.
MR. ANDERSON: If that's appropriate now. I don't think we have any -- I created a quick outline

just to make it quick. I know we're -- it's Friday.

HEARING OFFICER: Well, in addition, I think we may have some rebuttal witnesses.

MR. ANDERSON: Right.

MR. FLETCHER: So far everyone said they don't have any rebuttal.

HEARING OFFICER: Well, I think the Department intends to recall Matt Anders, at least.

MR. ANDERSON: Well, I would think this would be appropriate before case in chief, if that's all right?

Just some quick background, Director. We have requested Mat Weaver as a witness; that was denied.

There are two exhibits identified in the City's exhibits -- one is Exhibit 340, one is 354 -- and then there are some questions and topics that would have come out of those exhibits. I've put those in outline form. I'd just like to offer that as an offer of proof.

MS. McHUGH: You're offering those two exhibits as the offer of proof?

MR. ANDERSON: Well, and the information, as well, contained in the outline. Along with those exhibits, there would have been questions, had he been made available as a witness.

MR. FLETCHER: Can we address that?

HEARING OFFICER: Yeah. I don't even understand what I have in front of me.

MR. ANDERSON: Sure. I can explain a little bit.

Just in offering the exhibits as well as the not being able to question Mat Weaver and not having him made available as a witness, this is the evidence that we believe he would be able to testify to. He would have answers to these questions. We believe that they're relevant to the methodology order, to the amendments made.

Both of these exhibits show examples of information about the methodology order to individuals outside the Department and also gathering information from individuals outside the Department, and so that's why. That's the gist of our offer of proof. If there are any questions, I can go into further detail.

HEARING OFFICER: Mr. Fletcher?

MR. FLETCHER: Yeah, we'd move to strike this and these exhibits. These were settlement documents. They say right on the documents they're for purposes of settlement discussion.

We just had a hearing in front of the Director where this issue came up about trying to present settlement discussion topics to the Director, and the

Director ruled that no settlement discussion would be allowed, and this is a backdoor attempt to do that very thing. And so we would ask that this be stricken from the record and that it not be considered since it is purely settlement discussion material.

MR. ANDERSON: If I could address that?

HEARING OFFICER: Okay, Mr. Anderson.

MR. ANDERSON: I don't think we're offering this for the proof of the matter. There's nothing about these documents that we're saying, you know, that you need to consider even the content of the documents. What we're saying here is there's evidence that -- information from the settlement agreement was used in the amendments of the methodology order.

HEARING OFFICER: By what? By a string of emails?

MR. ANDERSON: Well, the string of emails suggests that there was -- that the negotiations will inform the urgency of the finalization of the amendment to the methodology order. That suggests that there was information that came from the negotiations and, again, as far as settlement -- the privilege of settlement documents and settlement negotiations, again, we're not offering this for the proof of the matter. It's to show that information was used from those settlement

agreements to go to the methodology order. I think it's completely different, and it's not excluded by that evidentiary rule.

HEARING OFFICER: Okay. Mr. Anderson, I'm not even accepting this. I will tell you that I am always meeting with staff trying to establish priorities as to what I need to work on and what I don't need to work on, and that's what I'm doing here.

MR. ANDERSON: Well, I'm not intending to try to make you a witness, Director. I just -- this is information that was disclosed to us as part of a request.

HEARING OFFICER: That's fine. And we supplied this information in good faith, but I don't see anything in this that would either establish any nefarious intent or any reason to bring in this document that was -- I've never seen this document that I'm aware of. SWC discussion points, main discussion points, I've never seen any of this, and I think it's because it was part of settlement, and I was excluded from those discussions.

So my string of emails in here and what's included simply was an attempt on my part to say what do we need to prioritize and work on in the many responsibilities that the Department and the Director

has, and that was the intent of these emails. And we disclosed them in good faith, and I guess, from my perspective, for you to even insinuate that there was something nefarious, I find to be offensive, and I won't let it in. Thank you.

MR. ANDERSON: Okay.

HEARING OFFICER: Make sure we don't have that in the documents.

Okay. Rebuttal witnesses, Mr. Johns?

MR. JOHNS: I'd like to call Bryce Contor to rebut Mr. Brockway and Mr. Shaw's testimony, just briefly.

HEARING OFFICER: Do you want to wait until after Mr. Anders testifies, or do you want to call him now? I guess in the order of presentation, I'd prefer to have Mr. Anders go first.

MR. JOHNS: That works.

HEARING OFFICER: It seems to me it would work better for you as well.

MR. JOHNS: I think so. Thank you, Mr. Director.

HEARING OFFICER: There's Matt Anders.

If you'll come forward, Mr. Anders. You're already sworn in.

THE WITNESS: Oh, all right.

HEARING OFFICER: Please be seated.

MATTHEW ANDERS, P.G.,
called as a rebuttal witness by IDWR having been previously duly sworn to tell the truth relating to said cause, testified as follows:

DIRECT EXAMINATION

QUESTIONS BY MR. WOOD:

Q. Hello, Matt.

A. Good afternoon.

Q. I realize you've already testified in this matter, but can you please state and spell your name for the record one last time.

A. Sure. Matt Anders, M-a-t-t, A-n-d-e-r-s.

Q. And can you briefly tell us where you work and what role you played in developing the Fifth Methodology Order?

A. Yeah, I work for the Idaho Department of Water Resources. I did research and development on some of the methods in updating the method in the Fifth Methodology Order. I also participated in drafting portions of the order.

Q. And did you listen to the testimony of Bryce Contor and Sophia Sigstedt yesterday?

A. I did.
Q. Matt, can you please find Ms. Sigstedt's expert report which was previously admitted as Exhibit 837. And I'll have you turn to page 20 -- Exhibit 837, page 20, not page 16 of her report.
A. Page 20, I'm there.
Q. And does that have a bell-shaped figure at the top?
A. Yep, a blue one.
Q. And can you please find the sentence about halfway down the first paragraph that reads, "for 2018 there is a note"?
A. Yes, I see it.
HEARING OFFICER: Where are you again? I'm sorry.
MR. WOOD: Yeah. So it's Exhibit 837, page 20, but realizing that there's -- the document has two different page numbers on it. So this one says "Exhibit 837, page 20" as opposed to the actual number of the document, which is 16.
HEARING OFFICER: I'm with you.
Q. (BY MR. WOOD) And can you find that sentence about halfway down that starts, "For 2018 there is a note"?
A. Yes, I found it.

Q. Can you please read that sentence into the record.

A. "For 2018 there is a note about AFRD2 recharging between 5,000 - 10,000 acre-feet of recharge to Mile Post 31 for Magic Valley Ground Water District, and the calculation shows only 5,000 acre-feet of recharge was accounted for."

Q. And what is your understanding of what Ms. Sigstedt meant by that sentence?

A. My interpretation is that she's saying that we have missed or not adjusted the diversion for AFRD2 for 5,000 acre-feet.

Q. And have you had a chance to investigate that allegation?

A. I did.

Q. And what was your conclusion?

A. So after Ms. Sigstedt's testimony yesterday, Kara Ferguson and I looked through the calculator, and we found the note that she was referring to. And it's on the "Demand" tab, and it's where we're adjusting the demand for recharge and wheeled water.

And we looked at it, and she is correct, there was an adjustment for 5,000 based on the recharge -- the way we do our recharge adjustments. In this case, for recharge, it's a subtraction.

But we also found that in what we call the "adjustment side," the adjustments coming from -- the lease is coming from Water District 1. There were two private leases in there as well, for 10,000 acre-feet.

So what we concluded was that -- what we should have done was subtract 10,000 acre-feet from AFRD2's diversion in 2018 for this recharge that she is referring to.

In actuality, we subtracted 15,000. And we think that's because the data are coming to us from two different places. We get them from the recharge program here at IDWR, and we get them from Water District 1. And those leases and that note were referring to the same water, but we didn't realize it. So we subtracted too much from AFRD2 in that case. So there is an error in our baseline year for AFRD2. It's 5,000 acre-feet too low.

Q. Too low?

A. Yes.

Q. Can you please read the next sentence, the one starting with "Additionally, IGWA's settlement."

A. Okay. "Additionally, IGWA's settlement performance report shows almost 4,000 acre-feet of recharge by North Snake Groundwater District through North Side Canal Company that is not accounted."

Q. And what is your understanding of what Ms. Sigstedt meant by that sentence?

A. Similar to the previous line, she thinks that -- or my interpretation is she thinks we have -- we missed making an adjustment for 5,000 acre-feet of recharge for Magic Valley.

Q. And have you had a chance to investigate this allegation?

A. We did.

Q. And what did you conclude?

A. So, again, we -- after her testimony yesterday, we were looking through the adjustments for Magic Valley Ground Water District -- maybe I should back up.

So we recorded the baseline year at the technical working group. And based on discussions with the technical working group, we decided we needed to go back through the adjustments and make sure that we had everything. Because we were going to use 2018 as a baseline year.

In that second review, Kara found that we had missed this 4,000 acre-feet that Ms. Sigstedt is referring to. So at the time of the technical working group, we didn't have it in the baseline there. We hadn't made the subtraction. But for the Fifth

Methodology Order, we did do the subtraction.

So there was a change in the numbers between the technical working group and the Fifth -- what actually came out in the Fifth Methodology.

Q. But the numbers in the Fifth Methodology Order are correct; is that true?

A. Yes, they are correct in this case.

Q. Matt, can you now turn to page 28 again, of Exhibit 837.

A. Okay. I am on page 28.

Q. And do you see the paragraph entitled, "2.4.4 Bias in 2018 Baseline Year for Reasonable Carryover."

A. I do.

Q. And can you find the sentence about halfway through that starts "Figure 2-10 is IDWR's hindcast"?

A. So "Figure 2-10 is IDWR's hindcast analysis showing annual carryover volumes for Twin Falls Canal Company 1995 to 2022 under the Fourth Methodology Order (baseline year 06/08/12) and the Fifth Methodology Order (baseline year 2018)."

Q. Now, can you turn to Exhibit 300, which is the Fifth Methodology Order.

A. Okay. I have that.

Q. Well, let me back up. Let me back up for just a second.

Can you read the final sentence of that paragraph. I believe you didn't read the final sentence.

A. Oh, back on page 28?

Q. Yes. I'm sorry.

A. Okay. No problem.

"Under the Fifth Methodology Order, 19 out of the 30 years would have resulted in a carryover shortfall and that these occurred even in average and above-average years. Figure 2-1."

Q. Okay. So now let's turn to the Fifth Methodology Order, which is in Exhibit 300.

A. Yes.

Q. And can you turn to page 28 -- excuse me -- 23. And I'm looking for paragraph 68.

A. You said 23?

Q. Page 23, yes.

A. Okay. I'm on page 23, and I see paragraph 68.

Q. Can you explain what information is contained in paragraph 68?

A. So this paragraph describes the calculation that we use for calculating what we referred to as "maximum projected carryover need."

We take the projected -- yes, the projected demand of the 2018 baseline year, and we subtract the

projected supply, which is the average supply for the '02-'04 irrigation seasons.

And then under it is a table that shows the calculation -- the numbers used in the calculation. And then on the right is the maximum projected carryover need.

Q. And can you read the footnote that's in Footnote 18 there?

A. "This Fifth Methodology Order updates this chart with the baseline year and calculates new maximum projected carryover need values."

Q. And can you now turn to paragraph 78, which is on page 29.

A. You said 78?

Q. 78.

A. Okay. I'm on page 29. I see 78.

Q. Can you explain what information is contained in paragraph 78?

A. So paragraph 78 is the reasonable carryover values that we are assigning for the Fifth Methodology.

In the pages that we went -- that we just went through before the -- between the previous table on page 23 and here on 29, we do some additional analysis, and we adjust some of the numbers.

So we adjust the maximum projected carryover

need numbers from the table in 68. Three of those we've adjusted in Table 78: AFRD2, BID, and Twin Falls Canal Company.

Q. And so am I correct in understanding that the Fifth Methodology Order used the adjusted carryover data in paragraph 78, not the maximum projected carryover data in paragraph 68?

A. That is correct.

Q. And Ms. Sigstedt's conclusion was based on the maximum carryover data in paragraph 68; is that correct?

A. I believe -- I'm not totally sure, but I believe that that was the case.

Q. And so Ms. Sigstedt -- if that's true, then Ms. Sigstedt's conclusion that 19 out of the last 30 years would result in carryover shortfall was based on incorrect data; is that right?

A. Yes, that is correct.

Q. And when the adjusted carryover data in paragraph 78 is used, the proper data that was used in the Fifth Methodology Order, how many years out of the last 30 would have resulted in a shortfall?

A. Six.

MR. WOOD: Nothing further.

HEARING OFFICER: Okay. Examination? What's the order of examination? Do we have the groundwater

users go first?

Okay. Mr. Budge.

CROSS-EXAMINATION

QUESTIONS BY MR. BUDGE:

Q. Matt, you had so much fun on Tuesday that you wanted to come back.

A. It's hard to resist. I agree.

Q. I just have a few follow-up questions on several of your comments related to the expert report of Sophia Sigstedt.

The first discussion that you have with Mr. Wood was related to some of the recharge data of AFRD2 and North Side Canal Company.

Do you recall that?

A. Yes, I do.

Q. And Ms. Sigstedt's comments were based on information the Department had produced concerning that aspect of the methodology order?

A. Yeah, the first --

Q. I'll reask the question.

A. Yeah.

Q. There was a discussion about how much recharge had happened through AFRD2.

Do you remember that?

A. Yes.
Q. And Ms. Sigstedt cited a Department document that showed that there had been between 5,010,000 acre-feet of recharge through AFRD2?
A. Yes. The note that she is referring to comes -- is in our -- what we call "our calculator."
Q. And then when she brought that to the Department's attention, that caused you and Kara Ferguson to go explore that further?
A. Yes. Yep.
Q. You're not suggesting that Sophia made any type of intentional error or intentionally tried to mislead the Director by pointing that out in her report?
A. Oh, no. Certainly not. I mean, it was poorly documented in the calculator, it was ambiguous in there. And these are the kinds of things we want, the consultants to point out to us, like, you made an error, here, fix this, fix that.
So, no, not at all.
Q. Okay. And the same would be true for the issue involving North Side Canal Company recharge?
A. Yeah, the adjustments are very confusing, so it's hard to know if everything got included. So we appreciate the check.
Q. Okay. The Department didn't -- before issuing

the Fifth Methodology Order, there wasn't, like, a draft order that was provided for review by the parties; right? It was just issued on April 21st and implemented immediately?

A. That is correct.

Q. Had the process started sooner with either a hearing or some other collaborative process, these types of issues may have been raised before the Fifth Methodology Order was issued?

A. Possibly. Once we're drafting, things are always in flux. It's possible that we could have talked to them, but it's not guaranteed.

Q. I understand.

And you've sat through most of the hearing?

A. Yeah, I have. I've sat through all of it.

Q. Have you learned information at the hearing that you think may be useful or inform changes in the methodology in the future that may help it function more effectively?

A. Yeah --

MR. WOOD: Director, I'm going to object to that. That's outside the scope.

HEARING OFFICER: Sustained.

Q. (BY MR. BUDGE) Matt, have you learned anything at the hearing that may cause you to go back

and revisit certain parts of the Fifth Methodology Order?

MR. WOOD: Same objection.

HEARING OFFICER: Sustained.

MR. BUDGE: No further questions.

HEARING OFFICER: Thank you.

Other cross-examination? Any more questions for Mr. Anders?

I guess one of the reasons for my sustaining the objection is that the focus of the question -- or the focus of the questioning was very narrow in its scope to correct some information.

Thank you, Mr. Anders.

THE WITNESS: Thank you.

HEARING OFFICER: Now, I don't think -- I don't think the Department has any other information to put on in rebuttal.

MR. WOOD: That's correct.

HEARING OFFICER: Okay. We have a request for some additional rebuttal.

Was that from you, Mr. Johns?

MR. JOHNS: That's correct.

HEARING OFFICER: Okay.

MR. JOHNS: I'd like to call Bryce Contor back to the stand.

HEARING OFFICER: Mr. Contor, you're already sworn in. If you'll take a seat.

MR. JOHNS: Just one item, Director, and I talked with the Surface Water Coalition, and I assume the groundwater folks are okay, but we would like to offer Exhibits 502, 504, 505, 506, and 515 and request that they be admitted by stipulation.

HEARING OFFICER: Give me the numbers again.

MR. JOHNS: 502, 504, 505, 506, and 515.

HEARING OFFICER: And you represented that you've spoken to the Surface Water Coalition. What's the result of those conversations?

MR. JOHNS: I believe that they were okay with stipulating to the admission of those exhibits.

MR. FLETCHER: Did you say something? No. We're good.

MR. JOHNS: And yeah, 502, 504, 505, 506, and 515.

MR. THOMPSON: [Unintelligible.]

COURT REPORTER: I can't hear you, Mr. Thompson.

I couldn't hear what he said.

MR. FLETCHER: Can you repeat those again slowly?

MR. JOHNS: 502, 504, 505, 506, and 515.

HEARING OFFICER: And based on your question, Mr. Fletcher, are these references a matter of first impression with you?

MR. FLETCHER: No. I was -- no. I should do one thing to the latest. I was going to ask the last witness if AFRD2 got paid extra for the extra 15,000 that was reported, but I'm trying to keep this moving along.

HEARING OFFICER: So is there stipulation to the admission of these exhibits that have been --

MR. FLETCHER: There is from us.

HEARING OFFICER: Pardon me?

MR. SIMPSON: From us.

MR. FLETCHER: There is from the SWC.

HEARING OFFICER: And I assume there are no other objections.

All right. The documents that have been marked as Exhibits 502, 504, 505, 506, and 515 are received into evidence.

(Exhibits 502, 504 - 506, 515 received.)

MR. JOHNS: Thank you, Mr. Director. And I'll try to be concise with my rebuttal here.

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BRYCE CONTOR,

called as a rebuttal witness by the Bonneville-Jefferson Ground Water District, having been previously first duly sworn to tell the truth relating to said cause, testified as follows:

DIRECT EXAMINATION

QUESTIONS BY MR. JOHNS:

Q. Bryce, welcome back up to the stand.

A. Thank you.

Q. Just briefly, were you present during the testimony of Mr. Brockway and Mr. Shaw?

A. Yes.

Q. Do you recall discussions regarding fallowing of acres and how that factors into calculations in the methodology order?

A. Yes.

Q. Okay. Have you performed technical work pertaining to the fallowed acres similar in this regard?

A. Yes. When I was making recommendations in the Snake River Basin Adjudication, I had to look at parcels -- aerial imagery and decide whether a field that was not green in that particular image was in general irrigated.

When I worked for IWRRI on the water budget

for the ESPAM model, we had to wrestle the same question in preparing the irrigated lands dataset. And now as I work helping clients prepare their claims in the Bear River Basin Adjudication, I have to wrestle the same question.

Q. So you have some expertise in this area?

A. Yes.

Q. Thank you.

MR. JOHNS: Would we be able to bring up -- or give him a copy of Exhibit 4?

MR. WOOD: Exhibit 4?

MR. JOHNS: Correct.

THE WITNESS: I have it here.

Q. (BY MR. JOHNS) Okay. Could you turn to page 2, and just quickly look over that. I just want to ask you just a couple questions that came up during Mr. Brockway and Mr. Shaw's discussions with counsel.

A. The one I have, the pages are not numbered, but I'm looking under Heading A, "Evaluation of TFCC Project Acres."

Q. And Item 5?

A. Item 5 is -- Item 5 that page is numbered, and it is numbered 2. Yes, I see that, Item 5.

Q. Now, I'm just going to ask you a couple questions.

First, is it reasonable that some fields would be fallowed in some years?

A. Yes.

Q. How so?

A. Well, so Dr. Brockway described a number of reasons that could occur. I think Mr. Barlogi did. And for the most part, those ring true to me. I couldn't repeat every discussion that they gave.

Q. But you agree it would be technically defensible to factor that into the methodology order?

A. Yes.

Q. If you were assigned to count acres, how would you treat fallowed acres?

A. So it would depend on the purpose. If I were trying to describe a permissible place of use, if I were trying to describe historical irrigation over a period of years, if I were trying to describe a service area, those acres definitely would want to be included if -- unless they were -- had never, ever been irrigated.

Q. But in a future year, that field might not be fallowed?

A. Yeah, that's right. And so I didn't finish. I'm sorry. If I was trying to determine the actual quantity or amount of irrigated acres, then for that year, those acres should need to be excluded.

Q. So excluding the fallowed acres would not distort the total acreage?

A. No, because, as I think Dr. Brockway explained, this parcel may be fallowed this year and irrigated in the next year. But the underlying mechanisms that caused the fallowing, that caused the rotation, those will be ongoing. And so this parcel becomes irrigated, this parcel becomes fallowed next year, the -- not only would excluding them be technically defensible, it would be more defensible and more correct than including those.

Q. Anything else you need to add on fallowed acres that was discussed?

A. I don't think so, thank you.

MR. JOHNS: I don't have any more questions.

HEARING OFFICER: Cross-examination of the witness, Surface Water Coalition?

Do you need a moment?

MR. FLETCHER: No. I just -- I didn't really understand some of the testimony.

HEARING OFFICER: Okay. Mr. Fletcher.

MR. FLETCHER: Thank you.

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CROSS-EXAMINATION

QUESTIONS BY MR. FLETCHER:

Q. Thank you. Mr. Contor, I just need some clarification.

So when you say a fallow acre should be excluded, excluded from what?

A. Oh, I'm sorry. Yeah, that was unclear.

So from the calculation of actual irrigated acres in a year when we're doing the evaluation, if that acre is not irrigated in that year, it should not be counted.

Q. Okay. So if an acre on Twin Falls Canal Company, for example, is fallowed -- say a corner of a pivot, for example -- does that clearly indicate that the shares attributable to those acres aren't being used elsewhere?

A. I don't think it does. But the underlying assumption is that if those shares are being irrigated elsewhere, that irrigation will appear in the dataset. And then in a following year, if that irrigation is moved back to this corner, then it will have to disappear from where it was, and that's the rationale.

Q. So if -- are you saying that somehow each year someone should determine the actual irrigated acre s in that irrigation season?

A. So I'm saying that that may -- that is the best available science, whether it's attainable is a different question. What I'm saying is, is that if you -- it's going to be what I would call a "dynamic equilibrium." So this year this one's irrigated, this one's fallow; next year this one's irrigated, this one's fallow; next year this one's irrigated, this one's fallow. But any one of those snapshots would be a reasonable representation of the ongoing dynamic irrigated area.

All of the mechanisms that Dr. Brockway talked about, in my estimation, would be relatively constant year to year. That's what I was trying to say. So if you want to know exactly where every irrigated acre is, then, yes, you would have to do it every year. But if you want to know the quantity, the periodic snapshots should be adequate.

Q. Just because a farmer fallows an acre one year doesn't mean he, necessarily, fallows any acres the next year?

A. For an individual farmer, that is correct, but all of the mechanism s that Dr. Brockway described would operate in every year, and they would have similar effects year to year.

Q. So the Department is using data from prior

years in order to make this calculation; correct?

A. So currently, yes.

Q. And the shapefiles it's using are from prior years; correct?

A. Yes.

Q. So I guess it's your testimony that if an acre shows up as being fallow but has a right to be irrigated, it should not be included in the current year even though it could be irrigated in the current year?

A. So my testimony is that if the goal is to use prior data to do an estimate of the total quantity of acres that would be irrigated in the current year, that the best estimate -- given the fact that we have to use old data because the current year hasn't occurred yet -- the best estimate of what would happen in 2023 would be what actually happened in 2022.

And if in 2022 some random fraction of acres, for a number of reasons that Dr. Brockway explained well, were not irrigated, it's likely that under those same mechanisms, approximately the same number of acres in 2023 also would not be irrigated. The probability that they would be the exact same locations is fairly low. But the probability that the 2022 representation would be the total correct number of acres is fairly high.

Q. You would agree with -- I think it was Dave Shaw's testimony that each farmer makes his own determinations; correct?

A. I would agree with that, yes.

Q. And it's not the canal company making that determination?

A. I would agree.

Q. And the farmer is determining if he's laying 1 acre fallow or not fallow in any particular year?

A. I agree.

MR. FLETCHER: Thank you.

HEARING OFFICER: Redirect, Mr. Johns?

Do you have questions, Mr. Harris?

MR. HARRIS: I do have some follow-up.

HEARING OFFICER: Go ahead.

MR. JOHNS: Go ahead.

CROSS-EXAMINATION

QUESTIONS BY MR. HARRIS:

Q. Mr. Contor, just to pick up from Mr. Fletcher's comments.

It's your understanding that irrigated acres is part of the methodology order; correct?

A. Yes.

Q. And the shapefile that was actually used in

the methodology order was the 2013 shapefile, which essentially is -- it's 194,732 acres?

A. Yes.

Q. There's a more recent shapefile that has less acres than that; correct?

A. That's my understanding.

Q. And that was not used in the methodology order?

A. That's my understanding.

MR. HARRIS: Okay. No further questions.

HEARING OFFICER: Any recross? I assume no recross.

MR. FLETCHER: No recross. That's not mine.

HEARING OFFICER: Well, I guess --

MR. FLETCHER: It wouldn't be me. It's his counsel.

HEARING OFFICER: Well, let's call it.

Is there any further examination of Mr. Contor?

I appreciate Mr. Contor being here for the duration.

Thank you, Mr. Contor.

Are there other witnesses?

I see heads shaking no.

Ms. McHugh's negotiated the cords once more.

Do you have something to say?

MS. McHUGH: I was just getting close to a mic once we start discussing exhibits.

HEARING OFFICER: All right. Well, before we do that, let's break for 15 and come back. We've been here for almost two hours, and everybody can organize their thoughts and maybe organize their notes.

Come back at quarter after.

(Break taken.)

HEARING OFFICER: Back on the record.

Are we on?

COURT REPORTER: Yes.

HEARING OFFICER: Thank you, Andrea.

Are you at the podium to lead the discussion?

MS. McHUGH: I'm at the podium to just offer the fact that I believe we have a stipulation to three more exhibits to be admitted into the record, and then I'm going to be done.

HEARING OFFICER: Okay.

MS. McHUGH: So Exhibit 348, 349, and 350, which are summaries of the City of Pocatello, City of Idaho Falls, and Coalition of Cities water rights.

HEARING OFFICER: 348, 349, and 350.

And the parties have discussed these three exhibits? There's a stipulation for admission?

MR. FLETCHER: Yes.
MR. SIMPSON: Yes.
HEARING OFFICER: I hear no negatives.
MS. McHUGH: They're all falling in line right now.
HEARING OFFICER: Okay.
MS. McHUGH: Thank you.
HEARING OFFICER: So the documents marked as Exhibit 348, 349, and 350 are received into evidence.
(Exhibits 348 - 350 received.)
HEARING OFFICER: Have the parties reviewed the compilation of admitted exhibits, and is there any discrepancy?
Ms. Patterson?
MS. PATTERSON: No discrepancy. It looked accurate.
So I thank everybody, including our court reporter and Sarah, for keeping track of those.
IGWA would like to, with the stipulation of the other parties, admit the documents that were presented to the technical working group. And those are exhibits -- they're common exhibits, 900, 901, 902, 903, 904, 905, 906, 908, 909, 910, 912, 914 was previously admitted, and 928, which was discussed.
HEARING OFFICER: And have all of these

documents been reviewed by the parties?

Are these documents that were reviewed or presented by the Department to the technical working group?

MS. PATTERSON: They were presented to the Department for the technical working group, and they were made available by the Department as a part of its notice of what the parties may take -- may use for the scope of this hearing.

HEARING OFFICER: Okay. So based on the represented -- or represented stipulation, I will receive into evidence the documents marked as Exhibits 900, 901, 902, 903, 904, 905, 906, 908, 909, 910, 912, and 928.

Is that correct? Is that comprehensive?

MS. PATTERSON: That is.

(Exhibits 900 - 906, 908 - 910, 912, and 928 received.)

MS. PATTERSON: And we have one last item.

Director, if you'll recall, at the end of Sophia's testimony you asked her about a portion of the report where it looked like there was a typo.

Ms. Sigstedt confirmed that that was a typo, and she sent in an updated expert report which removes the errata. I've circulated, for the parties, the

redline version so you can see what was updated, and we have a clean updated report that I would like to label as 837A, similar --

HEARING OFFICER: What's the number?

MS. PATTERSON: 837A.

And this is similar to what the Cities did for the updated report of Mr. Sullivan.

And so I would just ask that, you know, where we reference 837 in the record, we'll actually be referring to the updated report which removes errata.

(Exhibit 837A marked.)

HEARING OFFICER: So are you moving for the admission of 837A --

MS. PATTERSON: That is correct.

HEARING OFFICER: -- what has been marked as 837A?

MS. PATTERSON: It's the updated expert report of Sophia Sigstedt, and it removes errata.

HEARING OFFICER: And have the parties had the chance to review the documents?

MR. FLETCHER: We did. I looked through it. I didn't have any issue. Most of it was just switching -- words had been switched and added an "A" in there. She did add a "not" somewhere, but that's okay. We talked about that.

HEARING OFFICER: Okay. So based on the represented stipulation, I'll receive the document marked as 837A into the record.

(Exhibit 837A received.)

MS. PATTERSON: Thank you.

HEARING OFFICER: Other corrections?

Mr. Thompson.

MR. THOMPSON: I believe the parties have stipulated to Exhibit 2 for the Surface Water Coalition. It's information contained in Exhibit 4, but it just has a little additional detail.

So I would offer that.

HEARING OFFICER: Okay. And based on the represented stipulation, I'll receive Exhibit 2 into the record.

(Exhibit 2 received.)

HEARING OFFICER: Others?

MR. BUDGE: Director. Last night I filed a motion to take official notice of the joint forecast. It was brought to my attention that the document I had attached to my motion is not the actual joint forecast of the Bureau and the Corps of Engineers. I've not been able to obtain what I understand to be the full joint forecast, so I'm going to withdraw that motion at this time.

If at some point we're able to locate the full document, then we may refile that motion at a future date.

HEARING OFFICER: Okay. Well, it is a document that the agency would typically rely upon, so I don't know that anybody would object as long as there's a disclosure to all of the parties.

MR. BUDGE: And I have discussed that with the Surface Water Coalition, and they agree.

So I'm just, for the record, withdrawing the motion that was filed yesterday.

HEARING OFFICER: Okay. Thank you.

Okay. Other cleanup?

All right. So let's just talk about post-hearing processes.

So as I have stated before, this is an expedited process. I apologize to everybody because of the -- in my opinion -- the urgency of holding this hearing, and as a result, I will allow some briefing, but I think it needs to come in within a week. I know that's probably a deadline that nobody likes, so I'll allow simultaneous briefs to be filed. No responses or replies.

So let's anticipate any briefs coming in by the close of business a week from today, which would be

nine plus -- is what, the 16th? Is that correct?

MR. BRICKER: Yes.

HEARING OFFICER: Well, let's talk a little bit about some of what I'm concerned about in the briefing.

And I've listened to four days of testimony from many witnesses, and I appreciate the participation of the attorneys. And I have respect for both the water bar and for the experts who work on these matters.

I want to answer the question that Mr. Budge asked of Mr. Anders and just say that there was much presented today that needs to be considered in the future as we refine the methodology order. It is a dynamic document. It's intended to be. And, honestly, that was the reason for reissuance.

So let's talk about some of that information that was presented and the context of that information in terms of the law and the delivery call as, at least, I remember it.

So people can correct me either here today or in the briefing. But my understanding in this delivery call is that there's been a determination of material injury already. And there's been a determination that pumping of the groundwater depletes flows in the Snake River, and those flows are flows that the Surface

Water Coalition depends upon for its water supply.

And it's also my understanding that the courts have said that at least there's a presumption that the senior water right holders are entitled to their water as described in the decrees that have been issued by the Snake River Basin Adjudication court. And so there's a presumption in favor of the senior water right holder that they're entitled to the quantities and the other elements that are in the water right.

And, from my perspective, the methodology order is an attempt to evaluate the actual use of water by the seniors to determine whether there is some adjustment that is appropriate from the decreed amounts. And that's the reason for the clear and convincing standard that's been imposed and that the Department has been told by the courts it needs to -- for any adjustment that that's the standard or the proof that needs to come to the Department. And that's the reason for safety factors built into the methodology order.

And so much of what I've listened to, honestly, is testimony about uncertainties in that process. And if there are uncertainties in determining by clear and convincing evidence that there's an adjustment that's appropriate, then I want to know what the fallback is legally.

Because, frankly, the presumption is that the senior is entitled to the elements of the water right. And if those adjustments are to be established by clear and convincing evidence and the evidence that comes in during the hearing establishes uncertainties about whether it's clear and convincing, then I want to know what the Department's fallback position is.

Is the position that we -- there's a determination of material injury, but there's so much uncertainty that the Department should not be administering the water rights? Is the question that there is so much model uncertainty that there is no determination of what a curtailment date should be.

And then I think -- associated with that, I think there's also a question about burdens of proof. In other words, in the conjunctive -- and I don't know the answer to this, necessarily, but under the conjunctive management rules, who bears the burden of establishing, by clear and convincing evidence, what those adjustments should be? Is it the Department's burden? Is it the senior burden? Or is it the junior burden?

And, honestly, who has that information? I mean, there was an attempt, I think, through the questions to say that the senior has total control over

determining whether there's supplemental groundwater use or not. And yet the groundwater diversions are diversions that are measured by the groundwater users and at least reported on an annual basis and reported long after the season is over.

So I guess my question is: Who bears that burden? I don't know the answer to that question, but it seems to me it has some relevance in what we're talking about.

So I think we need to be thinking rather than trying to look at all of the nuances and all of the deficiencies. I think we need to look at it in the framework of what have the courts told us and what are the standards that need to be applied in looking at how the methodology operates within the larger realm of water administration and conjunctive water administration?

Now, there's one other matter I just want to talk about, and I suspect that we will -- there will be arguments about due process and the fact that people didn't have enough time to prepare. And, you know, I think there are questions about whether there were any property interests that were injured prior to this hearing or the people that were deprived in some way in a property interest. Certainly, that harbinger of that

possibility is out there.

But I think the real question is, what do we do in terms of water administration and timely water administration and try to figure out what's adequate.

I'll also point out that there was a theme, I think, through the discussions about the inability to prepare. And I guess I feel a little bit -- you know, I don't know how to characterize this, but, you know, we have been involved in this dispute for 20 years now -- or going on 18, I'd say. And there have been opportunities for people to develop mitigation plans; there have been opportunities for people to gather data; there have been opportunities for folks to take on responsibility to prepare.

And I find I'm a little incredulous that people will come into the hearing and say, "We haven't had an opportunity to get ready." And I guess I just turn around and say, "Doggone it, there have been years of opportunity to prepare."

Now, maybe not for a change from steady state to transient, and, certainly, that's an issue that can be taken to the courts or I need to reconsider; I don't know. But to say that there hasn't been an opportunity to put in place safeguards for the possibility of water administration, I'm a little incredulous at that.

All right. I don't know whether there are other issues. You're certainly welcome to raise them.

Mr. Thompson.

MR. THOMPSON: A page limit, maybe, for post-hearing briefs for Mr. Harris.

MR. HARRIS: Mr. Thompson just referred to me, that that's the only reason for a page limit.

HEARING OFFICER: Did he suggest a number?

MR. HARRIS: No, he suggested he needed it because of me.

HEARING OFFICER: Because of you?

MR. HARRIS: Because of me.

HEARING OFFICER: I'm -- I won't impose a page limit, but you know what, if -- just think about the number of those briefs that I might receive and how quickly I need to get through them. So I would suggest brevity.

And one of the reasons that I wanted to talk about issues was to try to get you to focus and maybe not spend so much time arguing about this little nuance or that little nuance in the expert reports, because I think there's a larger framework we really need to be thinking about. And I, hopefully, at least, made a crude attempt at trying to identify a framework.

All right. Anything else?

Thanks, everybody, for your help --

MR. BRICKER: Thank you.

HEARING OFFICER: -- and your patience.

We'll close the record.

(Hearing concluded at 3:36 p.m.)

REPORTER'S CERTIFICATE

I, ANDREA L. CHECK, CSR No. 748, Certified Shorthand Reporter, certify;

That the foregoing proceedings were taken before me at the time and place therein set forth, at which time the witness was put under oath;

That the testimony and all objections made were recorded stenographically by me and transcribed by me or under my direction;

That the foregoing is a true and correct record of all testimony given, to the best of my ability;

I further certify that I am not a relative or employee of any attorney or party, nor am I financially interested in the action.

IN WITNESS WHEREOF, I set my hand and seal this 13th day of June, 2023.

ANDREA L. CHECK, CSR No. 748, RPR, CRR
Notary Public
P.O. Box 2636
Boise, Idaho 83701-2636
My Commission expires July 20, 2028.

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Fourth Judicial District, Ada County
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By: Eric Rowell, Deputy Clerk

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

IDAHO GROUND WATER APPROPRIATORS, INC.,

Petitioner,

vs.

IDAHO DEPARTMENT OF WATER RESOURCES, and GARY SPACKMAN in his capacity as the Director of the Idaho Department of Water Resources.

Respondents,

and

AMERICAN FALLS RESERVOIR DISTRICT #2, MINIDOKA IRRIGATION DISTRICT, A&B IRRIGATION DISTRICT, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, TWIN FALLS CANAL COMPANY, CITY OF POCATELLO, CITY OF BLISS, CITY OF BURLEY, CITY OF CAREY, CITY OF DECLO, CITY OF DIETRICH, CITY OF GOODING, CITY OF HAZELTON, CITY OF HEYBURN, CITY OF JEROME, CITY OF PAUL, CITY OF RICHFIELD, CITY OF RUPERT, CITY OF SHOSHONE, CITY OF WENDELL, BONNEVILLE-JEFFERSON GROUND WATER DISTRICT, and BINGHAM GROUND WATER DISTRICT,
Intervenors.

IN THE MATTER OF DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY OR FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT,

Case No. CV01-23-13173

NORTH SIDE CANAL COMPANY, AND
TWIN FALLS CANAL COMPANY

IDAHO GROUND WATER APPROPRIATORS, INC.'S OPENING BRIEF

Judicial Review from the Idaho Department of Water Resources
Gary D. Spackman, Director
Honorable Eric J. Wildman, Presiding

Thomas J. Budge (ISB# 7465)
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IV. Procedural Errors 17

1. The Director violated due process and the APA by failing to hold a hearing before issuing the Fifth Methodology Order. 17

1.1 The Fifth Methodology Order was issued in a contested case, in the absence of an emergency. 19

1.2 The Fifth Methodology Order was issued in violation of due process and the APA. 20

1.3 The so-called "technical working group" cited by the Director does not satisfy due process or the APA. 21

1.4 The after-the-fact hearing does not satisfy due process or the APA. 22

2. The Director violated the APA by developing the Fifth Methodology Order using evidence not contained in the agency record. 23

3. The Director violated Department rule of procedure by taking official notice of information *after* the Fifth Methodology Order was issued. 23

4. The Director violated Idaho Code § 67-5252 by denying the motion for an independent hearing officer. 24

5. The Director violated due process, acted upon unlawful procedure, and abused discretion by blocking the parties from discovering and presenting relevant evidence. 24

6. The Director acted upon unlawful procedure, violated due process and the APA, and abused discretion by failing to give junior water users adequate time to conduct a field-level examination of irrigated acres and supplemental groundwater use, then ruling against them because they did not provide proof thereof at the hearing. 27

7. The Director violated Idaho law and abused discretion by failing to use the best science available to calculate SWC water needs in accordance with CM Rule 42.01.e. 32

7.1 The Director refused to improve the Forecast Supply calculation to account for all sources of water available to the SWC.....32

7.2 The Director refused to use the best science available to determine the current irrigated acres of TFCC.....33

7.3 The Director failed to evaluate whether the water needs of TFCC can be met with supplemental groundwater in accordance with CM Rule 42.01.h. 36

8. The Director violated Idaho law and abused discretion by failing to evaluate whether SWC water needs could be met without curtailment by making system improvements in accordance with CM Rules 40.03, 42.01.a, 42.01.g, and 42.01.h.....37

9. The Director violated Idaho law and abused discretion by refusing to apply the futile call doctrine in accordance with CM Rules 10.08 and 20.04. 40

10. The Director violated Idaho law and abused discretion by refusing to consider the public interest in achieving maximum beneficial use of Idaho's water resources in accordance with CM Rules 10.07, 20.03, and 42.01. 41

11. The errors cited above violate substantial rights of junior-priority water users. 44

12. The Director is liable for attorney fees under 42 U.S.C. § 1983 for depriving junior water users of clear due process rights, or alternatively, under Idaho Code § 42-117(1). 44

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Idaho Ground Water Appropriators, Inc. ("IGWA"), acting for and on behalf of North Snake Ground Water District, Magic Valley Ground Water District, Carey Valley Ground Water District, American Falls-Aberdeen Ground Water District, Jefferson-Clark Ground Water District, Madison Ground Water District, and Henry's Fork Ground Water District, through counsel, submits this opening brief pursuant to paragraph 9 of the Court's *Procedural Order* dated August 16, 2023, the Court's *Order Granting Unopposed Motion and Order Vacating and Resetting Hearing* dated November 17, 2023, Rule 84(p) of the Idaho Rules of Civil Procedure, and Rule 34 of the Idaho Appellate Rules.

STATEMENT OF THE CASE

I. Nature of the case

This is a petition for judicial review of actions taken by the Director of the Idaho Department of Water Resources ("IDWR" or "Department") in a contested case governed by the Idaho Administrative Procedures Act, Chapter 52, Title 67, Idaho Code ("APA"). The case involves the ongoing Surface Water Coalition[1] (SWC) delivery call. The Director adopted a new methodology that radically changes the way water rights are administered under the call. The process employed by the Director to develop the mew methodology violates due process and the APA. In addition, the Director failed to apply key provisions of the Rules for Conjunctive Management of Surface and Ground Water Resources, IDAPA 37.03.11 ("CM Rules").

II. Procedural History

In January 2005, the SWC petitioned the Director to shut off groundwater diversions from the ESPA so more water will overflow from the ESPA into the Snake River in the American Falls area, upstream from SWC diversions at Minidoka Dam and Milner Dam. After a period of litigation over the constitutionality of the CM Rules, an evidentiary hearing was held in 2008 before former Idaho Supreme Court Chief Justice Gerald F. Schroeder who was appointed hearing officer. On the recommendation of Justice Schroeder, former IDWR Director David R. Tuthill, Jr. developed a formula known as the "methodology" to annually predict material injury to SWC members in accordance with the CM Rules. The methodology was subsequently revised

[1] The SWC consists of seven irrigation entities in the Magic Valley that divert water from the Snake River: A&B Irrigation District, American Falls Reservoir District #2, Burley Irrigation District, Milner Irrigation District, Minidoka Irrigation District, North Side Canal Company, and Twin Falls Canal Company.

in 2010 (Second Methodology Order), 2015 (Third Methodology Order), and 2016 (Fourth Methodology Order).

In the fall of 2020, IDWR staff members began reviewing and evaluating changes to the Fourth Methodology Order. (Anders, Tr. Vol. I, 170:2-3.) This continued through 2021. *Id*. at 170:4-18. On August 5, 2022, at a status conference involving the SWC delivery call, the Director verbally notified those present that he intended to review the Fourth Methodology Order and consider what changes might be made to improve its functionality. (R. 298; Anders, Tr. Vol. I, 172:7-16.) In September, a Department staff member, Matt Anders, sent an email notifying various individuals that Department staff had been reviewing data used in the Fourth Methodology Order and would be presenting their findings to outside consultants in coming months. (Anders, Tr. Vol. I, 217:4-218:3.) From November 16-December 21, 2022, Department staff held six virtual meetings where they shared new data they had reviewed and various analyses they had conducted. (R. 1176.) On December 23, 2022, Department staff issued a one-page document containing "preliminary recommendations" for changes to the methodology order. The preliminary recommendations address three components of the methodology. (R. 2866.) With respect to the rest, it states: "IDWR will continue to evaluate the integration of these and other techniques into the methodology." *Id*. The document invited outside consultants to submit written comments by January 16, 2023, roughly three weeks later. *Id.*

Outside consultants obviously could not thoroughly analyze in three weeks the complex and voluminous data that Department staff spent more than a year reviewing and analyzing, but since Department staff had presented a one-page summary of "preliminary recommendations," and since the APA required the Director to hold a hearing before amending the Fourth Methodology Order, IGWA's consultant prepared comments that were likewise preliminary in nature, expecting that a full evidentiary record would be developed in a hearing. (R. 316.) This expectation, however, was not realized.

Rather than hold a hearing, the Director worked behind closed doors from late December 2022 through April 2023 to develop the *Fifth Amended Final Order Regarding Methodology for Determining Material Injury to Reasonable In-Season Demand and Reasonable Carryover* ("Fifth Methodology Order"), using information that is <u>not</u> in the agency record. The Director issued the Fifth Methodology Order on April 21, 2023. (R. 43.) The Fifth Methodology Order

makes some changes to the methodology that differ wildly from the preliminary recommendation of Department staff, while disregarding other changes recommended by Department staff.

On the same day the Director issued the Fifth Methodology Order, he applied it to the 2023 irrigation season via the *Final Order Regarding April 2023 Forecast Supply (Methodology Steps 1-3)* ("April As-Applied Order"). (R. 48-61.) Despite the exceptionally high snowpack in 2023, changes made to the Fifth Methodology Order caused the April As-Applied Order to predict a water supply shortage of 75,200 acre-feet to one member of the SWC: Twin Falls Canal Company ("TFCC"). (R. 50.) The April As-Applied Order requires curtailment of every groundwater right from the ESPA junior to December 30, 1953, stating: "If junior ground water user cannot establish, to the satisfaction of the Director, that they can mitigate for their proportionate share of the predicted DS [Demand Shortfall] of 75,200 acre-feet in accordance with an approved mitigation plan, the Director will issue an order curtailing the junior-priority ground water user." (R. 53.)

Under the Fourth Methodology Order, a predicted demand shortfall of 75,200 acre-feet would have exposed approximately 75,000 acres to curtailment. (Sukow, Tr. Vol. I, 55:9-56:4.) Under the Fifth Methodology Order, it exposed approximately 700,000 acres to curtailment. *Id*. The Director's decision to change the methodology without a prior hearing, making it immediately effective after the 2023 farming season had already begun, induced chaos.

On the same day the Director issued the Fifth Methodology Order and the April As-Applied Order, he set a prehearing conference the following week, on April 28, 2023, and an after-the-fact hearing six weeks later on June 6-10, 2023. (R. 63, 126.) He knew affected water users would want a hearing, though he didn't bother to hold one before issuing the Fifth Methodology Order. It was more convenient, apparently, for the Director to change the methodology on his own, without the benefit of a full evidentiary record, and then let affected water users try and convince him after-the-fact that he got it wrong.

Affected water users filed pre-hearing motions for a continuance and the appointment of an independent hearing officer, but they were denied. (R. 298-304.) The Director set a hearing schedule that gave affected water users a few weeks to complete all discovery, prepare expert reports, file lay and expert witness lists with a summary of anticipated testimony, and file pre-marked exhibits with the Department. (R. 127.) In addition, the Director blocked written discovery and issues orders preventing junior water users from discovering information from the

Department pertaining to policy matters and the Director's deliberative process. (R. 127; 301; 305-06.) Junior water users were given all of five weeks to review, analyze, and contest what the Department spent some 10 months developing, while being denied access to some of the information the Director considered in developing the Fifth Methodology Order.

The after-the-fact hearing was held June 6-9, 2023. The Director issued a *Post-Hearing Order Regarding Amended Methodology Order* ("Post-Hearing Order") and a *Sixth Final Order Regarding Methodology for Determining Material Injury to Reasonable In-Season Demand and Reasonable Carryover* ("Sixth Methodology Order") on July 19, 2023. (R. 1067-1100; 1004-1053.) The Post-Hearing Order acknowledged one small data error in the Fifth Methodology Order, which was corrected in the Sixth Methodology Order. (R. 1086.) For all practical intents and purposes, the Sixth Methodology Order is identical to the Fifth Methodology Order.

While this brief at times refers to the Fifth Methodology or the Sixth Methodology Order separately, IGWA's position is that both orders must be set aside for the reasons set forth below, and that water rights administration should continue under the Fourth Methodology Order until the Department holds a hearing that affords due process and properly applies the CM Rules. This brief sometimes refers to the Fifth Methodology Order and the Sixth Methodology Order collectively as the Fifth & Sixth Methodology Orders.

III. Statement of Facts

The SWC consists of seven irrigation entities who filed a joint delivery call against groundwater users. The Director evaluates their water needs separately, however, and since the methodology order was first developed in 2010, only Twin Falls Canal Company (TFCC) and American Falls Reservoir District No. 9 (AFRD2) have been found to suffer a water supply shortage. When a water shortage is calculated, it usually affects only TFCC, as was the case in 2023. Therefore, the evidence presented at the after-the-fact hearing focused on the water supplies of TFCC to illustrate problems with the Fifth Methodology Order.

Over the last half century, the amount of water TFCC diverts has remained remarkably steady at around 1.1 million acre-feet annually, as shown in the following graphs:

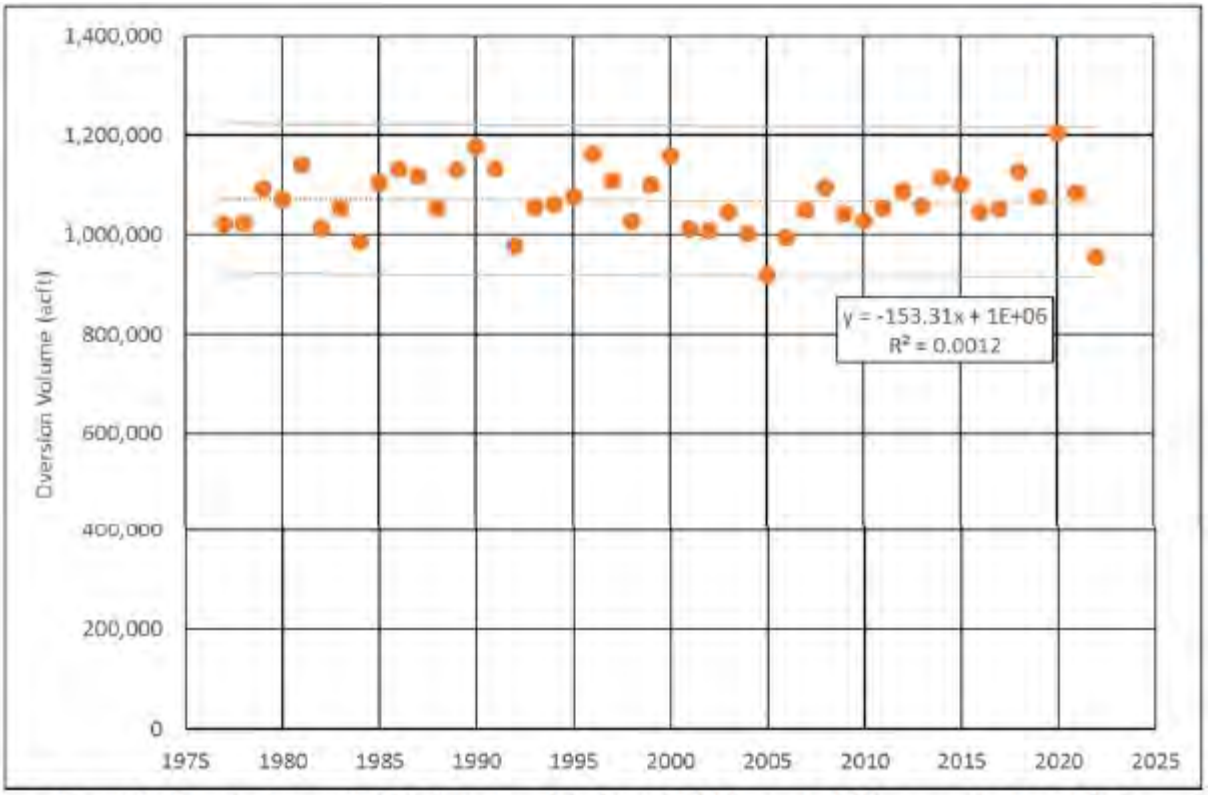
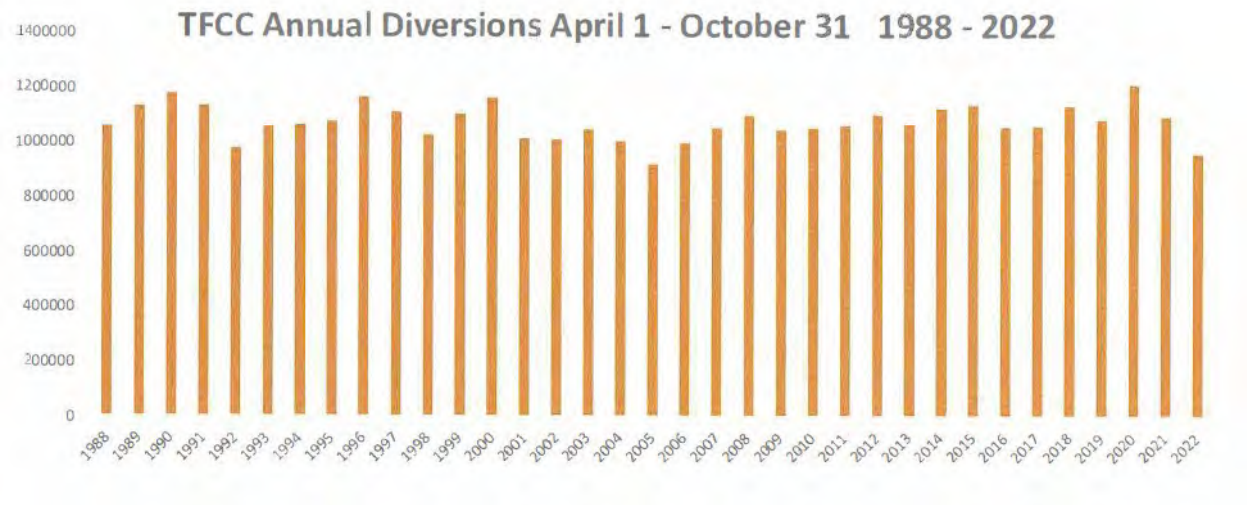


Figure 4. Adjusted annual TFCC diversion data from 1977 through 2022, presented in Table 1.

(R. 1239, Fig. 4.)



(R. 1206; Barolgi, Tr. Vol. II, 308:23-309:2.)

TFCC's longtime consultant, Dr. Charles Brockway, Jr., confirmed that TFCC has a reliable supply of water. (R. 1246.) Declining Snake River reach gains have not generally diminished the water supply available to TFCC because TFCC holds the most senior natural flow

water right downstream of American Falls Reservoir, supplemented by storage. Despite having the most senior natural flow rights, TFCC's storage supplies are modest compared to other SWC members. Ironically, the decline in aquifer storage and Snake River reach gains in the latter part of the twentieth century is due largely to the Winter Water Savings Program which effectively traded aquifer storage (and reach gains) for reservoir storage.

Changes made in the Fifth Methodology Order caused the April As-Applied Order to predict a water supply shortage (a/k/a "demand shortfall") of 75,200 acre-feet to TFCC, or approximately 6-7% of a full water supply. In an effort to increase overflow from the ESPA in the American Falls area by 75,200 acre-feet, the Director ordered curtailment of every groundwater right junior to December 30, 1953. (R. 52.) Absent mitigation, curtailment would have dried up an estimated 700,000 acres of farmland, eliminated beneficial use of roughly 1.6 million acre-feet of water, and left many cities and businesses without water, wreaking havoc on Idaho's economy, with no measurable increase in crop production by TFCC patrons. (R. 2762, 2763; Sukow, Tr. Vol. I, 55:22-56:2 (700,000 acres curtailed); R. 2411 (1,597,439 acre-feet curtailed).) Of the curtailed water use, less than 5% was predicted to accrue to TFCC during the 2023 irrigation season. (Sullivan, Tr. Vol. II, 453:15-21.)

Most of the curtailed groundwater rights are located far enough away from the Snake River that their curtailment would provide little if any additional water to the SWC. As shown in the following table, the April As-Applied Order curtails 20,620 acre-feet of groundwater use between Carey Valley Ground Water District, Henry's Fork Ground Water District, and Madison Ground Water District even though zero additional water would accrue to the SWC in 2023. It curtails an additional 872,402 acre-feet between Bonneville-Jefferson Ground Water District, Jefferson-Clark Ground Water District, Magic Valley Ground Water District, and North Snake Ground Water District, compared to a benefit of only 1,178.06 acre-feet to the SWC. Of the total among of curtailed water use in these districts (893,022 acre-feet), only one-tenth of one percent would accrue to the SWC.

GWD	IDWR % of IGWA's proportionate share	IDWR Portion of April 2023 predicted demand shortfall			Transient May - Sept Impact[1]	May - Sept Curtailed Volume[2]	Ratio of Curtailed to Benefit		Jr. to 12/1953[3]	District Total	% of Acres Curtailed	Baseline Volume[4]
	%	AF	%		AF	AF	AF		acres	acres	-	AF
American Falls Aberdeen	33.4%	21,214	28.2%		38,328	313,075	8:1		124,112	149,259	83%	283,815
Bingham	20.9%	13,384	17.8%		27,841	206,552	7:1		105,815	148,799	71%	277,011
Bonneville Jefferson	13.4%	8,469	11.3%		1,085	179,607	166:1		92,471	95,531	97%	158,133
Carey Valley	0.0%	5	0.0%		0.00	6,901	-		-	3,669	-	5,671
Henry's Fork	0.2%	90	0.1%		0.00	13,719	-		-	40,192	-	73,901
Jefferson Clark	10.8%	6,939	9.2%		69.9	247,765	3,547:1		111,792	174,039	64%	445,393
Madison	0.0%	4	0.0%		0.00	w/HF	w/HF		-	64,045	-	78,095
Magic Valley	16.1%	10,277	13.7%		23.1	227,879	9,856:1		99,110	137,466	72%	256,188
North Snake	5.1%	3,262	4.3%		0.06	217,151	3,619,180:1		88,320	101,358	87%	208,795
Sub-Total	100.0%	63,645	84.6%		67,347	1,412,649	21:1		621,620	914,358	68%	1,787,002
SWID	-	-	-		0.02	153,292	7,664,595:1		-	-	-	-
No District	-	-	-		7,373.6	31,498	4:1		-	-	-	-
Grand Total					**74,720.8**	**1,597,439**	**21:1**					

1. Impact broken down by geographic boundary. Some non-members are included in each district. For example, the A&B usage is included in Magic Valley and North Snake GWDs. See accompanying map. Acre-ft rounded to 2 decimal places.
2. Total volume split geographically as described in note 1 from IDWR model input files from Jr12301953 run. Some slight conversion and rounding errors.
3. Acres provided by each district except Carey, Henry's Fork, and Madison. Based on breakdown of combined acres to provide effective acres per water right. 4. Baseline volume taken from 2022 Settlement Report submitted by IGWA to IDWR and the Surface Water Coalition. Represents average usage from 2010-2014.

(R. 2411, Tbl. 3-1.)

As mentioned above, the predicted demand shortfall of 75,200 acre-feet would have resulted in curtailment of water to approximately 75,000 acres of farmland under prior versions of the methodology order, compared to approximately 700,000 acres of farmland under the Fifth Methodology Order. (Sukow, Tr. Vol. I, 55:8-21; R. 1436.) This is the result of a sweeping change in how the ESPA Model is used in the methodology order. Prior methodology orders used a steady-state application of the Model. The Fifth Methodology Order switched to a transient-state application, causing exponentially larger curtailments in response to predicted water shortages. *Id.*

The Department has had the ability to run the Model at either steady-state or transient-state since at least 2013. (Sukow, Tr. Vol. I, 48:9-23.) The preliminary recommendation prepared by Department staff in December of 2022 did not recommend a change from to transient-state, yet that change was made in the Fifth Methodology Order, without explanation. And since the Director prevented the parties from discovering information related to the Director's policy decisions, or from calling Department witnesses to explain the basis for this change, we still don't fully know the reason for it.

Since the principal function of the methodology order is to calculate the amount of water SWC members need to meet irrigation demand, any update to the methodology order should cause it to become more accurate in that regard. At the after-the-fact hearing, outside consultants

identified several ways to improve the accuracy of the methodology order, as discussed below in section 7 this brief, but all were rejected by the Director.

The takeaway from all this is that the Methodology Order is not getting better at meeting the objectives of the CM Rules, it is getting worse. The Fifth Methodology Order will frequently cause complete curtailments of groundwater water use when the SWC is not actually short of water, and it is curtailing large number of groundwater rights even when it will provide no additional water to the SWC. (R. 2394, Tbl. 2-8.) This fundamental failing is lost amid all of the technicalities that caused the Director to change the methodology. It is a case of the proverbial failure to see the forest for the trees.

STANDARD OF REVIEW

Judicial review of the Fifth Methodology Order is governed by the APA. Under the APA, courts are to affirm agency action unless the agency's findings, inferences, conclusions, or decisions are: (a) in violation of constitutional or statutory provisions; (b) in excess of the statutory authority of the agency; (c) made upon unlawful procedure; (d) not supported by substantial evidence on the record as a whole; or (e) arbitrary, capricious, or an abuse of discretion. Idaho Code § 67-5279(3). The party challenging the agency decision must show that the agency erred in a manner specified in I.C. § 67-5279(3), and that a substantial right has been prejudiced. Idaho Code § 67-5279(4); *Barron v. Idaho Dep't of Water Res.*, 135 Idaho 414, 417 (2001). If the Fifth Methodology Order is not affirmed, it shall be set aside in whole or in part and remanded for further proceedings as necessary. Idaho Code § 67-5279(3).

ISSUES ON APPEAL

Procedural errors

1. Whether the Director violated due process or the APA by changing the methodology order without first providing notice and a hearing.

2. Whether the Director violated the APA by failing to base the findings of fact in the Fifth Methodology Order exclusively on the evidence in the record of the contested case.

3. Whether the Director acted upon unlawful procedure or abused discretion by taking official notice of facts *after* the Fifth Methodology Order was issued.

4. Whether the Director violated Idaho Code § 67-5252 by denying the cities' motion for an independent hearing officer.

5. Whether the Director violated due process or abused discretion by blocking junior water users from discovering and examining witnesses about relevant information the Director considered in developing the Fifth Methodology Order.

6. Whether the Director acted upon unlawful procedure, violated due process and the APA, or abused discretion by failing to give junior water users adequate time to conduct a field examination of the number of acres actually irrigated and the use of supplemental groundwater by SWC members, and then ruling against them because they did not provide proof thereof at the hearing.

Substantive errors

7. Whether the Director violated Idaho law or abused discretion by failing to use the best science available to calculate SWC water needs in accordance with CM Rule 42.01.e.

8. Whether the Director violated Idaho law or abused discretion by failing to evaluate whether SWC water needs could be met with their existing water supplies by making operational changes or system improvements in accordance with CM Rules 40.03, 42.01.a, and 42.01.h.

9. Whether the Director violated Idaho law or abused discretion by refusing to apply the futile call doctrine in accordance with CM Rules 10.07 and 20.04.

10. Whether the Director violated Idaho law or abused discretion by refusing to consider the public interest in full development of Idaho's water resources in accordance with CM Rules 10.07, 20.03, and 42.01.

Ancillary matters

11. Whether the errors cited above prejudiced substantial rights of junior water users.

12. Whether the Director is liable for attorney fees under 42 U.S.C. § 1983 for the deprivation of the due process rights.

13. Whether the Director is liable for attorney fees under Idaho Code § 12-117(1) for failing to hold a hearing before issuing the Fifth Methodology Order, failing to apply the futile call doctrine, or committing other errors without a reasonable basis in fact and law.

SUMMARY OF THE ARGUMENT

The Fifth & Sixth Methodology Orders should be set aside for both procedural and substantive errors. Procedural errors include (a) failing to hold a hearing before changing the methodology order, (b) using evidence not contained in the agency record, (c) taking notice of facts *after* the Fifth Methodology Order was issued, (d) denying the motion for an independent hearing officer, (e) blocking junior water users parties from discovering relevant information the Director considered in developing the Fifth Methodology Order, and (f) failing to give junior water users adequate time to conduct a field examination of the number of acres currently irrigated by TFC, then ruling against them because they did not provide proof thereof at the after-the-fact hearing.

The Director also committed several substantive errors, likely due in part to his failure to hold a hearing before issuing the Fifth Methodology Order. Substantive errors include the Director's refusal to (a) use the best science available to calculate SWC water needs, (b) evaluate whether SWC water needs could be met without curtailment by making operational changes or system improvements, (c) apply the futile call doctrine, or (d) consider the public interest in achieving maximum beneficial use of the state's water resources.

Despite clear and undisputed evidence of changes that should be made to improve the accuracy of the Fifth Methodology Order, as well as the Director's failure to apply important CM Rules, the Director refused to make any changes. Of course, making a substantive change would signify that he got it wrong the first time—that he wrongly ordered curtailment. The Director effectively tied his own hands by changing the methodology order and implementing it immediately without first holding a hearing and developing a full evidentiary record.

If the court finds that the Director violated the due process rights of IGWA and its members, the court should award IGWA's attorney fees under 42 U.S.C. § 1983. The court should also award IGWA's attorney fees under Idaho Code § 12-117(1) for committing errors, including failure to apply the futile call doctrine or the principle of maximum beneficial use, without a reasonable basis in fact or law.

ARGUMENT

IV. Procedural Errors

The Director committed several procedural errors in developing and implementing the Fifth Methodology Order, all of which were designed to prejudice junior water users. They were not innocent mistakes either. They were deliberate. And they left junior water users with an abiding belief that adjudicatory proceedings by the Department are neither fair, just, nor unbiased. It is critical that the judiciary correct these errors to restore trust in the Department and the rule of law.

1. The Director violated due process and the APA by failing to hold a hearing before issuing the Fifth Methodology Order.

A fundamental right afforded by the United Stated Constitution is that "No state … shall deprive any person of life, liberty, or property without due process of law." U.S. Const., Amend. 14 §1; Idaho Const. art. I, § 13. Under Idaho law, "individual water rights are real property rights which must be afforded the protection of due process." *Nettleton v. Higginson*, 98 Idaho 87, 90 (1977); *Clear Springs Foods, Inc. v. Spackman*, 150 Idaho 790, 815-16 (2011).

Due process entitles a property owner to "an opportunity for a hearing before he is deprived of any significant property interest." *Fuentes v. Shevin*, 407 U.S. 67, 82 (1972). The hearing "must be granted at a meaningful time and in a meaningful manner." *Id*. at 80 (quoting *Armstrong v. Manzo*, 380 U.S. 545, 552 (1965)). It must be held "*before* [a property owner] is deprived of any significant property interest, except for extraordinary situations when some valid governmental interest is at stake that justifies postponing the hearing until after the event." *Id*. at 81 (quoting *Boddie v. Connecticut*, 401 U.S. 371, 378-79 (1971) (emphasis in original)).

Not only must a hearing be held, but the decision-making process must be fair to those persons affected by the decision, as explained by the U.S. Supreme Court:

> The constitutional right to be heard is a basic aspect of the duty of government to follow a fair process of decision making when it acts to deprive a person of his possessions. The purpose of this requirement is not only to ensure abstract fair play to the individual. Its purpose, more particularly, is to protect his use and possession of property from arbitrary encroachment—to minimize substantively unfair or mistaken deprivations of property, a danger that is especially great when the State seizes goods simply upon application of and for the benefit of a private party.

Id. at 80-81. The hearing requirement "is not intended to promote efficiency or accommodate all possible interests: it is intended to protect the particular interests of the person whose possessions are about to be taken." *Id*. at 90, fn 22. "An individual must have an opportunity to confront all the evidence adduced against him, in particular that evidence with which the decisionmaker is familiar." *Vanelli v. Reynolds Sch. Dist. No. 7*, 667 F.2d 773, 780 (9th Cir. 1982). The hearing "must be provided at a time which allows the person to reasonably be prepared to address the issue." *State v. Doe*, 147 Idaho 542, 546 (Ct. App. 2009).

When a government agency fails to provide due process before issuing an order, the agency should be instructed "to vacate the Final Order … and hold a new hearing that complies with due process." *Citizens Allied for Integrity & Accountability, Inc. v. Schultz*, 335 F. Supp. 3d 1216, 1230 (D. Idaho 2018).

To ensure that Idaho agencies afford due process in contested cases, the Idaho legislature enacted the APA which requires state agencies, in the absence of an emergency, to hold a hearing *before* the agency decides the matter. Idaho Code § 67-5242. The purpose of the hearing is "to assure that there is a full disclosure of all relevant facts and issues, including such cross-examination as may be necessary." Idaho Code § 67-5242(3)(a). At the hearing, parties must be given "the opportunity to respond and present evidence and argument on all issues involved," Idaho Code § 67-5242(3)(b), and all findings of fact must be "based exclusively on the evidence in the record of the contested case and on matters officially noticed in that proceeding," Idaho Code § 67-5248(2).

The only time a state agency can take action in a contested case, other than by stipulation of the parties, without first holding a hearing, is "in a situation involving an immediate danger to the public health, safety, or welfare requiring immediate government action." Idaho Code § 67-5247(1). When emergency action is taken, the order must include a "brief, reasoned statement to justify both the decision that an immediate danger exists and the decision to take the specific action." Idaho Code § 67-5247(2). In addition, the agency must "proceed as quickly as feasible to complete any proceedings that could be required." Idaho Code § 67-5247(4).

The Idaho Supreme Court has confirmed that in the context of conjunctive management of surface and ground water rights, if there is no emergency a hearing must be held *before* an order is issued. In *American Falls Reservoir District No. 2 vs. Idaho Department of Water Resources* ("*AFRD2*"), the Idaho Supreme Court reversed the district court decision which

would have allowed the Director to make conjunctive management decisions first and hold hearings later. The Supreme Court explained that when it comes to conjunctive management, "[i]t is vastly more important that the Director have the necessary pertinent information and the time to make a reasoned decision based on the available facts." *AFRD2*, 143 Idaho 862, 875 (2006). In a subsequent case, the Court reprimanded the Director for issuing a curtailment order before holding a hearing, stating: "the Director abused his discretion by issuing the curtailment orders without prior notice to those affected and an opportunity for a hearing." *Clear Springs Foods,* 150 Idaho at 815.

Pre-decision hearings are critical to ensure fair and unbiased decisions. There is a huge difference between a decision that is based on a full evidentiary record, where the decision-maker has heard all relevant testimony and considered all relevant evidence before making the decision, and one that is not. After-the-fact hearings are allowed only in emergencies because humans, by nature, do not like to admit mistakes. When a hearing is held after-the-fact, affected parties are tasked with persuading the decision-maker to admit they got it wrong the first time. The deck is stacked against them. The pressure on the decision-maker to not deviate from the initial decision is especially heavy when the decision carries major real-life consequences. To avoid this, due process and the APA require a hearing first, in the absence of an emergency, which did not happen here.

1.1 The Fifth Methodology Order was issued in a contested case, in the absence of an emergency.

The Fifth Methodology Order was issued in what is commonly known as the SWC delivery call case, IDWR Docket No. CM-DC-2010-001. This is a contested case under the APA that has been ongoing since 2005 when the SWC filed its delivery call (IDWR did not begin using docket numbers until 2010). Every iteration of the methodology order has been issued in this case.

The Fifth Methodology Order was not issued in an emergency. The Director told Department staff as early as 2020 that he wanted to review the Fourth Methodology Order and consider making changes. (Anders, Tr. Vol. I, 169:15-170:3.) Department staff began working on this in Fall of 2020, and their work continued through the Fall of 2022, culminating in a one-page letter to the Director dated December 23, 2022, outlining recommended changes to the Fourth Methodology Order. (R. 2866.)

The Director could easily have held a hearing in 2021 or 2022, or even early winter of 2023, ahead of the irrigation season as required by the Idaho Supreme Court ruling *In Matter of Distribution of Water to Various Water Rts. Held By or For Ben. of A&B Irr. Dist*., 155 Idaho 640, 653 (2013): "The Director may develop and implement a pre-season management plan for allocation of water resources that employs a baseline methodology [provided it] be made available in advance of the applicable irrigation season."). Normal discovery procedures could have been followed, Department staff could have submitted a technical report for review by affected parties, consultants for affected parties could have prepared expert reports, and testimony and exhibits could have been received and considered—all before the methodology order was changed.

If additional time was needed to fully examine the Fourth Methodology Order, additional time was available. The Fourth Methodology Order has been in place since 2016, and there is no reason it could not continue functioning in 2023. The Fourth Methodology Order does not have an end date or require review at prescribed intervals; it merely states: "As more data is gathered and analyzed, the Director will review and refine the process of predicting and evaluating material injury. The methodology will be adjusted if the data supports a change." (R. 1410.)

Ultimately, there was no "situation involving an immediate danger to the public health, safety, or welfare requiring immediate action" to amend the Fourth Methodology Order. Idaho Code § 67-5247(1). Indeed, the Fifth Methodology Order contains no such statement. Thus, the Fifth Methodology Order is, and must be considered, a non-emergency order.

1.2 The Fifth Methodology Order was issued in violation of due process and the APA.

Since there was no emergency, due process and the APA require the Director to hold a hearing prior to issuing the Fifth Methodology Order to assure that "there is a full disclosure of all relevant facts and issues, including such cross-examination as may be necessary," Idaho Code § 67-5242(3)(a), the parties are given "the opportunity to respond and present evidence and argument on all issues involved," Idaho Code § 67-5242(3)(b), and all findings of fact are "based exclusively on the evidence in the record of the contested case and on matters officially noticed in that proceeding," Idaho Code § 67-5248(2). The Director had ample time to do this. He chose not to. In so doing, he violated due process and the APA.

1.3 The so-called "technical working group" cited by the Director does not satisfy due process or the APA.

The Director claimed he did not need to hold a hearing before issuing the Fifth Methodology Order because Department staff disclosed some of their technical analyses to outside consultants in November-December 2022, which the Director refers to as a "technical working group." The actions of Department staff fall far short of what due process and the APA require.

First, the term "working group" is a misnomer. The term suggests a collaborative process among Department staff and outside consultants; it was limited to Department staff working under the supervision of the Director. (Anders, Tr. Vol. I, 169:15-23.)

Second, outside consultants had no input as to what components of the Fourth Methodology Order would be analyzed and what types of studies would be performed; that was all directed behind the scenes by the Director, who personally reviewed and edited the presentations of Department staff to outside consultants. (Anders, Tr. Vol. I, 173:18-174:8; 176:11-24.)

Third, the "preliminary recommendations" of Department staff did not preview major changes that were made to the Fifth Methodology Order. Department staff published nothing more than a one-page document with conclusory recommendations. (R. 2866.) What's more, IGWA learned in depositions and at the hearing that while this document masquerades as a recommendation from Department staff to the Director, the Director actually reviewed and edited the content of the document before it was shared with consultants of the parties to the contested case. (Anders, Tr. Vol. I, 173:18-174:8.) It was, in effect, the Director's recommendation to himself.

Fourth, the preliminary recommendation document fails to provide any analysis of why certain critical components of the methodology were not modified. For example, the Fifth Methodology Order calculates water demand for TFCC based on the number of acres it reported to the Department as being irrigated in 2013, even though the Department's own subsequent investigation shows that there are more than 15,000 fewer acres that are actually irrigated. (Anders, Tr. Vol. I, 139:15-141:24; R. 1470.) Ordering curtailment to service non-irrigated acres is contrary to law: "[T]he Director has the duty and authority to consider circumstances when the water user is not irrigating the full number of acres decreed under the water right. If this Court

were to rule the Director lacks the power in a delivery call to evaluate whether the senior is putting the water to beneficial use, we would be ignoring the constitutional requirement that priority of water be extended only to those using the water." *In Matter of A&B*, 155 Idaho at 652 (emphasis added).

1.4 The after-the-fact hearing does not satisfy due process or the APA.

The Director attempted to cure his intentional violation of due process and the APA by holding an after-the-fact hearing. Yet, this was by no means healing.

First, as explained above, after-the-fact hearings are only allowed in emergency situations, which did not exist here.

Second, the rushed after-the-fact hearing was anything but fair. The process was prejudicial to junior water users for several reasons, including:

- Written interrogatories and requests for production were not permitted. (*Sched. Order and Order Auth. Remote Appear. At Hrg*., May 2, 2023, R. 127.)
- The compressed schedule did not afford adequate time for affected water users to conduct inspections and analyses needed to formulate expert opinions and develop reports addressing the complex issues such as (a) the seven years of additional, voluminous hydrologic and water use data used in the Fifth Methodology Order, (b) revised calculations employed in the Fifth Methodology Order, (c) the large discrepancy between Twin Falls Canal Company's (TFCC) actual irrigated acreage and the acreage used by the Director in the Fifth Methodology Order, (d) the use and availability of supplemental groundwater to TFCC, and (e) increasing diversions and decreasing project efficiency of TFCC in recent years. (R. 316-19; R. 83-84.)
- Greg Sullivan, the sole expert consultant for the Cities, was out of the country from May 17, 2023-June 3, 2023, leaving him unavailable to assist in developing strategy, preparing expert reports, preparing exhibits, and attending depositions. (R. 353.)
- Sophia Sigstedt, an expert consultant for IGWA, was unable to perform all of the work required to properly analyze the Fifth Methodology Order before the June hearing. In addition, she had a medical condition that prevented her from leaving her home state of Colorado until July 10, 2022. (R. 319.)
- Jaxon Higgs, expert consultant for IGWA, was unable to participate in the June hearing due to a previously planned out-of-country trip May 27-June 10, 2023. (R. 312.)
- IGWA was unable to locate a qualified engineering firm that had capacity to analyze the "project efficiency" component of the Fifth Methodology Order by the June hearing.
- The Director blocked the parties from discovering relevant evidence and from calling Department witnesses possession relevant evidence, as explained below.

Junior water users objected to the compressed hearing schedule and requested a continuance. (R. 80-89, 282-93, R.446-51.) The Director could have administered water rights in 2023 under the Fourth Methodology Order, as he had done from 2016-2022, to allow ample time to scrutinize the Fifth Methodology Order, but he refused, instead forcing the parties through a rushed after-the-fact hearing.

Based on the foregoing, this court should set aside the Fifth Methodology Order and the Sixth Methodology Order because they were issued in violation of due process and the APA, and instruct IDWR to "hold a new hearing that compliance with due process." *Citizens Allied*, 335 F. Supp. 3d at 1230.

2. The Director violated the APA by developing the Fifth Methodology Order using evidence not contained in the agency record.

The APA requires that orders issued in contested cases be "based exclusively on the evidence in the record of the contested case and on matters officially noticed in that proceeding." Idaho Code § 67-5248(2). The Director did not do this. He instructed Department staff to perform various analyses internally, evaluated them internally, and worked internally to develop the Fifth Methodology Order with no oversight or input from the parties to the contested case. (Anders, Tr. Vol. I, 175:2-176:24.) We still don't know all the information the Director considered because he prohibited the parties from discovering relevant information related to legal and policy decisions that contributed to changes made in the Fifth Methodology Order, as explained below.

As a result of the Director's development of the Fifth Methodology Order using information outside the agency record, this court should set aside the Fifth & Sixth Methodology Orders because they were made upon unlawful procedure and in violation of the APA.

3. The Director violated Department rule of procedure by taking official notice of information *after* the Fifth Methodology Order was issued.

In keeping with the premise that hearings must be held before decisions, and that orders in contested cases must be based exclusively on the agency record, the Department's procedural rule 602 allows the Director to take official notice of agency reports and memoranda, provided that such notice "must be provided before the issuance of any order that is based in whole or in part on facts or material officially noticed," and "[p]arties must be given an opportunity to contest and rebut the facts or material officially noticed." IDAPA 37.01.01.602.

After the Fifth Methodology Order was issued, the Director issued the *Notice of Materials Department Witnesses May Rely Upon and Intent to Take Official Notice*, which contains approximately 44 separate documents (PowerPoint presentations, emails, Excel files, and Word documents), which had been used to develop the Fifth Methodology Order. Since this occurred after the Fifth Methodology Order was issued, it was done in violation of rule 602. Therefore, this court should set aside the Fifth & Sixth Methodology Orders because they were made upon unlawful procedure.

4. The Director violated Idaho Code § 67-5252 by denying the motion for an independent hearing officer.

Idaho Code § 67-5252(1) provides that "any party shall have the right to one (1) disqualification without cause of any person serving or designated to serve as the presiding officer." Shortly after the Fifth Methodology Order was issued, the Coalition of Cities filed a motion for appointment of an independent hearing officer, effectively disqualifying Director Spackman as the presiding officer. (R. 73-79.) The appointment of an independent hearing officer would not have removed Director Spackman from the proceeding entirely, because he would remain in position to review the recommended or preliminary order issued by the presiding officer, but it would have given the parties the benefit of an independent, unbiased finder of fact.

Despite the statutory right to disqualify the Director as the presiding officer, the Director denied the request. (R. 298-304.) Therefore, this court should set aside the Fifth & Sixth Methodology Orders because they were made upon unlawful procedure and in violation of Idaho Code § 67-5252(1).

5. The Director violated due process, acted upon unlawful procedure, and abused discretion by blocking the parties from discovering and presenting relevant evidence.

The APA requires "a full disclosure of all relevant facts and issues, including such cross-examination as may be necessary," and "the opportunity to respond and present evidence and argument on all issues involved," Idaho Code § 67-5242(3) (emphasis added). Toward that end, Department rules of procedure provide that "[e]vidence should be taken by the agency to assist the parties' development of a record, not excluded to frustrate that development." IDAPA 37.01.01.600. While the Director is not bound by the Idaho Rules of Evidence, he is not empowered to exclude relevant evidence; Department rules only allow "[t]he presiding officer

[to] exclude evidence that is irrelevant." *Id*. This is consistent with due process which, as noted above, provides that "[a]n individual must have an opportunity to confront all the evidence adduced against him." *Vanelli*, 667 F.2d at 780.

After scheduling the after-the-fact hearing, the Director implemented a scheme to block junior water users from discovering all of the information he considered in developing the Fifth Methodology Order. First, he issued the *Scheduling Order and Order Authorizing Remote Appearance at Hearing* on May 2, 2023, which (i) designates Matt Anders and Jennifer Sukow as the only Department staff members who would be permitted to testify at the hearing, and (ii) limits the topics and data they may discuss to certain technical matters. (R. 126-27.) Second, he issued the *Order Denying the Appointment of an Independent Hearing Officer and Motion for Continuance and Limiting Scope of Depositions* ("Order Limiting Discovery") on May 5, 2023, which limited Mr. Anders and Ms. Sukow's testimony to "facts and information the Department considered in updating the Methodology Order and As-Applied Order," and precludes water users from asking "questions regarding the Director's deliberative process on legal and policy considerations." (R. 301.) Finally, the Director issued the *Notice of Materials Department Witnesses May Rely Upon at Hearing and Intent to Take Official Notice* ("Order Limiting Evidence") on May 5, 2023, limiting the materials Mr. Anders and Ms. Sukow may rely upon at the hearing and the topics they would be allowed to testify about. (R. 305-06.)

Based on these orders, at the depositions for Ms. Sukow and Mr. Anders held May 10 and 12, 2023, counsel for the Department instructed them to not answer almost 50 questions on the basis that they related to the Director's deliberative process. (R. 165; R. 175.) Among the questions they refused to answer are the following:

- What other documents are responsive to [Deposition Notice] Request No. 1, that show your involvement in the issuance of the Fifth Methodology Order outside of the technical working group documents that you've just described?
- Did you prepare any analysis, memos, those kinds of things that you would have shared?
- Are you aware of any documents, whether or not they were authored by you, that reflect other Department employees' input on the Department's decision to move from the steady state to transit modeling in the Fifth Methodology Order that are not uploaded to the website?
- Was there any discussion about whether or not using the transient model might impact analysis of futile call?

- Did you provide to Mat Weaver any documents relating to the Fifth Methodology Order or the April 2023 As-Applied Order that have not been uploaded to the Department's website?
- Did you participate in any meetings involving Mat Weaver, or meetings with Mat Weaver or the Director involving the Fifth Methodology Order or the April 2023 As-Applied Order?
- How were the comments that Sophia and Greg considered on January 16th, how are those considered in the Department?
- Did you have discussions with any Department staff members about potential use of a trim line?
- Were concepts of reasonable use, futile call, or full economic development ever brought up during your work on the Fifth Methodology Order?

As this list shows, many of the questions that Department staff refused to answer sought information the Director considered in developing the Fifth Methodology Order, not his deliberative process for evaluating information. The Director has no authority under Idaho law to block parties from discovery relevant information by claiming it relates to policy issues or his deliberative process.

Since the topics that Mr. Anders and Ms. Sukow were allowed to discuss do not encompass all of the information the Director considered in developing the Fifth Methodology Order, and do not address all of the issues involved in the Fifth Methodology Order, junior water users served upon the Department an I.R.C.P. 30(b)(6) deposition notice asking to depose Department personnel who can speak to information considered by the Director that goes beyond the topics and data that Mr. Anders and Ms. Sukow were permitted to address under the Order Limiting Evidence and the Order Limiting Discovery. (R. 393-97.) The Department refused to produce deponents in response to the I.R.C.P. 30(b)(6) based on the Director's Order Limiting Evidence and the Order Limiting Discovery.

Thus, the Order Limiting Evidence and the Order Limiting Discovery have been employed to hide information he considered in developing the Fifth Methodology Order.

At the after-the-fact hearing, junior water users attempted to submit emails into evidence that related to policy considerations that went into the Fifth Methodology Order, but the Director promptly shut down that line of questioning. (Tr. Vol. IV, 1029:9-1033:5.) Thus, the Director employed a strategic approach to keep relevant information out of the agency record for review.

The Director claimed authority to hide information by citing rule 521 of the Department's rules of procedure which authorizes the Director to "limit the type and scope of discovery." IDAPA 37.01.01.521. However, this rule must be applied in a manner that is both constitutional and consistent with the APA. *Lochsa Falls, L.L.C. v. State*, 147 Idaho 232, 241 (2009); *State v. Perkins*, 135 Idaho 17, 22 (Ct. App. 2000). As mentioned above, the APA, due process, and the Department's rules of procedure allow the exclusion of evidence that is irrelevant only. Thus, the Director applied rule 521 in a manner that violates Idaho law.

Therefore, this court should set aside the Fifth & Sixth Methodology Orders because they were made upon unlawful procedure and violate due process and the APA as a result of the Director blocking the parties from discovering and presenting relevant information.

6. The Director acted upon unlawful procedure, violated due process and the APA, and abused discretion by failing to give junior water users adequate time to conduct a field-level examination of irrigated acres and supplemental groundwater use, then ruling against them because they did not provide proof thereof at the hearing.

Under Idaho law, water users cannot divert more water than they need to accomplish their beneficial use. To do so would be a waste of water, and it is "against the spirit and policy of our constitution and laws, as well as contrary to public policy, to permit the wasting of our waters, which are so badly needed for the development and prosperity of the state." *Stickney v. Hanrahan*, 7 Idaho 424, 435 (1900). Accordingly, the Idaho Supreme Court has ruled that:

> no person can, by virtue of a prior appropriation, claim or hold more water than is necessary for the purpose of the appropriation, and the amount of water necessary for the purpose of irrigation of the lands in question and the condition of the land to be irrigated should be taken into consideration.

Washington State Sugar Co. v. Goodrich, 27 Idaho 26 (1915) (internal citation omitted) (aff'd *In Matter of A&B*, 155 Idaho at 650).

A water right license or decree defines the maximum amount of water that may lawfully be diverted under the water right. It does not define the amount needed at a particular time to accomplish the designated beneficial use. *AFRD2*, 143 Idaho at 876-78. Therefore, in a water right delivery call, IDWR must evaluate how much water the senior currently needs. *Id*.

This is part of the material injury determination under the CM Rules. The CM Rules do not authorize the Director to curtail groundwater pumping simply because a senior user is not receiving water at the maximum rate authorized under their water rights. Rather, the senior must

be suffering "material injury" in accordance with CM Rule 42. Among the factors the Director is to consider under CM Rule 42 is "the amount of water being diverted and used compared to the water rights." CM Rule 42.01.e. This requires an evaluation of the number of acres actually being irrigated by the senior, among other factors.

Although the number of irrigated acres is a primary driver of SWC water need, the Director does not carefully examine the number of acres SWC members actually irrigate. Rather, he calculates SWC water demand based on the number of acres the SWC *reports* as being irrigated, without verifying the accuracy of the report, even when IDWR has information that the reported acreage over-states actual irrigated acreage.

To illustrate, TFCC's water rights authorize the irrigation of 196,162 acres. However, this reflects irrigation as of the commencement of the SRBA on November 19, 1987. At the first evidentiary hearing held on the SWC delivery call in 2008, a manual review of the TFCC project revealed a total of 183,589 irrigated acres. (R. 970; R. 2376.) From 2010-2014, the Department calculated material injury for TFCC using this figure. (R. 2376.) However, since 2015 the Department has assumed 194,732 irrigated acres because TFCC has reported that number of acres being irrigated. The Department has never scrutinized this figure, and we learned at the hearing that TFCC does not actually keep track of irrigated acres and cannot verify its irrigated acreage either. (Barlogi, Tr. Vol. II, 321:2-5.)

Recognizing that irrigated acres are an important consideration under the CM Rules, and that a field-level examination of irrigated acres would require coordination with TFCC and take considerable time, IGWA and the Coalition of Cities filed a motion to continue the after-the-fact hearing. (R. 80-89.) Even though it was groundwater users had mitigated any potential injury to the SWC for 2023, the Director denied the motion. (R. 299.) Then, after the hearing was held, the Director ruled that the groundwater users had failed to prove by clear and convincing evidence that TFCC was irrigating less than 194,732 acres, because they had not provide a field-level analysis of actual irrigated acres. (R. 1085.)

It is a violation of fundamental fairness under due process, as well as the requirement under the APA that "there is a full disclosure of all relevant facts and issues, including such cross-examination as may be necessary," Idaho Code § 67-5242(3)(a), for the Director to implement a hearing schedule that precludes the parties from the discovering relevant evidence.

Therefore, the Fifth & Sixth Methodology Orders should be set aside because they were made upon unlawful procedure and violate due process and the APA.

Substantive Errors

The Director committed several substantive errors in developing and applying the Fifth Methodology Order, all of which relate to the principle of beneficial use. Idaho's prior appropriation doctrine consists of two foundational principles—priority and beneficial use. Priority is the principle that "first in time is first in right." Idaho Code § 42-106. Beneficial use represents "[t]he policy of the law of this State to secure the maximum use and benefit, and least wasteful use, of its water resources." *Poole v. Olaveson*, 82 Idaho 496, 502 (1960). These are the "bedrock principles" of the prior appropriation doctrine. *Idaho Ground Water Appropriators, Inc. v. Idaho Dep't of Water Res*., 160 Idaho 119, 132 (2016).

The principle of beneficial use exists because Idaho's water is owned by the State "for the purpose of ensuring that it is used for the public benefit." *Idaho v. Coeur d'Alene Tribe of Idaho*, 521 U.S. 261, 287 (1997). The interest of the public at large is to see the state's water resources put to maximum beneficial use. This is reflected in the Idaho Constitution which calls for "optimum development of water resources in the public interest." Idaho Const. Art. 15 § 7. It is also reflected in the policy of "full economic development" set forth in Idaho Code § 42-226. "The entire water distribution system under Title 42 of the Idaho Code is to further the state policy of securing the maximum use and benefit of its water resources." *Nettleton*, 98 Idaho at 91.

Priority and beneficial use are sometimes cast as competing principles that must be balanced, but they are not inherently opposed. The principle of priority can be, and historically has been, applied in a manner that maximizes beneficial use of Idaho's water resources.

To illustrate, surface water exists above ground and flows through defined channels—lakes, rivers, canals, ditches. When the surface water supply is inadequate to fill all water rights, the legislature has directed IDWR to apply the prior appropriation doctrine in accordance with Idaho Code § 42-607 by opening and closing headgates to shepherd water from one point of diversion to another based on priority. Application of the prior appropriation doctrine in this manner has maximized development of Idaho's surface water resources.

To maximize beneficial use of groundwater, the Legislature adopted a different framework. Unlike surface water, groundwater exists below ground in undefined spaces.

Groundwater cannot be directed from one water user to another through rivers, canals, and ditches. When groundwater is pumped from a well there is a drawdown of the aquifer around the well. When pumping ceases, the water table around the well rebounds. IDWR cannot shut off a well and direct that water to another well or a particular spring through a defined channel. If Idaho were to apply the prior appropriation doctrine to groundwater by shutting of junior rights any time the groundwater table drops, no matter how small the impact, it would *minimize* beneficial use of Idaho's aquifers by allowing senior users to insist that the groundwater table be kept at peak elevation.

Recognizing that groundwater behaves differently than surface water, the Legislature enacted the Ground Water Act in 1951 to ensure that priority is applied in a manner that maximizes beneficial use of Idaho's aquifers, as stated in Idaho Code 42-226:

> The traditional policy of the state of Idaho, requiring the water resources of this state to be devoted to beneficial use in reasonable amounts through appropriation, is affirmed with respect to the ground water resources of this state as said term is hereinafter defined and, while the doctrine of "first in time is first in right" is recognized, a reasonable exercise of this right shall not block full economic development of underground water resources.

To achieve maximum beneficial use, the Ground Water Act implemented a management framework based on the elevation of the aquifer groundwater table. The Act does not allow holders of senior water rights to insist that the water table be kept at peak elevation. Rather, it allows junior users to draw down the water table so long as they do not withdraw more water than the aquifer can sustain long-term. *Clear Springs Foods*, 150 Idaho at 802 ("… with respect to ground water pumping, the prior appropriation doctrine was modified so that it only protects senior ground water appropriators in the maintenance of reasonable pumping levels in order to obtain full economic development of ground water resources."); Idaho Code §§ 42-233a, 42-233b, 42-237a.g. If groundwater diversions exceed the maximum sustainable yield of the aquifer, priority determines which water rights are curtailed to maintain sustainable groundwater levels. Application of the prior appropriation doctrine in this manner maximizes beneficial use of Idaho's aquifers.

The CM Rules were created to ensure that the prior appropriation doctrine is also applied to conjunctive management in a manner that maximizes beneficial use of Idaho's water

resources. CM Rule 20 sets forth the purposes of the CM Rules. The principle of beneficial use is explicitly incorporated as follows:

> **03. Reasonable Use of Surface and Ground Water.** These rules integrate the administration and use of surface and ground water in a manner consistent with the traditional policy of reasonable use of both surface and ground water. The policy of reasonable use includes the concepts of priority in time and superiority in right being subject to conditions of reasonable use as the legislature may by law prescribe as provided in Article XV, Section 5, Idaho Constitution, optimum development of water resources in the public interest prescribed in Article XV, Section 7, Idaho Constitution, and full economic development as defined by Idaho law. An appropriator is not entitled to command the entirety of large volumes of water in a surface or ground water source to support his appropriation contrary to the public policy of reasonable use of water as described in this rule.
>
> **05. Exercise of Water Rights.** These rules provide the basis for determining the reasonableness of the diversion and use of water by both the holder of a senior-priority water right who requests priority delivery and the holder of a junior-priority water right against whom the call is made.
>
> **08. Reasonably Anticipated Average Rate of Future Natural Recharge.** These rules provide for administration of the use of ground water resources to achieve the goal that withdrawals of ground water not exceed the reasonably anticipated average rate of future natural recharge.

These concepts add an element of reasonableness to water right administration decisions by the Department. The Idaho Supreme Court has affirmed the Director's duty to do this, holding that first in time is first and right "is not an absolute rule without exception." *AFRD2*, 143 Idaho at 880.

The public interest in maximizing beneficial use of Idaho's water resources has various applications under the CM Rules, but the Director refused to apply any of them. As explained below, the Director violated Idaho law and abused discretion by (a) failing to use the best science available to calculate SWC water needs, (b) refusing to require senior water users to pursue alternatives to curtailment, (c) refusing to apply the futile call doctrine, and (d) refusing to consider whether curtailment unreasonably impedes the public interest in maximum beneficial use of Idaho's water resources.

7. The Director violated Idaho law and abused discretion by failing to use the best science available to calculate SWC water needs in accordance with CM Rule 42.01.e.

In applying the CM Rules, the Idaho Supreme Court has instructed the Director to use the "best science available." *Clear Springs Foods*, 150 Idaho at 813.

At the after-the-fact hearing, expert witnesses demonstrated several ways of improving the water supply and water demand calculations in the Fifth Methodology Order, including (a) adjusting the Baseline Year to correlate with hydrologic conditions represented previously by the Baseline Year (R. 2386-88, 2442-45, 969); (b) adjusting the Forecast Supply to account for inflows from other tributary basins (Anders, Tr. Vol. I, 162:9-164:8; R.970); (c) developing an improved regression model to forecast water supply for TFCC (R. 2391-92, R. 2245, 970); (d) using actual irrigated acreage to calculate material injury (R. 2394-95, 970-71); (e) accounting for supplemental groundwater use (R. 972); and (f) developing a method of calculating project efficiency based on real efficiency factors (R. 969-73). The Director refused to accept any of them. He elected to stick by his *less accurate* method of calculating water needs when more accurate methods are available. This effect is excessive curtailment of beneficial use. This is an abuse of discretion as it is contrary to the principle of beneficial use and the Idaho Supreme Court's instruction to use the best science available.

Three of the Director's decisions to use the best science available deserve special mention: (a) his refusal to improve the Forecast Supply calculation to account for all sources of water available to the SWC; (b) his refusal to evaluate actual irrigated acreage of TFCC; and (c) his refusal to evaluate supplemental groundwater use.

7.1 The Director refused to improve the Forecast Supply calculation to account for all sources of water available to the SWC.

A key component of the methodology order is the prediction of water supply, referred to in the Fifth Methodology Order as the "Forecast Supply." To calculate the water supply, the Fifth Methodology Order uses Snake River flows on the South Fork at the Heise Gage, but does not account for inflows to the Snake River from several tributaries below Heise including the Portneuf River, Blackfoot River, Willow Creek, and Henry's Fork. (Anders, Tr. Vol. I, 162:9-164:8.) Failure to account for inflows from the Portneuf River, Blackfoot River, and Willow Creek tributaries was especially significant in 2023 because these basins experienced record snowpack. As of April 3, 2023, Willow Springs basin snowpack was 178% of median, the

Blackfoot basin at 186%, and the Portneuf basin at 216% of median snowpack, according to the Idaho NRCS Snotel data. (R. 1599). The Portneuf River experienced significant flooding in 2023, adding much more water to the Snake River than normal, but this was unaccounted for in the Fifth Methodology Order, resulting in the Director predicting less water than was truly available to the SWC. (Anders, Tr. Vol. I, 167:19-168:11.)

7.2 The Director refused to use the best science available to determine the current irrigated acres of TFCC.

As mentioned above, the expedited after-the-fact hearing did not afford adequate time for junior water users to a field level examination of irrigated acres as supplemental groundwater use. Therefore, junior users relied on the Department's "Irrigated Lands" and "METRIC" datasets to demonstrate the number of acres currently irrigated by TFCC. These datasets show that TFCC actually irrigates approximately 15,000 fewer acres than TFCC reports to IDWR as being irrigated. (R. 2381.) The Irrigated Lands and METRIC datasets actually overstate irrigated acreage because they do not remove hardened acres within subdivisions and other developments that are partially irrigated. (Anders, Tr. Vol. I, 140:1:21; Sukow, Tr. Vol., 68:6-13. Still, IDWR staff agreed that these datasets are the best science available and are used in the ESPA Model which is used in the Fifth Methodology Order. (R. 1084-85.)

TFCC's manager admitted at the hearing that TFCC does not irrigate as many acres as it was decree based on practices in 1987. (Barlogi, Tr. Vol. II, 303:23-304:10; R. 1084.) TFCC's expert Charles Brockway Jr. acknowledged this. (R. 1233.) Thus, the clear and convincing standard has been met that TFCC is not irrigating its full decreed acreage. Once this occurs, the Director has a duty to evaluate the number of acres actually currently irrigated.

At the first evidentiary hearing held on the SWC delivery call in 2008, a manual review of the TFCC project revealed a total of 183,589 irrigated acres. (2376.) From 2010-2014, the Department calculated material injury for TFCC based on this figure. *Id*. Since 2015, the Department has assumed 194,732 irrigated acres based on a GIS shapefile that TFCC generated in-house with no collaboration with IDWR or the groundwater users directly affected by the issue. (Shaw, Tr. Vol. IV, 1018:5-14). The TFCC shapefile has never been subject to scrutiny in an evidentiary hearing. At the recent hearing, it was made clear that the 2013 shapefile was created with a broad brush that captured all land that could theoretically be irrigated, including many homes, farmsteads, subdivisions and other lands that are not in fact irrigated. (Shaw, Tr.

Vol. IV, 1015:15-1016:6; R. 1237.) Even more surprising, TFCC general manager Jay Barlogi testified that he did not know how many acres TFCC irrigated. (Barlogi, Tr. Vol. II, 321:2-5.). TFCC does not keep track of how many acres its users have fallowed under CRP and CREP programs, nor how many acres have been hardened by development. (*Id.* at 317:21-318:5; 320:5-19.) Thus, the 2013 TFCC shapefile captures a gross acreage figure that is far greater than actual irrigated acreage within TFCC.

IDWR maintains Irrigated Lands data sets used in the ESPA Model to define irrigated acreage. (Anders, Tr. Vol. I, 142:20-24). At the hearing Mr. Anders was asked:

> Q. Would you agree the Department's hand digitized maps that are created using the irrigated lands dataset process are highly accurate?
>
> A. I think they are highly accurate for the year that they are created for."

Id.

The 2011 Irrigated Lands data set calculated 179,486 irrigated acres for TFCC. (R. 2904.) The 2017 Irrigated Lands data set calculated 180,956 acres. *Id*. The 2021 METRIC data used in ESPAM is also more precise than TFCC's shapefile and shows 179,486 irrigated acres. (R. 2901.) The 2017 and 2021 data sets are more recent than the 2013 shapefile. Ms. Sukow testified that these data sets represent the best science available to determine actual irrigated acreage, and this is the data used in ESPAM for purposes of calculating curtailment under the fifth Methodology Order. (Sukow, Tr. Vol. I, 68:2-69:20.) These datasets consistently show 15,000 fewer irrigated acres than TFCC reports as being irrigated.

Despite being the best science available, Department staff did not use the irrigated acreage figures from Irrigated Lands or METRIC datasets to calculate water demand for TFCC. Matt Anders testified that he declined to use the best science available because he did not believe it satisfies the "clear and convincing" standard of proof. (Anders, Tr. Vol. I, 143:12-25.) This is mistaken. Once a junior proves that a senior is not irrigating the full number of acres, the Department must use the best science available to determine actual irrigated acreage.

The SWC could not verify or defend the 194,732 acre figure that they have been reporting to the Director since 2013. Instead, TFCC's manager and its expert Dr. Brockway, Jr. argued that TFCC has a legal obligation to deliver water to all shares of stock in the company, and the Department should therefore assume that every acre with appurtenant shares is fully irrigated regardless of whether the land is actually irrigated. (R. 1233, ¶ 4; Brockway, Tr. Vol.

IV, 905:11-16.) TFCC's manager asserted that "these subdivisions are entitled to the same share delivery as the agricultural field was prior to development. So the canal company has to be prepared to meet the same demand, even though the area being developed and the actual irrigated acreage is going down." (Barlogi, Tr. Vol. II, 309:20-310:1.) On cross-examination he did not retreat from the position that IDWR should assume that TFCC is irrigating land that is covered in concrete and asphalt:

> Q. So if the irrigated acre [of the subdivision] is half – lets start it this way, if a 40-acre field is taking 5.8 acre-feet of water, the subdivision has contracted that space by half due to hardening of acres, only half of those acres are receiving the same volume of water, which would be 11.86 acre-feet; correct?
>
> A. Yes.

(Barlogi, Tr. Vol. II, 309:20-310:1.) This is directly contrary to the Fifth Methodology finding of fact number 28, which states that "Reasonable in-season demand (RISD) is the projected annual diversion volume for each SWC entity during the year of evaluation that is attributable to the beneficial use of growing crops within the service area of the entity." (R. 12, ¶ 28 (emphasis added).) And finding of fact number 30, which acknowledges that raw SWC diversions values "will then be adjusted to remove any water diversions that can be identified to not directly support the beneficial use of crop development within the irrigation entity." (R. 13, ¶ 30; emphasis added.)

Remarkably, TFCC has done nothing to accurately track irrigated acreage in its surface area. (Barlogi, Tr. Vol. II, 321:2-5.) It does not maintain a map or record book of any type. (Barlogi, Tr. Vol. II, 350:23-951:9; 352:3-7.) TFCC annually reports irrigated acreage to IDWR under Step 1 of the Methodology Order, but there is no data or analysis to support it. *Id*. at 352:3-7. Not because TFCC lacks the ability to maintain an accurate accounting of actual irrigated acres, as other canal companies do, but because it benefits TFCC to not maintain an accurate inventory of irrigated acreage. (Barlogi, Tr. Vol. II, 352:24-353:18.) Because TFCC keeps no record of irrigated acreage, Mr. Barlogi testified that there is "zero percent change in TFCC's irrigated acreage" despite acknowledging the urban development of farmland as the City of Twin Falls grows. (Tr. Vol. II, 346:3-6.) TFCC's position is incredulous, but the Director accepts it.

Importantly, neither IGWA nor other groundwater users have access to TFCC's water delivery data, making it practically impossible for them to analyze actual irrigated acres without the cooperation of TFCC. Thus, TFCC holds all the cards—only they know which fields they

deliver water to, yet they don't keep track of irrigated acreage, because the Director has not required them to verify the number of acres they report as being irrigated.

Evidence presented at the hearing demonstrated that the Director could significantly improve the accuracy and reliability of the methodology order by requiring SWC entities to annually submit an accurate GIS shapefile or other reliable documentation of actual irrigated acreage, to be reviewed by Department staff, as contemplated in by the Department in 2015. (R. 2424.) The Director could also use the most recent Irrigated Lands dataset METRIC dataset to determine actual irrigated acreage of SWC entities, as discussed above.

Since (i) TFCC's 2013 shapefile was relatively imprecise and captures many acres that were not actually irrigated at that time; (ii) the Director has not verified the 194,732 acre figure that TFCC reports, (iii) TFCC does not actually keep track of irrigated acreage and cannot verify that figure, and (iiv) the Director did not give junior water users to opportunity to conduct a field level examination of irrigated acres, the best science available are the Irrigated Lands and METRIC datasets—the same datasets the Department uses in the ESPA Model, which is used in the Fifth Methodology Order. The Director abused his discretion by using outdated acreage data when the Department has newer and more accurate data.

7.3 The Director failed to evaluate whether the water needs of TFCC can be met with supplemental groundwater in accordance with CM Rule 42.01.h.

In evaluating SWC water need, CM Rule 42.01.h instructs the Director to consider "[t]he extent to which the requirements of the senior-priority surface water right could be met using alternate reasonable means of diversion or alternate points of diversion, including the construction of wells or the use of existing wells." Many farmers in Magic Valley have groundwater wells with supplemental groundwater rights they can use when surface water supplies are not available. CM Rule 42.01.h requires the Director to consider this when evaluating material injury.

In 2015, Department staff recommended that a procedure be developed for reviewing irrigated land data self-reported by SWC entities and accounting for supplemental groundwater use. (R. 2377.) The recommendation notes: "There was insufficient time for the committee to evaluate [supplemental ground water use]" but that the Department committee recommended reviewing this issue. (R. 2424.) Eight years later, the Fifth Methodology Order states: "At this time, the information submitted or available to the Department is insufficient to determine the

extent of supplemental irrigation on lands within the service areas of SWC entities." (R. 1314). Matt Anders testified that they performed no additional analysis or review to address supplemental ground water use. (Anders, Tr. Vol. I, 197:1-12.)

TFCC's manager and expert consultant Dr. Brockway, Jr. both testified that there is some supplemental groundwater use within TFCC. IGWA does not have the ability to accurately evaluate supplemental groundwater use for the same reason that it cannot accurately evaluate surface water irrigated acres—because TFCC holds the surface water delivery data. Unless the Department requires TFCC to disclose this data or provide a report of supplemental groundwater use, the methodology order will continue to assume there is no supplemental groundwater use and, as a result, overpredict the amount of water actually needed by the SWC. (Anders, Tr. Vol. I, 197:13-198:18; Brockway, Tr. Vol. IV, 944:4-945:24.)

The Department has a database used in the ESPA Model that assigns a groundwater fraction to mixed-source lands. (Sukow, Tr. Vol. I, 69:21-70:6.) As of today, this is the best science and data available to document supplemental groundwater use. The Director must utilize this data when calculating material injury, until better science becomes available.

Since undisputed evidence shows that TFCC patrons have supplemental groundwater rights that can be used to meet their water needs, the Director abused discretion by refusing to take this into account.

8. The Director violated Idaho law and abused discretion by failing to evaluate whether SWC water needs could be met without curtailment by making system improvements in accordance with CM Rules 40.03, 42.01.a, 42.01.g, and 42.01.h.

Given that large disparity between the amount of groundwater use must be curtailed to provide a comparatively small benefit to senior surface users, the CM Rules require senior water users to make all reasonable efforts to meet their water needs with their existing supplies before looking to curtail junior water users. CM Rule 40.03 states:

> In determining whether diversion and use of water under rights will be regulated under Rule Subsection 040.01.a. or 040.01.b., the Director shall consider whether the petitioner making the delivery call is suffering material injury to a senior-priority water right and is diverting and using water efficiently and without waste, and in a manner consistent with the goal of reasonable use of surface and ground waters as described in Rule 42.

CM Rule 42.01 similarly provides that the determination of material injury includes consideration of whether the senior user is "using water efficiently and without waste," and then lists several factors the Director may consider in making that determination, including "[t]he amount of water available in the source from which the water right is diverted" (CM Rule 42.01.a), "[t]he extent to which the requirements of the holder of a senior-priority water right could be met with the user's existing facilities and water supplies by employing reasonable diversion and conveyance efficiency and conservation practices" (CM Rule 42.01.g), and "[t]he extent to which the requirements of the senior-priority surface water right could be met using alternate reasonable means of diversion or alternate points of diversion, including the construction of wells or the use of existing wells" (CM Rule 42.01.h).

The requirement that senior water users take reasonable measures to meet their water needs with existing water supplies before looking to curtail juniors is grounded in the public interest in achieving maximum beneficial use of Idaho's water resources. The first section of Idaho's water code reads:

> Water being essential to the industrial prosperity of the state, and all agricultural development throughout the greater portion of the state depending upon its just apportionment to, and economical use by, those making a beneficial application of the same, its control shall be in the state, which, in providing for its use, shall equally guard all the various interests involved.

Idaho Code § 42-101. More than a century ago, the Idaho Supreme Court affirmed the obligation to use water efficiently:

> A prior appropriator is only entitled to the water to the extent that he has use for it when economically and reasonably used. It is the policy of the law of this state to require the highest and greatest possible duty from the waters of the state in the interest of agriculture and for useful and beneficial purposes.

Washington State Sugar Co., 27 Idaho 26 (internal citation omitted). This concept has been reaffirmed many times since. Recently, in a case involving conjunctive management of the ESPA, the Court held that "[j]ust apportionment to, and economical use by, those who have appropriated water for a beneficial use furthers the important governmental interest of securing the maximum use and benefit of Idaho's scarce water resources." *Clear Springs Foods*, 150 Idaho at 815.

When the SWC challenged the constitutionality of the CM Rules in the *AFRD2* case, they argued that it undermined their decreed water rights for the Director to evaluate, in response to a delivery call, their current water needs and whether those needs can be met with available water supplies before seeking to curtail junior users. *AFRD2*, 143 Idaho at 876-78. The Idaho Supreme Court disagreed, holding instead that "water rights adjudications neither address, nor answer, the questions presented in delivery calls," that there "may be some post-adjudication factors which are relevant to the determination of how much water is actually needed," and that IDWR may properly evaluate the senior user's "system, diversion, and conveyance efficiency, the method of irrigation water application and alternate reasonable means of diversion." *AFRD2*, 143 Idaho at 876-878. The Court subsequently upheld the obligation of a senior user "to take reasonable steps to maximize the use of that flexibility to move water within the system before it can seek curtailment or compensation from junior users." *In Matter of A&B*, 153 Idaho at 513-515.

Requiring senior users to take reasonable actions to meet their water needs with available water supplies before seeking to curtail junior users will often avoid the need for curtailment, thereby securing maximum use of Idaho's water resources. However, the Director refused to require TFCC or other members of the SWC to make any effort to meet their water needs with existing supplies. The Director could have required them to submit information containing the number of acres currently irrigated, all sources of water available to meet their demand, the amount of water that discharges out the end of their canal system, and a description of operational changes and system improvements that could be made to meet their water needs with existing water supplies, then evaluate whether reasonable measures are available to meet water needs with existing supplies. However, the Director refuses to do so. Instead, the Director jumps immediately from a calculated water supply shortage to curtailment.

As a result, Idaho is not maximizing beneficial use of its resources. Rather than find a way to meet TFCC's water demands with 93% of a full supply, the Department has deemed it more prudent to impose mass curtailment and the economic and social devastation that would result.

The Director's failure to require the SWC to take reasonable actions to meet their water needs with available water supplies before seeking to curtail junior users is an abuse of discretion.

9. The Director violated Idaho law and abused discretion by refusing to apply the futile call doctrine in accordance with CM Rules 10.08 and 20.04.

One reason curtailment is so excessive under the Fifth Methodology Order is because the Director refused to apply the futile call doctrine. The principle of beneficial use precludes IDWR from curtailing a junior user if it will not result in additional water reaching the senior when the senior needs it, because it would be a "futile call." The Idaho Supreme Court has explained:

> if due to seepage, evaporation, channel absorption or other conditions beyond the control of the appropriators the water in the stream will not reach the point of the prior appropriator in sufficient quantity for him to apply it to beneficial use, then a junior appropriator whose diversion point is higher on the stream may divert the water.

Sylte v. Idaho Dep't of Water Res., 165 Idaho 238, 245 (2019) (quoting *Gilbert v. Smith*, 97 Idaho 735, 739 (1976)). This court has held that the futile call doctrine is "a well established part of the prior appropriation doctrine." Order on Pet. for Jud. Rev. at 21, *Clear Springs Foods, Inc. v. Spackman*, No. 2008-0000444 (Gooding Cnty. Dist. Ct., Idaho, June 19, 2009).

The futile call doctrine is incorporated explicitly into the CM Rules, which define a "futile call" as "[a] delivery call made by the holder of a senior-priority surface or ground water right that, for physical and hydrologic reasons, cannot be satisfied within a reasonable time of the call by immediately curtailing diversions under junior-priority ground water rights or that would result in waste of the water resource." CM Rule 10.07. CM Rule 20.04 states: "The principle of the futile call applies to the distribution of water under these rules," and "a call may be denied under the futile call doctrine."

At the after-the-fact hearing, testimony confirmed that IDWR regularly applies the doctrine as between surface water users. IDWR watermaster Tony Olenichak testified that the doctrine is applied every year in Water District 1 when the tributaries to the main stem of the Teton River lose their surface water connection. (Tr. Vol. III, 799:3-800:4.) He explained that if shutting off diversions on a tributary stream does not cause surface water to reach the main stem within 3-5 days, the futile call doctrine takes effect and junior users are allowed to divert water out of priority. (Tr. Vol. III, 801:6-15.) Mr. Olenichak explained that the reason tributaries in the Teton Basin lose a surface water connection is because the surface flow in the tributary streams sinks into the ground through gravelly soils. This water flows underground in the shallow aquifer

until it daylights via springs along the main stem of the Teton River. (Tr. Vol. III, 801-18-802:9.) Despite the subsurface connection, IDWR deems curtailment futile. (R. 1092.)

As a minimum, the futile call doctrine must be applied to the SWC delivery call to preclude curtailment of groundwater rights for whom curtailment would provide no additional water to the SWC by the Time of Need. However, the doctrine has historically not been so strict. By definition, it also includes circumstances where curtailment would be wasteful.

Undisputed evidence at the hearing shows that curtailment of groundwater pumping within Carey Valley Ground Water District, Madison Ground Water District, and Henry's Fork Ground Water District will provide zero no additional water to the SWC at the Time of Need, and curtailment of groundwater pumping within North Snake Ground Water District, Magic Valley Ground Water District, Jefferson-Clark Ground Water District, and Bonneville-Jefferson Ground Water District will provide essentially no additional water to the SWC when compared to the magnitude of curtailment within those districts. (R. 2411.)

Notwithstanding, the Director refused to apply the futile call doctrine, giving no explanation why. While conjunctive management certainly requires some exercise of discretion by the Director, that discretion is not so broad as to allow the Director to utterly ignore established Idaho law and his own rules. Therefore, the Fifth & Sixth Methodology Orders should be set aside as a result of the Director's failure to apply the futile call doctrine.

10. The Director violated Idaho law and abused discretion by refusing to consider the public interest in achieving maximum beneficial use of Idaho's water resources in accordance with CM Rules 10.07, 20.03, and 42.01.

The Idaho Supreme Court has ruled that "water rights must be exercised with some regard to the public and necessities of the people, and not so to deprive a whole neighborhood or community of its use and vest an absolute monopoly in a single individual." *AFRD2*, 143 Idaho at 880 (internal quotes omitted). This concept was first applied in 1907 when a senior user sought to control an entire stream even though he beneficially used only a portion of it. *Van Camp v. Emery*, 13 Idaho 202 (1907). The Idaho Supreme Court refused to allow priority to be exercised in that manner, explaining:

> In this arid country where the largest duty and the greatest use must be had from every inch of water in the interest of agriculture and home-building, it will not do to say that a stream may be dammed so as to cause sub-irrigation of a few acres at a loss of enough water to surface-irrigate ten times as much by proper application.

Id. at 208.

It was again applied in 1910 to accommodate development of the Twin Falls Canal and the Northside Canal. In that case, *Schodde v. Twin Falls Land & Water Company*, a senior user had constructed 11 water wheels to divert water from the Snake River to irrigate 430 acres—a large investment in those days. *Schodde v. Twin Falls Land & Water Co.*, 224 U.S. 107 (1912). Twin Falls Land & Water Company sought to construct the Twin Falls Canal and the North Side Canal to bring irrigation water to more than a hundred thousand acres in the Magic Valley, but this would require damming the Snake River which would render the senior's water wheels inoperable and eliminate the senior's ability to divert water. Despite the injury to the senior user, the court allowed development of the junior rights because preserving the senior's use would unreasonably impede full development of Idaho's water resources. The court reasoned:

> Suppose from a stream of 1000 inches a party diverts and uses 100, and in some way uses the other 900 to divert his 100, could it be said that he made such a reasonable use of the 900 as to constitute an appropriation of it? Or, suppose that when the entire 1000 inches are running, they so fill the channel that by a ditch he can draw off to his land 100 inches, can he then object to those above him and appropriating the other 900 inches, because it will so lower the stream that his ditch becomes useless? This would be such an unreasonable use of the 900 inches as will not be tolerated under the law of appropriation.

Schodde v. Twin Falls Land & Water Co., 224 U.S. 107, 119 (1912).

The *Schodde* decision underpins the Ground Water Act and its policy of "full economic development of underground water resources," discussed above. Idaho Code § 42-226. The Act was once challenged on the basis it violated the prior appropriation doctrine, but the Idaho Supreme Court upheld the Act, finding it to be "consistent with the constitutionally enunciated policy of promoting optimum development of water resources in the public interest." *Baker v. Ore-Ida Foods, Inc*, 95 Idaho 575, 584 (1973).

What makes conjunctive management so vexing is the large amount of beneficial use of groundwater that must be curtailed to supply a relatively small amount of additional surface water to senior users. This is much different than surface water administration where the senior water user receives all of the water that would have otherwise been diverted by the junior. The principle of maximum beneficial use starkly germane to conjunctive management.

The CM Rules explicitly incorporate the principle of maximum beneficial use, stating: "An appropriator is not entitled to command the entirety of large volumes of water in a surface

or ground water source to support his appropriation contrary to the public policy of reasonable use of water." CM Rule 20.03. This rule was tested when the SWC challenged the constitutionality of the CM Rules, but it was upheld, with the Idaho Supreme Court explaining that "evaluation of whether a diversion is reasonable in the administration context should not be deemed a re-adjudication," *AFRD2*, 143 Idaho at 877, and "Somewhere between the absolute right to use a decreed water right and an obligation not to waste it and to protect the public's interest in this valuable commodity, lies an area for the exercise of discretion by the Director." *Id.* at 880. As stated by former Idaho Supreme Court Justice Gerald Schroeder: "The Director is not limited to counting the number of cubic feet per second in the decree and comparing the priority date to other priority dates and then ordering curtailment to achieve whatever result that action will obtain regardless of the consequences to the State, its communities and citizens." Opinion Constituting Finds of Fact, Conclusions of Law and Recommendations, at 39, *A & B Irr. Dist. v. Idaho Dep't of Water Res*., No. 2008-0000551 (Gooding Ctny. Dist. Ct., Idaho, Oct. 10, 2008).

As recent as 2016, the Idaho Supreme Court upheld the Director's authority to decline curtailment "based on the policy of beneficial use." *Idaho Ground Water Appropriators, Inc. v. Idaho Dep't of Water Res.*, 160 Idaho 119, 129 (2016). In that decision, the court explained that (i) "the policy of securing the maximum use and benefit, and least wasteful use of Idaho's water resources, has long been the policy of Idaho," (ii) "The policy of beneficial use serv[es] as a limit on the prior appropriation doctrine," (iii) "Idaho law contemplates a balance between the 'bedrock principles' of priority of right and beneficial use," and (iv) the director of IDWR must "determine in a delivery call proceeding whether there is a point where curtailment is unjustified because vast amounts of land would be curtailed to produce a very small amount of water to the caller." *Id*. at 131-132.

Ironically, were it not for the ruling in *Schodde* that a senior cannot exercise priority in a way that blocks full development of Idaho's water resources, TFCC and NSCC would not exist. Now that the shoe is on the other foot, they have persuaded the Director to curtail groundwater rights, even if it would provide them with no additional water.

There is one important distinction between the circumstances in *Schodde* and the circumstances here. In *Schodde*, the senior was completely deprived of his water right by the junior diversions of TFCC and NSCC. By contrast, the development of more than a million acres

of farmland with groundwater has had a comparatively small impact on TFCC's water supplies. As explained above, TFCC's diversions have remained steady over the last half century. In all but four of the last 46 years, TFCC's annual diversion volume has stayed within 75,000 acre-feet, or seven percent, of average. Even in the most extreme drought year, TFCC's diversion volume was within 14 percent, of average. (R. 1238-39.) Curtailment of hundreds of thousands of acres of groundwater irrigated farmland will do no more than increase TFCC's water supply by a few percentage points.

If the principle of maximum beneficial use does not apply here, where the senior seeks to curtail 10 or 100 times more water than it needs for a full water supply, where TFCC will receive nearly full supply of water without curtailment, and where a shortfall can almost certainly be remedied through more efficient water conveyance and usage practices, then the principle might as well be written out of Idaho law.

As with the futile call doctrine, the Director simply refused to apply the principle of maximum beneficial use. His failure was an abuse of discretion.

Ancillary Matters

If the court finds that the Director erred in one or more ways described above, the court should find that such error(s) violated the substantial rights of junior water users, and award IGWA's attorney fees, as described below.

11. The errors cited above violate substantial rights of junior-priority water users.

Water rights are real property rights. *Clear Springs Foods*, 150 Idaho at 797 (quoting *Olson v. Idaho Dep't of Water Res.*, 105 Idaho 98, 101; Idaho Code § 55-101). Real property rights are, as a matter of law, substantial rights. *Id*. The procedural errors described above violate the substantial rights of IGWA and its patrons because they deprived due process. The substantive errors described above violate the substantial rights of IGWA and its patrons because they generate larger and more frequent curtailments.

12. The Director is liable for attorney fees under 42 U.S.C. § 1983 for depriving junior water users of clear due process rights, or alternatively, under Idaho Code § 42-117(1).

The impact of the due process violations consciously perpetrated by the Director cannot be understated. It did more than violate IGWA's substantial rights, it undermined the institutional trust that all junior water users once placed in the Department of Water Resources.

A message must be sent demonstrating that transparent, fair treatment is the hallmark of our institutions, accordingly, IGWA request this Court grant attorneys' fees pursuant to 42 U.S.C. § 1983 if the Director was found to have deprived IGWA of its rights and privileges under the Idaho Constitution and law. Alternatively, the Director is liable for attorneys fees pursuant to Idaho Code § 42-117(1) for failing to hold a hearing before issuing the Fifth Methodology Order, issuing the Fifth Methodology Order in the absence of an emergency and after the applicable irrigation season had begun, for failing to apply the futile call doctrine subjecting almost every ground water right subject to curtailment in half the years, and finally for implementing the Fifth Methodology Order without a reasonable basis in fact or law. The Director is liable for attorney fees under Idaho Code § 42-117(1) for failing to hold a hearing before issuing the Fifth Methodology Order, and failing to apply the futile call doctrine, without a reasonable basis in fact or law.

CONCLUSION

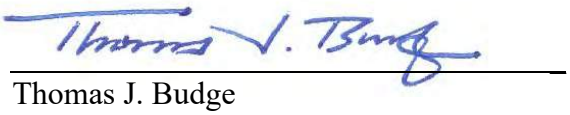
For the reasons set forth above, IGWA respectfully requests that this Court set aside the Fifth & Sixth Methodology Orders and remand this case to the Director with instructions to (1) apply the Fourth Methodology Order until a proper evidentiary hearing is held that complies with due process and the APA, and (2) use the best science available in the methodology order.

RESPECTFULLY SUBMITTED this 8th day of December, 2023.

THOMAS J. BUDGE
Attorney for Petitioner-IGWA

CERTIFICATE OF SERVICE

I hereby certify that on this 8th day of December, 2023, I filed the foregoing document and served it upon the persons below via iCourt:



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IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

CITY OF IDAHO FALLS, CITY OF POCATELLO, CITY OF BLISS, CITY OF BURLEY, CITY OF CAREY, CITY OF DECLO, CITY OF DIETRICH, CITY OF GOODING, CITY OF HAZELTON, CITY OF HEYBURN, CITY OF JEROME, CITY OF PAUL, CITY OF RICHFIELD, CITY OF RUPERT, CITY OF SHOSHONE, and CITY OF WENDELL

Petitioners,

vs.

IDAHO DEPARTMENT OF WATER RESOURCES, and MATHEW WEAVER in his capacity as the Director of the Idaho Department of Water Resources.

Respondents.

Case No. CV01-23-13238

IDWR Docket No. CM-DC-2010-001

CITIES' OPENING BRIEF ON JUDICIAL REVIEW, SWC POST-HEARING ORDER, FIFTH METHODOLOGY

IN THE MATTER OF THE DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY AND FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY

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Term	Acronym	Location in Record where term is defined
Reasonable In-Season Demand	RISD	R. 0002
Demand Shortfall/ In-season Demand Shortfall	DS or IDS	R. 0002
Baseline Year	BLY	R. 0002
Forecast Supply	FS	R. 0002
Project Efficiency	Ep	R. 0012
Crop Water Need	CWN	R. 0013

Petitioners City of Idaho Falls, City of Pocatello, and the Coalition of Cities[1] (collectively, "Petitioners" or "Cities"), through their undersigned counsel, submit this opening brief pursuant to paragraph 9 of the Court's *Procedural Order* dated August 17, 2023, the Court's *Order Granting Unopposed Motion; Order Vacating and Resetting Hearing* dated November 17, 2023, Rule 84(p) of the Idaho Rules of Civil Procedure, and Rule 34 of the Idaho Appellate Rules.

STATEMENT OF THE CASE

A. Nature of the Case

This is a petition for judicial review of the findings, inferences, conclusions, or decisions made by the Director in the *Post-Hearing Order Regarding Fifth Amended Methodology Order* (Jul. 19, 2023) ("Post-Hearing Order"), after a three-day hearing on the *Fifth Amended Final Order Regarding Methodology for Determining Material Injury to Reasonable In-Season Demand and Reasonable Carryover* (Apr. 21, 2023) ("Fifth Methodology Order").

B. Procedural History

The *Fifth Methodology Order* is one in a series of final orders arising out of the ongoing Surface Water Coalition ("SWC") Delivery Call, Docket No. CM-DC-2010-001, which was initiated by a January 14, 2005, letter from the SWC sent to the Director of Idaho Department of Water Resources ("Department" or "IDWR"). On May 2, 2005, the Director issued an *Amended Order* finding injury to certain SWC members' natural flow and storage rights ("2005 Order"). Among the numerous procedural and substantive pre-hearing actions was the Supreme Court's decision in *Am. Falls Reservoir Dist. No. 2 v. Idaho Dep't of Water Res.*, 143 Idaho 862 (2007)

[1] The Coalition of Cities is composed of the Cities of Bliss, Burley, Carey, Declo, Dietrich, Gooding, Hazelton, Heyburn, Jerome, Paul, Richfield, Rupert, Shoshone, and Wendell.

(*AFRD2*), rejecting the SWC's facial challenge to the Department's Rules for Conjunctive Management of Surface and Ground Water Resources, Idaho Admin. Code r. 37.01.11 ("CMR"), and defining the Department's conjunctive management obligation to require delivery to seniors of the amount required for beneficial uses on acres that are actually irrigated—not necessarily the quantity or number of acres decreed.

On August 1, 2007, the Department appointed retired Idaho Supreme Court Justice Gerald Schroeder as hearing officer, with Justice Schroeder holding a hearing on the SWC's delivery call request from January 16, 2008 to February 5, 2008. On April 29, 2008, Justice Schroeder issued an *Opinion Constituting Findings of Fact, Conclusions of Law and Recommendation* ("2008 Opinion"). The *2008 Opinion* concluded that as the inputs to the Department's determination of material injury changed, the Department had an obligation to revisit the delivery call analysis. *See*, *e.g.*, *id.* at 51 ("The concept of a baseline is that it is adjustable as weather conditions or practices change, and that those adjustments will occur in an orderly, understood protocol.").

On September 5, 2008, the Director adopted portions of the *2008 Opinion* in a *Final Order Regarding the Surface Water Coalition Delivery Call* ("2008 Order"), which was appealed. On remand from the appeals of the *2008 Order*, on April 7, 2010, the Director issued a *Final Order Regarding Methodology for Determining Material Injury to Reasonable In-Season Demand and Reasonable Carryover* ("Methodology Order"), based on the record developed at the January-February 2008 hearing, the *2008 Order*, and the rulings of the district court and Idaho Supreme Court on the various intervening appeals and petitions for judicial review. The *Methodology Order* refined the approach found in the Department's *2005 Order* to determine

material injury, including starting from a forecast water supply and projecting shortages based on a baseline of the SWC's demands.

The Department has amended the *Methodology Order* on numerous occasions between 2010 and 2023, to wit: June 16, 2010 ("First Amended Methodology Order"); June 23, 2010 ("Second Methodology Order"); April 16, 2015 ("Third Methodology Order"); and April 19, 2016 ("Fourth Methodology Order").[2] On April 21, 2023, the Director issued the *Fifth Methodology Order*, as well as the *Final Order Regarding April 2023 Forecast Supply (Methodology Steps 1-3)* ("2023 Steps 1-3 Order"). R. 0001-47. The *Fifth Methodology Order* updated the nine steps the Department uses to determine material injury to SWC members. R. 0002. Despite nearly full reservoirs and abundant snowpack in the Upper Snake watershed in the spring of 2023, the *2023 Steps 1-3 Order* predicted a demand shortfall of 75,200 acre-feet for the 2023 irrigation season, which required appropriators with water rights junior to December 30, 1953, to mitigate or face curtailment. R. 0048-61.

Also on April 21, 2023, the Director issued a *Notice of Hearing, Notice of Prehearing Conference, and Order Authorizing Discovery*, scheduling a prehearing conference for April 28, 2023, and an in-person evidentiary hearing on the *Fifth Methodology Order* and *2023 Steps 1-3 Order* for June 6-10. R. 0062-67. The Cities moved unsuccessfully to continue the evidentiary hearing—primarily on due process concerns—on multiple occasions. *See Motion for Continuance* (April 28, 2023) (R. 0080-89); *Motion for Reconsideration of Denial of Continuance* (May 5, 2023) (R. 0282-93); *Motion to Re-set Hearing Dates* (May 22, 2023) (R. 0446-51). *See Order Denying the Cities' Motion for Appointment of Independent Hearing Officer and Motion for Continuance and Limiting Scope of Depositions* (May 5, 2023) (R. 0299-

[2] This brief refers to the assortment of orders, both past and future, as the "Methodology Orders."

304) (reaffirming Director's oral denial of the Cities' *Motion for Continuance* at the April 28, 2023 prehearing conference); *Order Denying Motion for Reconsideration of Denial of Continuance* (May 19, 2023) (R. 0425-34); *Order Denying Motion to Re-set Hearing* (May 26, 2023) (R. 0500-04).

The Director held the evidentiary hearing from June 6-9, 2023. *See* R. 1067. The parties filed post-hearing briefs on or before June 16, 2023. *See* R. 0924-1003. On July 19, 2023, the Director issued a *Sixth Final Order Regarding Methodology for Determining Material Injury to Reasonable In-Season Demand and Reasonable Carryover* ("Sixth Methodology Order"), R. 1004-53; an *Order Revising April 2023 Forecast Supply and Amending Curtailment Order (Methodology Steps 5 & 6)* ("2023 Steps 5-6 Order"), R. 1054-66; and the *Post-Hearing Order*, R. 1067-98.

On August 3, 2023, Petitioners filed a *Request for Hearing and Order Authorizing Discovery* based on the *Sixth Methodology Order*. R. 1130-34. On August 23, 2023, the Director issued an *Order Denying Request for Hearing and Motion to Authorize Discovery*. R. 1169-75. On September 5, 2023, Petitioners filed a *Motion for Clarification and Reconsideration of Denial of Request for Hearing and to Engage in Discovery*.[3] On September 25, 2023, prior to Petitioners' filing of a reply brief, the Director issued an *Order Denying Cities' Motion for Clarification and Reconsideration*.[4]

On August 16, 2023, Petitioners filed a *Notice of Appeal and Petition for Judicial Review of Final Agency Action (Re: Post-Hearing Order Regarding Fifth Amended Methodology Order)*.

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[3] *See* Order Granting Motion to Augment Record; Order Augmenting Record, *City of Idaho Falls v. IDWR*, Case No. CV01-23-13238 (Nov. 15, 2023) ("Order Augmenting Record") at 003-07. *See* App. A.

[4] *Id.* at 014-20.

C. Statement of Facts

Given the scope of water rights subject to administration under the SWC Delivery Call, the Methodology Orders have become one of the most (if not *the* most) significant conjunctive management tools in Idaho, and the Department has long acknowledged its obligation to rely on reliable, robust, and up-to-date information to evaluate the various inputs to the Methodology Orders. Throughout the many years the Department has administered the "ongoing"[5] SWC Delivery Call, starting with the *2008 Opinion*, the Methodology Orders have been characterized as "dynamic document[s] that would be subject to change and would change with better information, better data, and better analysis."[6]

It has been over 13 years since the *2010 Methodology* was initially issued, and the various Methodology Orders (First Amended, Second, Third, Fourth, Fifth, and Sixth) reflect the Department's incorporation of updated data, information, and modeling, some of which could be described as "robust" or the "best available science."[7] However, in some important instances the Department has also incorporated data and information that SWC itself provides to the Department without subjecting the SWC-provided information to meaningful scrutiny, and has preferentially adopted the SWC data rather than using other available and more reliable resources. *See* R. 0039-40 (describing process by which IDWR determines SWC's irrigated acreage); R 0048-49 (using irrigated acreage values simply "based on information submitted by

[5] R. 0748.

[6] *See, e.g.*, Hr'g Tr. Vol. II, , 132:16-133:8; Hr'g Tr. Vol. IV, 201:3-15; R. 1297.

[7] R. 1660 ("Numerical models [such as ESPAM 2.1] are recognized by the U.S. Geological Survey as the most robust approach for predicting the effects of groundwater pumping on surface-water discharge"); R. 1210 ("ESPAM 2.2 is supported by the ESHMC and broader scientific community as representing the best available science for regional hydrologic analysis of the ESPA"); R. 1300 ("[M]any aspects of the SWC Methodology represent the best available science for estimating forecasted supply (FS), RISD [reasonable in-season demand], and Demand Shortfall (DS)") (emphasis added).

the SWC . . .”). It has also adopted the SWC-provided information without providing Petitioners adequate discovery to collect alternative information to be offered at hearing. *Compare* R. 0064, 0127 (the Director provided Petitioners less than six (6) weeks to conduct discovery and prepare expert reports) *with* R. 0353-54 (Petitioners’ expert witness’ sworn statement that a *minimum* of three (3) to five (5) months is needed to perform necessary work).

The effect of this troubling reliance on uncorroborated data and information is that the *Fifth Methodology Order* grossly overpredicted SWC’s demand shortfall (i.e., material injury)[8] and ordered curtailment of far more acres than necessary to supply water that the SWC did not reasonably need.[9] A prominent example of the reliance on uncorroborated data is the Department’s use of SWC’s irrigated acreage numbers—acreage numbers derived from a 2013 shapefile created by Twin Falls Canal Company (“TFCC”) —that that are inconsistent with and much higher than both IDWR’s acreage numbers historically used in the Methodology Orders (based on evidence presented at hearing) and with IDWR’s own contemporaneously-developed acreage data.[10] The TFCC 2013 shapefile includes acres that the Department’s staff involved in developing the *Fifth Methodology Order* admitted, under oath, are “hardened” (and thus unable to be irrigated).[11] In the case of SWC’s project efficiencies, IDWR does not meaningfully assess whether those project efficiencies are reasonable by today’s standards,[12] presumably because the

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[8] Due to overpredicting demands and underpredicting supplies. *See infra*, at sections II-IV.

[9] Compounded by the Director’s adoption of the “transient” modeling method for purposes of curtailment. *See infra,* at section VII.

[10] Hr’g Tr. Vol. I, 132-37 (Department witness Matt Anders testified that the Department’s use of 194,732 acres (from the 2013 shapefile) for TFCC’s irrigated acreage was first incorporated into the *Fourth Methodology Order*, that prior *Methodology Orders* has used 183,589 acres, and that the Department did not disclose the change).

[11] Hr’g Tr. Vol. I, 132.

[12] Hr’g Tr. Vol. I, 130-132 (Mr. Anders testified that, while IDWR does examine “the reasonableness of the calculations” “on a technical level,” they do not assess whether the project efficiencies are “reasonable” in the legal sense).

Hearing Officer in 2008 found them to be reasonable.[13] The upshot is that IDWR blindly concludes that SWC's submitted acreage data and the derived project efficiencies are accurate and/or reasonable, and then, in the context of discovery in advance of the 2023 hearing, stifled Petitioners' attempts to investigate the validity of these conclusions. IDWR limited discovery on the *Fifth Methodology Order* because time was allegedly "of the essence."[14] Yet when Petitioners challenged the *Sixth Methodology Order* a full eight months before the 2024 irrigation season, IDWR outright denied discovery.[15] This process has effectively precluded the Cities from successfully challenging the flaws in the *Fifth Methodology Order* and *Sixth Methodology Order* that were prescribed by the Director in 2023.[16]

STANDARD OF REVIEW

Any party "aggrieved by a final order in a contested case decided by an agency may file a petition for judicial review in the district court." *Sagewillow, Inc. v. Idaho Dep't of Water Res.,* 138 Idaho 831, 835 (2003) (citing Idaho Code ("I.C.") § 67-5270(3)). Judicial review of a final decision or order of the Director is governed by the Idaho Administrative Procedure Act ("APA"). I.C. § 42-1701A(4). Under the APA, the Court shall "review an appeal from an agency decision based on the record created before the agency." *Chisholm v. State Dep't of Water Res.,* 142 Idaho 159, 162 (2005). District courts acting pursuant to the APA independently

[13] *See* R. 0772 ("[b]oth the Hearing Officer and the Director found [in 2008], in considering the Rule 42 factors, that the Coalition members operate reasonable and efficient irrigation projects").

[14] *See, e.g.*, R. 0300.

[15] *See* R. 1130-34 (Requesting hearing and order authorizing discovery on the *Sixth Methodology Order*); R. 1169-75 (order denying discovery request); *Order Augmenting Record* at 003-07 (motion for clarification and reconsideration); *id.* at 014-020 (order denying clarification/reconsideration motion).

[16] For purposes of this brief, the content of the two Methodology Orders is identical, and they are used interchangeably, as the same flaws exist in both. *See* R. 1159-60 (stating that "the only change in the *Sixth Methodology Order*" was "limited corrections to the *Fifth Methodology Order*" "regarding AFRD2's 2018 diversion volume").

review the agency record on appeal. *Maclay v. Idaho Real Estate Comm'n*, 154 Idaho 540, 544 (2012).

Petitioners' substantial rights have been prejudiced by the Director's *Post-Hearing Order*. The *Post-Hearing Order*, and many of the Director's "findings, inferences, conclusions, or decisions" therein, are "(a) in violation of constitutional or statutory provisions; (b) in excess of the statutory authority of the agency; (c) made upon unlawful procedure; (d) not supported by substantial evidence on the record as a whole; or (e) arbitrary, capricious, or an abuse of discretion," thus the *Post-Hearing Order* (and the accompanying *Sixth Methodology Order*) must "be set aside, in whole or in part, and remanded for further proceedings as necessary." I.C. § 67-5279(3).

An agency action is arbitrary "if it was done in disregard of the facts and circumstances presented or without adequate determining principles," and capricious "if it was done without a rational basis." *In re Delivery Call of A&B Irrig. Dist.*, 153 Idaho 500, 511 (2012). Courts determine whether there was an abuse of discretion by analyzing whether the decisionmaker "(1) correctly perceived the issue as one of discretion; (2) acted within the outer boundaries of its discretion; (3) acted consistently with the legal standards applicable to the specific choices available to it; and (4) reached its decision by the exercise of reason." *Chambers v. Idaho Bd. of Pharmacy & Agency*, 170 Idaho 701, 705 (2022).

"Substantial evidence is such relevant evidence as a reasonable mind might accept to support a conclusion . . . . It is more than a scintilla, but less than a preponderance." *Williams v. Idaho State Bd. of Real Estate Appraisers*, 157 Idaho 496, 507 (2014). Courts "will uphold an agency's findings if they are supported by substantial and competent evidence." *Id.* "The substantial and competent evidence standard is also equivalent to the 'clearly erroneous' standard

of I.R.C.P. 52(a)." *Higgins v. Larry Miller Subaru-Mitsubishi*, 145 Idaho 1, 4 (2007); *see also Nw. Farm Credit Servs. v. Lake Cascade Airpark, LLC*, 156 Idaho 758, 763 (2014) ("A finding is clearly erroneous if is not supported by substantial and competent evidence").

> The substantial evidence rule is said to be a middle position which precludes a *de novo* hearing but which nonetheless requires a serious review which goes beyond the mere ascertainment of procedural regularity.
>
> Such a review requires more than a mere scintilla of evidence in support of the agency's determination . . . though something less than the weight of the evidence. Put simply . . . the substantial [competent] evidence rule requires a court to determine whether the agency's findings of fact are reasonable.

Watson v. Joslin Millwork, Inc., 149 Idaho 850, 855 (2010) (quoting *Idaho State Insurance Fund v. Hunnicutt*, 110 Idaho 257, 260 (1985). The evidence "need not be uncontradicted, nor does it need to necessarily lead to a certain conclusion; it need only be of such sufficient quantity and probative value that reasonable minds could reach the same conclusion as the fact finder." *Nw. Farm Credit Servs*., 156 Idaho at 764 (internal citation omitted).

ISSUES ON APPEAL

1. Whether the Director's conclusion that "TFFC's 0.72 R-squared value is reasonable and the TFCC's natural flow forecast is sufficiently accurate," R. 1082, and his failure to account for runoff in tributary basins, is supported by substantial evidence in the record as a whole, or is arbitrary, capricious, or an abuse of discretion.
2. Whether the Director's conclusions that "a safety factor of 4% is reasonable" and "2018 best satisfies the criteria for a baseline year," R. 1082, is supported by substantial evidence in the record as a whole, or is arbitrary, capricious, or an abuse of discretion.

3. Whether the Director's conclusion that "the Department's safety factors do not aggressively overpredict demand shortfall," R. 1083, is supported by substantial evidence in the record as a whole, or is arbitrary, capricious, or an abuse of discretion.

4. Whether the Director's conclusion that "the [Cities'][17] failed to satisfy their burden of proof" because they "did not establish an alternative number of acres irrigated by clear and convincing evidence," R. 1085, is arbitrary, capricious, or an abuse of discretion because the Cities presented clear and convincing evidence that TFCC's irrigated acreage is no more than 183,589 acres.

5. Whether the Director's failure to ascertain and exclude "supplemental groundwater" acres, R. 1085-86, and "enlargement" acres, R. 2907, from SWC's irrigated acreage violates his "ongoing obligation to use the best available science and information," R. 0003, and his duty "to consider circumstances when the water user is not irrigating the full number of acres decreed under the water right." *AFRD2*, 143 Idaho at 876.

6. Whether the Director's conclusion that "TFCC's diversions and efficiency are reasonable," R. 1089, and his failure to assess the reasonableness of all SWC

[17] The bracketed use of the term "Cities" is necessary because unfortunately, in the *Post-Hearing Order*, the Director referred collectively to the Cities ***and*** the ground water districts (IGWA, Bonneville-Jefferson GWD, Bingham GWD) as the "ground water users"—even when rejecting evidence or argument made by only one or the other group of entities. The Cities and the ground water districts prosecuted separate appeals of the *Fifth Methodology Order* before the agency, and while they were aligned on the result, they did not agree on all issues. With that said, in certain instances the arguments and evidence presented at hearing by the Cities and ground water districts overlapped. For clarity, in this brief if a reference to the *Post-Hearing Order* refers to "Ground Water Users" on an issue upon which the Cities and ground water districts were not aligned (or did not even present evidence) we have noted that disconnect.

members' operations, is supported by substantial evidence on the record as a whole, or is arbitrary, capricious, or an abuse of discretion.

7. Whether the Director's conclusion that "curtailment dates . . . should be calculated by a transient model simulation," R. 1091, is in excess of the statutory authority of the agency, is supported by substantial evidence on the record as a whole, or is arbitrary, capricious, or an abuse of discretion.

8. Whether the Director's conclusion that "the [Cities'] due process rights were not violated," R. 1095, is in excess of the statutory authority of the agency, is supported by substantial evidence on the record as a whole, or is arbitrary, capricious, or an abuse of discretion.

9. Whether all of the foregoing conclusions by the Director were made upon unlawful procedure.

SUMMARY OF ARGUMENT

The Director periodically updates the Methodology Orders with new information which should be the "best available science and information." However, the changes that the Director made—or in some instances, did *not* make—in 2023 render the *Sixth Methodology Order less* accurate at estimating SWC's material injury than the 2016 *Fourth Methodology Order*. There is no better example than the Director's prediction of material injury under the *Fifth Methodology Order* in April 2023, a year with abundant snowpack, which proved to be wildly inaccurate only a few months later.

There are three principal flaws in the *Sixth Methodology Order*: it grossly (1) over-predicts the SWC's material injury at the start of the irrigation season, (2) over-determines the

SWC's material injury at the end of the irrigation season, and (3) over-estimates the curtailment date necessary to redress the material injury during the irrigation season.

First, the Director's prediction of material injury (a/k/a "demand shortfall") in April is flawed because SWC's new "baseline year" for "reasonable in-season demand" is a year of *well* above-average diversions, and the "forecast supply" for TFCC is statistically inaccurate and fails to account for runoff in tributary basins below the Heise Gage. The result is a prediction of demand shortfall that is divorced from actual needs of the SWC. Second, the Director's determination of material injury in November is flawed because the Director uses overstated "irrigated acres" numbers and fails to deduct acreage associated with junior, enlargement surface water rights and/or acreage that is served by supplemental ground water rights; this issue is compounded by the Director assuming that SWC's "project efficiencies" are reasonable without any meaningful analysis, and the record does not support a conclusion that TFCC is reasonably efficient. Third, the Director's determination of curtailment dates is flawed because it improperly redresses SWC's material injury—the change to using transient modeling to determine curtailment dates grossly overstates which ground water rights are *causing*, and thus must face curtailment to remedy, the SWC's material injury; it also disregards the imbalance of curtailing 700,000 acres of junior farmland to produce 75,200 acre-feet to senior farmland.

Finally, Petitioners attempted to show the Director that the *Fifth Methodology Order* contained these glaring flaws at hearing in June 2023, but were unsuccessful, at least in part, due to having six weeks to prepare with discovery limitations. Thus, the Director's conclusions in the *Post-Hearing Order* are not only substantively erroneous but procedurally erroneous as well.

Accordingly, Petitioners request that the Court, consistent with the provisions of I.C. § 67-5279(3), set aside the *Post-Hearing Order* affirming the flaws in the *Fifth Methodology*

Order, and remand the *Sixth Methodology Order* for further proceedings consistent with the arguments in this brief to ensure that the Department's administration of water rights under the Methodology Orders has a proper basis in fact and law.

ARGUMENT

I. Evidentiary Standard During the Agency Hearing versus Judicial Review

The District Court in *A&B Irrig. Dist. v. IDWR*[18] required the application of the "clear and convincing" standard in the event the Director determines to answer a delivery call by requiring delivery of less than the full decreed amount of a senior water right. *Memorandum Decision and Order on Petition for Judicial Review* at 24-38, Case No. 2009-000647 (Minidoka Cty. Dist., May 4, 2010). The Court's rationale, subsequently upheld by the Idaho Supreme Court,[19] included the following:

> Conditions surrounding the use of water are not static. Post-adjudication circumstances can result where a senior may not require the full quantity decreed. The most obvious example would be if the senior is not irrigating the full number of acres for which the right is decreed. Efficiencies, new technologies, and improvements in delivery systems that reduce conveyance losses can result in a circumstance where the full decreed quantity may not be required to irrigate the total number of decreed acres.
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> ***
>
> Idaho law prohibits a senior from depriving a junior appropriator of water if the water called for is not being put to beneficial use.

Id. at 30, 33. The Department—and this Court on judicial review—evaluates challenges to the Methodology Orders' variations from decreed elements of the water right under the "clear and convincing standard." R. 0761 ("If the Director is going to administer to less than the full amount of acres set forth on the face of the Coalition's *Partial Decrees,* such a determination

[18] 153 Idaho 500 (2012).

[19] *A&B Irrig. Dist. v. Spackman,* 155 Idaho 640, 655 (2013).

must be supported by clear and convincing evidence"); R. 1079 ("[a]ny diminishment of the decreed elements must be proven by clear and convincing evidence. *A&B Irrig. Dist*., 153 Idaho at 524 . . .").

But the Methodology Orders also incorporate metrics that are not elements of SWC's water rights. For example, the "baseline year" is not an element of a water right,[20] hence challenges to this metric at hearing must meet the preponderance of the evidence standard, not the heightened standard of "clear and convincing."[21] This is reflected in the Court's review of challenges to these metrics: for example, this Court affirmed the Director's decision to use an average of 2006 and 2008 values to establish a BLY on the basis of "substantial evidence" rather than the failure of the SWC to establish their position on the basis of "clear and convincing evidence." R. 0759-60.

In this brief, the Cities will show that at hearing their evidence—whether through direct examination of their own witnesses or cross-examination of the Department and SWC's witnesses—met the "clear and convincing" standard for *all* of the issues raised on appeal whether or not the issues related to elements of SWC's decreed water rights. However, for those metrics in the Methodology Orders that are *not* elements on the face of SWC's decrees, the Cities need only demonstrate that the Director's determination for a particular metric is not supported by substantial evidence.

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[20] Neither is "reasonableness," among other things. *AFRD2*, 143 Idaho at 877 ("reasonableness is not an element of a water right; thus, evaluation of whether a diversion is reasonable in the administration context should not be deemed a re-adjudication").

[21] Other examples of non-decreed metrics include: "crop water need" ("CWN"), which relies on data generated by federal agencies regarding crop mix in particular counties; climate-related factors, such as reference evapotranspiration ("ET") values; and Heise Gage and SWC diversion data.

II. The Director's Conclusion that the Forecast of TFCC's Supply is "Reasonable" and "Sufficiently Accurate" is Clearly Erroneous[22]

There are two variables that the Department uses to predict SWC's demand shortfall ("DS") in April: the SWC's forecast supply ("FS") and the SWC's reasonable in-season demand ("RISD"), which is initially represented by "the historic demands associated with a baseline year" ("BLY"). R. 0002.

To start, Petitioners challenged the reasonableness of Department's input for the first variable, the FS for TFCC, under the *Fifth Methodology Order*. *See, e.g.*, R. 2390-92; Hr'g Tr. Vol. III, 230-33. The FS "is comprised of natural flow and stored water." R. 0018. The Department predicts natural flow supply upon receiving the "Joint Forecast" from the United States Bureau of Reclamation and United States Corps of Engineers in April, which "predicts an unregulated inflow volume at the Heise Gage from April 1 to July 31 for the forthcoming year." *Id.* It uses the Joint Forecast to develop multi-linear regression equations "to predict the natural flow diverted for the upcoming irrigation season." *Id.* The regression equations compare "the actual Snake River near Heise natural flow and the flows at Box Canyon to the natural flow diverted." *Id.*

Using this process, the Department predicted TFCC's total water supply to be 1,046,519 acre-feet in 2023 (R. 0050), grossly underestimating TFCC's total water supply in light of the extraordinary snowpack and runoff associated with Snake River tributaries in 2023. *See* Hr'g Tr. Vol. I, 167-68. The evidence and testimony at hearing revealed that the Department's forecast: (1) is far less accurate at predicting TFCC's supplies (R-squared value of 0.72) than predicting any other SWC members' supplies (R-squared values range from 0.84-0.93), R. 2655; and

[22] The Table of Acronyms at the front of the brief can be used to navigate the thicket of acronyms in certain sections of this brief.

(2) fails to consider runoff in tributary streams that join the Snake River below the Heise Gage but above TFCC's point of diversion. Hr'g Tr. Vol. I, 161-65; Hr'g Tr. Vol. III, 230-33. Nevertheless, in the *Post-Hearing Order*, the Director concluded that "TFFC's 0.72 R-squared value is reasonable and the TFCC's natural flow forecast is sufficiently accurate." R. 1082.

First, the Department's reliance on the Joint Forecast to predict TFCC's water supplies is arbitrary and capricious. The Joint Forecast relies solely on the Heise Gage, located near Palisades Reservoir (Hr'g Tr. Vol. I, 162), and thus excludes several tributaries to the Snake River below the Heise Gage that are a source of surface water to SWC members, who all divert below American Falls Reservoir. Hr'g Tr. Vol. III, 232-33. The Water District 01 Watermaster testified that in 2023 these basins experienced unusually high runoff and even higher snowpack totals than the basins above Palisades. Hr'g Tr. Vol. III, 233-34; *see also* R. 1599. Department witness Matt Anders testified that he was aware of the above-average snowpack totals in these basins but that there were no discussions within the Department to consider them when forecasting SWC's supplies. Hr'g Tr. Vol. I, 161-65. The Department's choice to disregard this information that could improve its water supply forecasting not only defies its duty to use the "best available science and information," R. 0002, but resulted in the Department's FS being wildly inaccurate, one of two reasons[23] why the Department walked back its initial DS prediction for TFCC. *Compare* R. 0050 (predicting an FS of 1,046,519 acre-feet and a 75,200 acre-feet DS) *with* R. 1060-61 (predicting an FS of 1,076,089 acre-feet and zero DS).[24]

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[23] The other reason being the Department's prediction of TFCC's RISD, by using a flawed BLY, was grossly overestimated. *See supra*, at section III.

[24] The Cities request that the Court take judicial notice of the *Final Order Establishing 2023 Reasonable Carryover (Methodology Step 9)* (Nov. 30, 2023) ("2023 Step 9 Order") (attached as App. B), which demonstrates that TFCC's total supplies in 2023 were 1,130,031 acre-feet (83,512 more than predicted in the FS—significantly more than the predicted DS of 75,200 acre-feet). https://idwr.idaho.gov/wp-content/uploads/sites/2/legal/CM-DC-2010-001/CM-

Second, the Department's determination that TFCC's 0.72 R-squared is "reasonable" was arbitrary and capricious. R-squared statistics "help users understand how much of the variability that regression equation is accounting for." Hr'g Tr. Vol I, 187; *see also* Hr'g Tr. Vol. III, 49. While other SWC-member R-squared values have remained constant between 0.84 and 0.93 since 2014 (the first year the regression equations were used), TFCC's value has declined from 0.86 to 0.72. R. 2655. Despite repeated recommendations (as far back as 2015, *see* R. 2882) from experts that the Department use an alternative forecasting approach and re-evaluate the forecasting if R-squared values drop below a threshold, R. 2391-92, the Department has made no changes and does not currently intend to change the way it forecasts TFCC's water supplies. Hr'g Tr. Vol I, 188-91. The Department could improve the accuracy of its FS, thereby increasing the R-squared value, to account for tributary flows when predicting TFCC's FS. From a practical perspective it isn't clear why this wasn't done: if there is no snow in the tributary basins, that will be reflected in the pre-season prediction; if there is snow, it will more accurately predict available supply. There is no risk to the seniors from creating a more accurate predictive tool for FS.

While "the Director purposely underestimates the water supply that is predicted"[25] because he believes that "this is an appropriate burden for junior appropriators to carry," R. 0037, in 2023 the Director's continued reliance on a forecast tool that fails to account for tributary basin flows is an abuse of discretion, especially considering precipitation data for those basins are readily available to the Department. *See* Hr'g Tr. Vol I, 163-165; Hr'g Tr. Vol. IV, 127.

DC-2010-001-20231130-Final-Order-Establishing-2023-Reasonable-Carryover-Methodology-Step-9.pdf (last visited Dec. 19, 2023).

[25] This reference to underestimation refers to the Department's "shifting the April Forecast Supply prediction curve down one standard error of estimate," which is another safety factor *on top of* the discussed inaccuracies in the FS for TFCC.

Accordingly, the Court should reject as clearly erroneous the Director's conclusion that an R-squared value of 0.72 is "reasonable" and the FS for TFCC is "sufficiently accurate," R. 1082, and, on remand, require the Department to account for precipitation in tributary basins below the Heise Gage when predicting TFCC's FS.

III. The Director's Conclusion that 2018 is a "Reasonable" BLY is Clearly Erroneous

Petitioners disputed the reasonableness of the Department's input for the second variable in the SWC's DS prediction, the BLY, challenging the Director's switch from using an average of diversions in 2006, 2008, 2012 ("2006/2008/2012 BLY") in the *Fourth Methodology Order* to using 2018 diversions as the BLY for RISD in the *Fifth Methodology Order*. *See*, *e.g.*, R. 1527-28 (pointing out that the Department increased SWC's BLY demands without any "analyses to assess the reasonableness of the increased SWC member diversions since 2014 that prompted the need to change the BLY"). As shown in the figure below, the change from the 2006/2008/2012 BLY to the 2018 BLY increased the Department's prediction for SWC's RISD by 147,217 acre-feet. R. 0012 (difference between 3,341,939 acre-feet and 3,194,722 acre-feet). In particular, it increased TFCC's and AFRD2's—the only two SWC members who have ever experienced material injury under the Methodology Orders—BLY demands by 61,706 acre-feet and 26,218 acre-feet, respectively. R. 0012. This increase in predicted RISD occurred despite SWC witnesses' testimony that they have continually improved the efficiencies of their systems with new and better technologies. *See*, *e.g.*, Hr'g Tr. Vol. II, 75.

Entity	2000-2021 Avg. Total Diversions (Acre-Feet)	06/08/12 Avg. Total Diversions (Acre-Feet)	06/08/12 % of Avg.	2018 Total Diversions (Acre-Feet)	2018 % of Avg.
A&B	59,474	59,993	101%	64,192	108%
AFRD2	427,978	427,672	100%	453,890	106%
BID	247,049	251,531	102%	262,211	106%
Milner	53,343	47,135	88%	58,417	110%
Minidoka	354,181	369,492	104%	354,851	100%
NSCC	996,267	978,888	98%	1,026,661	103%
TFCC	1,062,098	1,060,011	100%	1,121,717	106%
Total	3,200,389	3,194,722	100%	3,341,939	104%

Average SWC Diversions (acre-feet) for 2000-2021, 2006/2008/2012 BLY, and 2018 BLY.

(R. 0012.)

The Department defended the change by stating that 2018 "best satisfies" the Department's own criteria for selecting a BLY, SWC's 2018 diversions were 104% of average (from 2000-2021), and "a safety factor of 4% is reasonable." R. 1082. For TFCC and AFRD2, however, the safety factor is 6%; for Milner and A&B Irrigation District ("A&B"), the safety factor is 10% and 8%, respectively. R. 0012 . TFCC's 2018 diversions rank second in its annual diversions in the fifteen (15) year period from 2007-2021, and AFRD2's rank fourth. R. 1578-79.

The 2006/2008/2012 BLY provided TFCC and AFRD2 safety factors of 1% and 2%, respectively. R. 1390. Safety factors of this magnitude are consistent with those associated with the 2006/2008 BLY that this Court approved in 2014—in that appeal, the City of Pocatello challenged the 2006/2008 BLY because it was inconsistent with the *2008 Opinion*, which approved of the use of historical average diversions; the Court rejected Pocatello's arguments and affirmed the Director's selection, holding that the use of an average BLY (i.e., a year(s) where diversions were 100% of average) unreasonably shifts the risk to seniors for purposes of pre-season predictions. R. 0774-76.

The Cities' argument here is that the Department's selection of 2018 as the new BLY *goes beyond* what is required to avoid shifting the risk to the seniors. This selection had significant repercussions in 2023 for junior ground water users—because the Department grossly over-predicted demand for the largest SWC member, numerous junior users were forced to rush to acquire mitigation supplies that would not have been needed under an appropriately conservative BLY. If a "a safety factor of 4% is reasonable" (R. 1082), then the Department must find a BLY that provides a 4% safety factor for all of the seniors. Accordingly, the Court should reject as clearly erroneous the Director's conclusion that its selection of the 2018 BLY was "reasonable," and, on remand, require the Department to select a new BLY that is indeed reasonable, especially when predicting TFCC's and AFRD2's RISD.

IV. The Department's Conclusion that Collectively the Safety Factors "do not aggressively overpredict demand shortfall" is Clearly Erroneous

As discussed in the foregoing sections, the Department's FS for TFCC is flawed and underestimates supplies, and the Department's selection of the 2018 BLY is unreasonably conservative and overestimates RISD, resulting in DS predictions that far exceed volumes TFCC reasonably needs to satisfy its beneficial uses. While each error warrants a remand on its own, when taken together, the combination of the two (or, as the Department calls it, "cumulative bias," R. 1083) illustrate the magnitude of the Department's inaccuracy when predicting TFCC's DS. As shown in the table below, the Department's predictions in April 2023 overstated DS by approximately 200,000 acre-feet.

Order:	TFCC-FS (af)	TFCC- BLY/RISD (af)	TFCC- DS (af)
2023 Steps 1-3 Order (R. 0050)	1,046,519	1,121,717	75,200
2023 Steps 5-6 Order (R. 1061)	1,076,089	996,214	0
2023 Step 9 Order (attached as App. B)	1,130,031	1,007,766	0
Net changes over the course of 2023	+83,512	-113,941	-200,000

While forecasts are inherently imperfect, the Department's DS prediction under the *Fifth Methodology Order* reflects inaccuracies that amount to an abuse of discretion.

The *Post-Hearing Order* defends the Director's conclusion that "the Department's safety factors do not aggressively overpredict demands shortfall" by pointing out that the predicted DS in April was less than the actual DS in November four (4) times in the eight (8) year period between 2015-2022, so the *Fourth Methodology Order's* "safety factors failed to protect seniors 50% of the time." R. 1083 (citing Ex. 837A at 82 (R. 2450)). However, as shown in the figure below (R. 2450), two (2) of the four (4) years where the actual DS exceeded the predicted DS under the 2006/2008/2012 BLY only did so by a small margin[26], and the other two (2) years were the severe drought years of 2021-2022.[27] R. 2450; *see also* R. 2730. It also reveals that there were two (2) years where predicted DS exceeded the actual DS by a magnitude of 20,000 acre-

[26] "Small margin" means 11,000 acre-feet or less, which occurred in 2015 (difference between 88,959 and 92,246) and 2018. Further, the *Final Order Establishing 2018 Reasonable Carryover (Methodology Step 9)* (*see* App. B) reveals that there was zero DS in 2018, so the 10,996 acre-feet DS amount that is reflected in the far-right column appears to be erroneous.

[27] Further, the RISD value that is used in the November DS equation is calculated by dividing CWN by historical project efficiencies, R. 0017. As discussed in section V, *infra*, TFCC's irrigated acreage numbers are overstated, and in section VI, *infra*, TFCC's operations are not reasonably efficient; so, the DS values in the far-right column on R. 2450 are also overstated on those bases.

feet or more.[28] R. 2450. When looking at the second column from left rather the first (using the 2018 BLY instead of the 2006/2008/2012 BLY), actual DS exceeds the predicted DS just once (2021) in the eight (8) year period, and predicted DS exceeds actual DS seven (7) times. R. 2450.

Table 1 - Summary of Hindcast SWC Delivery Call Demand Shortfall Calculations 2000-2022

Year	April BLY 06-08-12 (AF)	April BLY 2018 (AF)	July BLY 06-08-12 (AF)	July BLY 2018 (AF)	November Actual Demand Shortfall (AF)
2000	30,183	126,125	0	0	0
2001	179,947	334,970	160,472	200,546	243,565
2002	42,800	131,308	17,381	45,136	31,217
2003	10,124	93,902	43,808	80,241	0
2004	199,101	364,958	223,032	264,426	264,340
2005	114,916	228,241	0	0	0
2006	0	0	365,880	388,939	23,792
2007	56,914	152,855	201,036	253,185	289,065
2008	0	15,138	46,525	55,334	0
2009	0	34,109	0	0	0
2010	94,957	190,898	0	0	0
2011	0	0	0	0	0
2012	0	53,778	69,066	92,125	139,524
2013	28,802	110,912	114,058	154,132	22,588
2014	0	0	0	0	0
2015	88,959	184,901	107,418	138,684	92,246
2016	44,163	111,457	21,271	44,330	7,853
2017	0	65,382	0	0	0
2018	0	44,805	0	0	10,996
2019	20,943	88,237	0	0	0
2020	0	59,101	0	0	0
2021	40,491	126,102	162,873	194,139	190,816
2022	162,613	313,446	52,771	84,036	276,551
Average:	48,474	123,071	68,939	86,750	69,241
Median:	28,802	110,912	21,271	45,136	7,853
75th Percentile	72,937	168,878	110,738	146,408	115,885
80th Percentile:	92,558	188,499	141,906	178,136	170,299
85th Percentile:	108,928	217,038	162,153	198,624	227,740
86th Percentile:	113,319	225,254	162,681	200,033	239,345
87th Percentile:	121,594	240,170	168,216	207,915	246,474
88th Percentile:	132,087	258,915	176,612	219,496	251,044
89th Percentile:	142,580	277,660	185,008	231,077	255,615
90th Percentile:	153,074	296,405	193,403	242,657	260,185
95th Percentile:	178,214	332,818	220,832	263,302	275,330
Max:	199,101	364,958	365,880	388,939	289,065

Hindcasting and spreadsheet summary developed by IDWR (Matt Anders, Kara Furgason) as part of the Nov-Dec 2022 SWC Delivery Call TWG meetings.

[28] This occurred in 2016 (overprediction by roughly 36,000 acre-feet) and 2019 (overprediction by nearly 21,000 acre-feet).

(R. 2450.)

Using 2018 as the BLY results in predicted shortfalls (i.e., DS >0) *every* year in the 2015-2022 period, including two (2) years where using the 2006/2008/2012 BLY *correctly* predicted zero DS (2017, 2020). R. 2450. Thus, had the Director used the 2018 BLY in those years when predicting DS, junior users would have unnecessarily acquired mitigation supplies (or faced curtailment) as occurred in 2023. *Compare* R. 0050 *with* R. 1061. Finally, three (3) of the years where using the 2018 BLY causes the predicted DS to exceed the actual DS would have resulted in overpredictions between 88,000-103,000 acre-feet (2015, 2016, 2019).[29]

The Director's predicted DS of 75,200 acre-feet for TFCC in April 2023, which was inaccurate by approximately 200,000 acre-feet,[30] had severe consequences for junior users—and more importantly from a legal perspective, is contrary to the Director's obligation to "use the best available science and information" and take straightforward measures to improve the accuracy of these predictions to avoid unwarranted hardship. R. 0002. In ratcheting down the Methodology Orders' provisions to avoid risk to seniors, the Department has created BLY demand and FS rubrics that stray from the delivery call principles affirmed by the Supreme Court both in *AFRD2*,[31] 143 Idaho at 880, and in *A&B Irrig. Dist. v. Spackman*, 155 Idaho at 649 (the "baseline estimate [is] to represent predicted in-season irrigation *needs* . . . .") (emphasis added).

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[29] Which, under the transient model approach, would require curtailment of up to 941,400 acres of irrigated agriculture to supply those amounts to TFCC, because curtailing *all* rights junior to October 11, 1900 (TFCC's natural flow right priority) is predicted to yield a maximum of 97,700 acre-feet of supply to SWC in an irrigation season. This means that virtually *all* ground water rights junior to TFCC's right would have faced curtailment under such overpredictions. *See* R. 2750-71; *supra*, at section VII.

[30] *Compare 2023 Step 9 Order* at 3 with R. 0050.

[31] "Somewhere between the absolute right to use a decreed water right and an obligation not to waste it and to protect the public's interest in this valuable commodity, lies an area for the exercise of discretion by the Director. This is certainly not unfettered discretion . . . and upon a properly developed record, this Court can determine whether that exercise of discretion is being properly carried out."

Accordingly, the Court should reject as clearly erroneous the Director's conclusion that, cumulatively, "the Department's safety factors do not aggressively overpredict demand shortfall," R. 1083, and require on remand that the Director correct the flaws in the two DS prediction variables as requested in the sections above.

V. The Director's Quantification of SWC's Irrigated Acreage is Arbitrary, Capricious, an Abuse of Discretion, and Contrary to Law

Sections II-IV above covered the deficiencies in the *Fifth Methodology Order* regarding the Director's prediction of DS that occurs in the April Steps 1-3 Orders. Sections V-VI will cover the deficiencies regarding the Director's determination of DS that occurs in the November Step 9 Orders.[32]

After the irrigation season concludes, the Director determines the DS by subtracting SWC members' calculated RISD from their actual supplies. *See* R. 0043, 1083, 2193.[33] RISD is calculated by first "multiplying crop specific [consumptive use] values," (i.e., acre-feet per acre consumptive use requirements by crop) "by the total irrigated area of individual crop types, and summing for all crop types," (i.e., total irrigated acres) which yield a total crop water need ("CWN," in units of acre-feet; CWN is then divided by historical project efficiencies. *See* R. 0013-15, 1087. Under the *Fifth Methodology Order*, the Director's determination of TFCC's DS is inaccurate because (1) the irrigated acreage values are significantly overstated and include hardened acres, supplemental ground water acres, and enlargement acres; and (2) the project efficiency values are unreasonably low. *See, infra,* Section VI. Together, these flaws amplify the inaccuracy and render TFCC's *reasonable* in-season demands to be *un*reasonably high.

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[32] It bears noting that the intermediate steps (Steps 5-8) utilize a hybrid formula, where the Department determines DS to-date while predicting DS for the remainder of the irrigation season. *See* R. 0039-43.

[33] *See also 2023 Step 9 Order* at 3.

A. The Evidence at Hearing Clearly Demonstrated that TFCC's Irrigated Acreage Includes Hardened Acres

The testimony and evidence at hearing showed there are no fewer than four data sources available to the Department showing TFCC's irrigated acreage is between 179,400-183,600 acres: (1) 2011 Irrigated Lands data (179,486 acres), R. 2813; (2) 2017 Irrigated Lands data (180, 956 acres), R. 2813; (3) 2021 NRT Metric Processing data (179,456 acres), R. 2810; and (4) the 2007 SPF data (183,589 acres), R. 0364-66. Nonetheless, the Department used 194,732 acres as TFCC irrigated acreage number in the *Fifth Methodology Order*, based on a shapefile created by TFCC in 2013. R. 0010. This acreage value is over 11,000 acres *higher* than the acreage number used by the Department in the Methodology Orders from 2010 through 2014, R. 0364-65; it is also substantially higher than the acreage endorsed by the Hearing Officer in 2008 as a finding of fact. *2008 Opinion* at 53 ("IGWA has established that at least 6,600 acres claimed by TFCC in its district are not irrigated").[34]

According to the testimony of Matt Anders, the Department's technical services bureau chief who is the lead on updating the Methodology Orders, the Department began using 194,732 acres for TFCC in 2015.[35] Hr'g Tr. Vol. I, 133-34 (prior to 2015, the Department was using 183,589 acres for TFCC); *see also* R. 0365 (the amount seemingly changed based on letters from SWC counsel in 2014 and 2015 that asserted TFCC irrigates 194,778 acres).[36] Mr. Anders

[34] Which means that, as of 2008, there was no more than 189,562 (196,162 minus 6,600) acres being irrigated. *See* R. 0012 (TFCC's decreed acreage amount is 196,162 acres).

[35] Neither the *Third Methodology Order*, issued in April 2015, nor the *Fourth Methodology Order*, issued in April 2016, identified the basis for increasing TFCC's irrigated acreage. *See* Hr'g Tr. Vol. I, 136-37; *compare* R. 0009-10 (table showing SWC irrigated acres is contained in ¶ 22 of the "irrigation practices" section) *with* R. 1388-89 (no such table in the "irrigation practices" section of the *Fourth Methodology Order*).

[36] Interestingly, one of the few changes between the *Fifth Methodology Order* and the *Sixth Methodology Order* was the removal of the first sentence in ¶ 21 of the *Fifth Methodology Order*, which stated "estimates of irrigated acres from the hearing show a trend of decreasing irrigated acreage." *Compare* R. 0009-10 *with* R. 1013-14.

testified that the TFCC 2013 shapefile showing 194,732 acres and used by the Department in the *Fifth Methodology Order* contains "hardened" (un-irrigable) acres. Hr'g Tr. Vol. I, 132, and that the Department's 2017 data is a "more accurate representation of irrigated acres than the 2013 shapefile." *Id.* at 194-95.

The evidence shows it is "highly probable" that TFCC's irrigated acres is no more than 183,589 acres.[37] Nevertheless, the Director erroneously concluded "the ground water users failed to satisfy their burden of proof" because they "did not establish an alternative number of acres irrigated by clear and convincing evidence," R. 1085, and again endorsed 194,732 as the irrigated acreage value for TFCC in the *Sixth Methodology Order*. R. 1014. The Director's rationale that the TFCC 2013 shapefile is a better representation of "the number of acres TFCC may irrigate in 2023" than the "2017 shapefile" because the latter is but "a snapshot in time" and does not "predict *future* irrigated acres" is inadequate to support his finding—the exact same thing can be said about the TFCC 2013 shapefile acres. R. 1084. It is difficult to fathom what evidence Petitioners would have needed to present to clearly convince the Director that TFCC's irrigated acreage value is no more than 183,589 acres.[38]

The *2008 Opinion* limited determination of the supply to be made available to the SWC in a delivery call based on irrigated acres. *2008 Opinion* at 53 ("Non-irrigated acres should not be considered in determining the irrigation supply necessary for SWC members").[39] Petitioners acknowledge their burden to presenting clear and convincing evidence establishing that SWC members are not irrigating "the full amount of acres set forth on the face of the Coalition's

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[37] This is the standard for clear and convincing evidence. *See* R. 1074 (citing *In re Doe*, 157 Idaho 694, 699, 339 P.3d 755, 760 (2014)).

[38] And in any event, as discussed *infra* at section IX, the Director's discovery schedule was inadequate to allow for the type of analyses that would have allowed the Cities and IGWA to develop a (fifth) independent acreage analysis.

Partial Decrees" (R. 0783, 0787), but if that burden was not met at the June 2023 hearing, it was arguably met by IGWA's evidence offered in 2008 and adopted by the Hearing Officer. The Cities are unaware of any proceeding in which the TFCC 2013 shapefile has been demonstrated to be more accurate than the 2008 value adopted by Justice Schroeder.

But leaving aside the evidentiary issues, the Director doesn't act in a vacuum. "[T]he Director 'has the duty and authority' to consider circumstances when the water user is not irrigating the full number of acres decreed under the water right." *AFRD2,* 143 Idaho at 876. It is undisputed that the Director's use of 194,732 acres for TFCC's irrigated acreage significantly overstates the number of acres *actually* being irrigated.[40] The use of this number is clearly erroneous and an abuse of discretion that violates the Director's duty identified by the Supreme Court, as well as his duty to use the "best available science and information," R. 0002, in order to avoid delivering water to the SWC that is not "attributable to the beneficial use of growing crops within the service area of the entity." R. 0012. Accordingly, on remand, the Court should require the Department to issue an updated *Methodology Order* that uses the *best* available data for TFCC's irrigated acres.

B. The Evidence at Hearing Clearly Demonstrated that SWC's Irrigated Acreage Includes Supplemental Ground Water Acres

As part of the Department's evaluation of material injury and reasonableness of diversions in a delivery call context, the CMRs provide several factors for consideration, including supplemental ground water use. CMR 42.01(g). The Department purports to consider supplemental ground water use as a factor under the *Fifth Methodology Order.* R. 0010. Factually, the Director has already determined "[t]here are lands within the service areas of SWC

[40] The Director's use of 194,732 acres for TFCC's irrigated acreage also does not account for acres being irrigated by supplemental ground water rights and enlargement acres, as discussed in the next sub-sections.

entities that are irrigated with supplemental groundwater[,]" *id*., which is not disputed by SWC's experts. R. 1246 ("Usage of private groundwater wells for supplemental purpose on surface water irrigated lands occurs within the Twin Falls Canal Company service area[.]").[41] Despite the foregoing, the Director asserted in the *Sixth Methodology Order* that the Department's current supplemental ground water information is not sufficient or reliable, and consequently, the Director has elected to ignore this factor entirely. R. 1045.

Evidence presented at the hearing demonstrates that there is information available to the Department through its Water Management Information System ("WMIS") database and Geographic Information Shapefiles ("GIS") regarding ground water right places of use and points of diversion. As acknowledged by Dr. Brockway, SWC's expert, the WMIS database tracks ground water diversion either measured by flowmeters or calculated through power conversion calculations. Hr'g Tr. Vol. IV, 982:17-983:2. Dr. Brockway testified that he uses this data in conjunction with transfer applications (filed under I.C. § 42-222), and while not perfect, considers it to be a reliable source of information for historical ground water diversions in other Department contexts. *Id*. at 983:3-13. He further acknowledged that the ground water diversion information contained in the WMIS data is the "best available" and that information could then be matched to places of use and points of diversion for ground water rights that are contained within TFCC's service area. *Id*. at 983:14-984:4.

[41] The Department's witness Matt Anders admitted the agency made no effort to evaluate supplemental ground water use during the Department's technical review of the *Fourth Methodology Order*. Hr'g Tr. Vol. 1, 197. Certainly, if the available Department data on supplemental ground water use was deficient, one would expect the Department to have engaged in some effort to obtain data or refine existing data since the *Fourth Methodology Order* was issued seven (7) years ago in April of 2016. If the Department will not do the work on its own and denies Petitioners any meaningful opportunity to discover information in a timely manner, the agency's inability to incorporate this type of information into the Methodology Order is self-fulfilling.

Additionally, in the absence of direct data, the Department utilizes estimates of ground water use on mixed-source ground in its ESPA model where both surface and ground water entitlements are authorized to be used. Hr'g Tr. Vol I, 69:21-70:6. Presumably, such estimates are informed by data from the WMIS database, but in any event, no matter how the Department calculates its estimates, there is no legal or factual reason why the Department could not similarly employ the same methodology to provide an estimate in its *Fifth Methodology Order* for supplemental ground water use.

Although the Director found that available supplemental ground water use data was not sufficient or reliable, the Department witnesses did not present any evidence or testimony as to the bases for this conclusion; similarly, the *Post-Hearing Order* is devoid of an explanation and does not explain why the unrefuted testimony in the record does not establish the reliability of available data for purposes of determining supplemental ground water use. The Department's omission of a determination under the *Fifth Methodology Order* that would improve the accuracy of the material injury determination is contrary to the Department's duty to use the "best available science and information." R. 002. The Director could have considered supplemental ground water data in this matter and abused his discretion by refusing to do so, particularly when there is no dispute that supplemental ground water diversions are occurring. Thus, on remand, the Court should require the Department to issue an updated Methodology Order that ascertains the extent of supplemental ground water use within SWC's service areas and reduce the predictions and determinations of SWC's DS accordingly, consistent with CMR 42.01(g).

C. <u>The Evidence at Hearing Clearly Demonstrated that A&B's Irrigated Acreage Includes Enlargement Acres</u>

Petitioners asserted at the hearing that the Department's number in the *Fifth Methodology Order* for A&B's irrigated acreage (15,924 acres) includes acres associated with A&B's

enlargement water rights (1,175 acres) that bear junior priority dates ("enlargement acres"). Hr'g Tr. Vol. I, 203-05; *see also* R. 0010, 2907. As the Court is well aware, within the boundaries of the Snake River Basin Adjudication enlargement acres are administered with a priority date of April 12, 1994. *A&B Irrig. Dist. v. Aberdeen-American Falls Ground Water Dist.*, 141 Idaho 746, 749 (2005); *see also e.g. A&B Irrig. Dist. Water Right No. 36-15127B*.[42] The curtailment date under the *2023 Steps 1-3 Order* was December 30, 1953, R. 0052-53, meaning the Department threatened curtailment against ground water rights with priority dates senior to April 12, 1994 for the benefit of A&B's enlargement acres, not just its senior acres; this was erroneous.

Department witness Matt Anders testified that the Department has not investigated or discussed whether the irrigated acreage number used in the Methodology Orders should exclude enlargement acres. Hr'g Tr. Vol. I, 205. He also testified that he is not sure whether there are enlargement acres within the service areas of the other SWC members. Hr'g Tr. Vol. I, 215-16. This testimony notwithstanding, the Director continued to use 15,924 acres as A&B's irrigated acreage in the *Sixth Methodology Order*. R. 1014.

The evidence and testimony at hearing demonstrate that the Director knowingly included enlargement acres in A&B's irrigated acreage number in the *Sixth Methodology Order* and may have included enlargement acres in other SWC members' numbers. While seemingly minor, this error is material because it contributes to the Department's overestimation of the DS predictions and determinations for the SWC. Accordingly, on remand, the Court should require the Director

[42] One condition states: "This right is based upon an enlargement of Right No. 36-2080 pursuant to Section 42-1426, Idaho Code. This right is subordinate to all water rights with a priority date earlier than April 12, 1994, that are not decreed as enlargements pursuant to Section 42-1426, Idaho Code. As between water rights decreed as enlargements pursuant to Section 42-1426, Idaho Code, the earlier priority right is the superior right."

to issue an updated Methodology Order that ascertains the irrigated acres associated with SWC members' senior water rights and use those numbers in future Methodology Orders.

VI. The Director's Conclusion that TFCC's Operations are "Reasonable" is Clearly Erroneous

Under CMR 42.01, the Department is required to consider SWC's allegations of injury in light of whether seniors are "using water efficiently and without waste." IDWR may properly evaluate SWC's "system, diversion and conveyance efficiency, the method of irrigation water application and alternate reasonable means of diversion." *AFRD2,* 143 Idaho at 876-78.[43] Building on this *AFRD2* standard, the Hearing Officer concluded that "system efficiency" was the proper metric for Rule 42.01(g) analyses, and rejected "achievable farm efficiency," concluding that the standard was "reasonableness" of operations. *2008 Opinion* at 56. The Hearing Officer also concluded that SWC satisfied the 42.01(g) standard and was reasonably efficient but noted "[t]his is not a static system, and as improvements either in technology or management practices that fall within reasonable costs are identified, the Director may consider whether they have been implemented" in evaluating injury. *Id.* at 57 (emphasis added).

In 2014, this Court rejected a challenge to the *2010 Methodology Order* regarding the Department's conclusion that the SWC's operations were reasonably efficient, relying on the conclusions in the *2008 Opinion*. Fifteen years later, TFCC's project efficiency has declined, notwithstanding large increases in sprinkler-served acres and numerous "conveyance" efficiency projects, including canal lining. Hr'g Tr. Vol. II, 130-31, 194-97; R. 1559. Based on the testimony and evidence received at trial, the Director's conclusion that TFCC remains "reasonably efficient" is not supported by substantial evidence. If TFCC's operations are not

[43] *See also*, *A&B Irrig. Dist. v. IDWR*, 153 Idaho at 513-15 (the senior is obligated "to take reasonable steps to maximize [ ] flexibility to move water within the system before it can seek curtailment…"); CMR 42.01(a)-(h).

"reasonably efficient," then the Director's reliance on its "project efficiency" in the RISD calculation for TFCC is without basis.

A. How Project Efficiency is Used in the *Fifth Methodology Order*

To implement the Methodology, the Department employs "project efficiency" (the shorthand of which is Ep) as a metric in the calculation of RISD. *See* R. 0016 (stating that the calculated RISD is "the quotient of CWN and Ep"). Although called "project efficiency," this is the same as the "system efficiency" concept approved of by the Hearing Officer. R. 0012-13. Monthly project efficiencies are then averaged over a fifteen (15) year period to "reduc[e] impacts of short-term trends." R. 0013. In effect, as the Department has derived the metric, project efficiency is the ratio between CWN versus total diversions (i.e., the net amount consumed out of the gross amount diverted). By its terms, project efficiency assumes that SWC's actual diversions were necessary to satisfy CWN (i.e., not wasteful). Hr'g Tr. Vol. IV, 996 ("the observed diversions are a given").

The Department then determines SWC members' RISD for a given year by dividing each member's CWN by its historical project efficiencies. R. 0016-17. Thus, even if a SWC member's operations have not been reasonably efficient in recent history, the Department still calculates *reasonable* in-season demand (RISD) without any correction for inefficient operations.

B. The Director's Conclusion that TFCC's "diversions and efficiency are reasonable" is not Supported by Substantial Evidence; Further, the Evidence is "Clear and Convincing" that TFCC's Diversions are Unreasonable.

The Director concluded that "TFCC's diversions and efficiency are reasonable" (R. 1089), relying on TFCC General Manager Jay Barlogi's testimony that TFCC does not waste a significant amount of water to the Snake River, (*see* Hr'g Tr. Vol. II, 43), and SWC expert witness David Shaw's conclusory opinion that TFCC's "system and their plan for delivery is

reasonable." Hr'g Tr. Vol. IV, 146. The conclusion overlooked much contradictory evidence and testimony and is not supported by substantial evidence.

First, Mr. Barlogi testified that the amount of sprinkler systems in the TFCC service area has never been higher. *See* Hr'g Tr. Vol. II, 130-31, 194-97. Despite the increased use of sprinklers, which increase efficiency of on-farm irrigation operations, *see* R. 1245,[44] TFCC's efficiency has *declined* since 2006. *See* R. 1559; Hr'g Tr. Vol. II, 130-31,[45] 144-46.[46] Indeed, despite the increased number of sprinklers, Mr. Barlogi testified that TFCC diverts around 1,100,000 acre-feet annually, which it has consistently over the last thirty (30) years. Hr'g Tr. Vol. II, 71.

Dr. Brockway, SWC's expert, testified that sprinkler conversions in TFCC have not led to higher overall project efficiencies due to "factors that are very difficult to put a number on." *See* Hr'g Tr. Vol. IV, 116-17. Dr. Brockway agreed, however, that TFCC's operational spill volumes have increased over time; *see id.* at 127-29. In fact, TFCC's return flows, including operational spills, generally increased from 2009-2020. *See* R. 1598. As Petitioners' expert witness Gregory Sullivan testified, the framework of the Methodology Orders inherently incentivizes SWC to maximize diversions, even if the diversions exceed what is needed to meet CWN, and rewards them for doing so (e.g., increases calculated RISD). Hr'g Tr. Vol. II, 142-44, 250-52. While a certain amount of operational spills (a/k/a wastewater or tailwater) is expected with large-scale

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[44] SWC's expert witness associates flood (or gravity) irrigation with a 50% on-farm efficiency and sprinkler irrigation with an 80% on-farm efficiency.

[45] ("[T]he continued sprinkler conversions, these efficiency improvements . . . would suggest that, if anything, the diversions should have gone down . . . they should have been able to get by with less, but they've been diverting more").

[46] ("[TFCC's] actual efficiencies have gone down since 1990 to 2006. . . . That's going the opposite direction from what I would expect given these continued conversions to sprinkler, canal lining, better irrigation system operation technology, and that sort of thing").

conveyance systems, it is not expected that operational spills would increase in TFCC's on-demand system which has installed, *inter alia,* advancements in canal automation technology. *See* Hr'g Tr. Vol. II, 75.

The Director's "project efficiency" calculation requires a supportable finding that SWC members are all "reasonably efficient," and the conclusion that TFCC's operations are "reasonably efficient" is not supported by substantial evidence. While this Court declined to assess the reasonableness of the Director's conclusions regarding TFCC's efficiency of operation in 2014,[47] citing the Hearing Officer's 2008 findings, the Hearing Officer also determined that "this [the SWC's irrigation operations] is not a static system," and he called on the Director to consider whether SWC is not utilizing the "improvements either in technology or management practices that fall within reasonable costs . . . in making the decision of whether ground water pumpers should be curtailed."[48] Where, as here, the record does not contain substantial evidence related to the reasonableness of TFCC's operations, the Director's imposition of the "project efficiency" term in the RISD calculation is without basis and this portion of the order must be remanded for further proceedings on this point.[49]

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[47] R. 0771-72.

[48] *2008 Opinion* at 56-57.

[49] TFCC is not the only SWC member whose project efficiencies have declined and are now 35% or less—this concern also applies to AFRD2 and NSCC. *See* R. 1559 (comparing average project efficiencies from 1990-2006 with the project efficiency in the *Fifth Methodology Order*, which is based on average project efficiencies from 2007-2021). While Petitioners have focused on the reasonableness of TFCC's operations at hearing and in this brief, largely due to the consequences of TFCC's overpredicted DS in 2023, their request—that the Director perform a meaningful analysis to determine whether their project efficiencies are reasonable by today's standards, rather than assume it—equally applies to other SWC members whose project efficiencies have declined over time.

VII. The Director's Conclusion that "Curtailment dates . . . should be calculated by a transient model simulation . . ." is Clearly Erroneous and Causes IDWR to Curtail Ground Water Users that are not Causing the Material Injury to SWC.

The *Fifth Methodology Order* applied "transient modeling to determine a curtailment priority date that would supply adequate water to the senior water right holders." R. 0035. Petitioners challenged the validity of the Department's reliance on transient modeling at hearing. *See* Hr'g Tr. Vol. II, 191, 209.[50] Nevertheless, the Director concluded that "curtailment dates, periodically determined at time of recalculating in-season demand shortfall (IDS), should be calculated by a transient model simulation that will return the full quantity of water to the senior priority rights at the time and place required, or the maximum quantity that can be returned by curtailing all junior water rights." R. 1091.

The Idaho Supreme Court has stated "the policy of securing the maximum use and benefit, and least wasteful use of Idaho's water resources, has long been the policy in Idaho." *Rangen, Inc. v. Idaho Dep't of Water Res.*, 160 Idaho 119, 131 (2016) (*Rangen*) (citing Clear *Springs Foods, Inc. v. Spackman*, 150 Idaho 790, 808 (2011)). The Court acknowledged that this policy "limits the prior appropriation doctrine by excluding from its purview water that is not being put to beneficial use." *Rangen* at 131 (citing *AFRD2*, 143 Idaho at 876). The Court further tied the policy of maximum use to an acceptable "limit on the prior appropriation doctrine," found in CMR 20.03, that "[a]n appropriator is not entitled to command the entirety of large volumes of water in a surface or ground water source to support his appropriation contrary to the public policy of reasonable use of water." *Id.* (quoting IDAPA 37.03.11.020.03 (CMR 20.03)).

[50] The predicted 75,200 acre-feet demand shortage "was caused by the wells junior to the mid-[19]80s, and, therefore, they should be the ones responsible for mitigating it because they caused the problem"); *see also* R. 1546-47 ("Curtailing or requiring mitigation from groundwater rights in 2023 with priority dates senior to the mid-1980s would injure those groundwater rights because pumping under these more senior groundwater rights did not create the shortage to the TFCC this year").

In the conjunctive administration of ground water and surface water, the Court has recognized that "not all of the water collected due to the curtailment will accrue to the senior water right holder; some will remain in the aquifer, and some will flow to other tributary springs." *Id.* at 132.

Here, curtailment based on transient modeling improperly "commands large volumes of water" for nominal to no benefit to SWC. Curtailment to achieve the predicted DS of 75,200 acre-feet during the 2023 irrigation season would have resulted in the idling of roughly 700,000 acres of ground water-irrigated farmland under the *Fifth Methodology Order*. In contrast, under the steady-state modeling approach utilized in all prior Methodology Orders, curtailment would have idled approximately 75,000 acres. Hr'g Tr. Vol. I, 55; R. 1436. Similarly, under a transient modeling approach, the maximum amount that would accrue to seniors from curtailment back to October 11, 1900 (effectively curtailing the entire ESPA) is 97,700 acre-feet of water (R. 2761, 2764)—nearly the amount predicted under the *2023 Steps 1-3 Order*. R. 0050. The change to the transient-state model does not properly balance both the interests of the seniors and the juniors, I.C. § 42-101 (the Director "shall equally guard all the various interests involved"), and offends the settled policy that promotes the maximum beneficial use of the water resources of the states.

As discussed in *Rangen,*, the Director has the statutory duty and authority to distribute water within water districts and adopt rules and regulations as necessary to carry out that duty. 160 Idaho at 255 (citing I.C. §§ 42-602, 42-603). The court went on to say:

> Under CMR 40.01, when it is found that junior-priority ground water pumping is causing a senior right holder material injury, the Director must either: (1) curtail junior-priority ground water pumping to satisfy the senior's right, or (2) '[a]llow out-of-priority diversion of water by junior-priority ground water users pursuant to a mitigation plan that has been approved by the Director.' IDAPA 37.03.11.040.01.

Id. at 256 (emphasis added). The Department's use of transient modeling to determine the curtailment date to offset SWC's predicted DS is over-inclusive and threatens curtailment against junior users that are not actually causing the demand shortfall (under the *2023 Steps 1-3 Order*, those with priority dates senior to the mid-1980s). R. 1546-47.

The Director's conclusion in the *Post-Hearing Order* that "[c]urtailment dates . . . should be calculated by a transient model simulation," R. 1091, is clearly erroneous and his application of transient modeling to determine curtailment dates in the *Fifth Methodology Order* is arbitrary, capricious, an abuse of discretion, and contrary to his duty under CMR 40.01, as recognized by *Rangen*, to only threaten curtailment against those ground water users who are causing the demand shortfall. Accordingly, on remand, the Court should set aside this conclusion and require the Director to issue an updated Methodology Order that determines curtailment dates pursuant to steady-state modeling.

VIII. The Director's Conclusion that "the [Cities'] due process rights were not violated" is Clearly Erroneous and in Excess of IDWR's Statutory Authority.[51]

The Director concluded that "the [Cities'] due process rights were not violated, which the District Court has already determined." R. 1095. First, this conclusion is beyond the Director's authority.[52] Accordingly, the Director's conclusion should be set aside as being in excess of the Department's statutory authority under I.C. § 67-5279(3)(b).

Further, the record as a whole reveals that, notwithstanding this Court's oral ruling denying Petitioners' petitions for writs of prohibition and mandamus on June 1, 2023, the

[51] To avoid repetition, the Cities adopt and incorporate herein IGWA's Opening Brief, sections 1.3, 2, 3, 5 and 6.

[52] *See City of Sandpoint v. Indep. Highway Dist.*, 161 Idaho 121, 125 (2016) ("An administrative agency is limited to the power and authority granted it by the legislature") (internal citations omitted). Moreover, due process rights are constitutional questions, which are reserved for the courts, not administrative tribunals. *See Owsley v. Idaho Indus. Comm'n*, 141 Idaho 129, 134 (2005).

Department's discovery restrictions made it functionally impossible to develop evidence. The Cities' and IGWA's expert witnesses explained what they *would have done* had they been given sufficient time to prepare for the hearing. *See* R. 0353-54; Hr'g Tr. Vol. II, 121-23; Hr'g Tr. Vol. III, 14-15.[53] Further, the record reflects a pattern and practice of the Department to use "time is of the essence" and "urgency" (e.g., R. 0062, 300) as all-purpose excuses to foreclose any meaningful inquiry by junior users into the bases of the Methodology Orders and any meaningful analysis of the SWC's uses and practices. All of this amounts to a violation of the Cities' right to due process.

First, Petitioners were given insufficient time to gather and develop evidence to support their arguments prior to the June 6-9, 2023 hearing and then were told in the *Post-Hearing Order* that their evidence was inadequate—even though the junior users' experts had testified to the types of analyses they would have done had they a) had time; and b) been present in the United States.

Then, when the Cities requested permission to conduct discovery on issues disputed in the *Sixth Methodology Order*, they were told "no, you've already had your chance." The Director has not explained how the Cities can develop evidence on disputed issues involving information uniquely in the control of SWC.[54] For the Cities to conduct discovery independently without a Department order authorizing discovery is not only untenable, it is impossible.[55]

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[53] Even SWC expert witnesses wanted more time to prepare for the hearing. *See* Hr'g Tr. Vol. IV, 103 (Dr. Brockway answering "yes" to the question of "would you have liked to have more time to prepare [your report]?").

[54] The Cities do not concede that the evidence in the record is insufficient to grant the relief they seek in this appeal; to the extent the Court disagrees, however, the Cities highlight the pattern and practice of the Department playing administrative "gotcha" in its handling of discovery and scheduling issues that violates due process.

[55] The Department doubled-down on these positions when the Cities' requested a hearing and an order authorizing discovery on the *Sixth Methodology Order*. The Cities' requests came *after* the Director invited Petitioners to present evidence in the future, R. 1170 n.1, and *after* the Department had already determined that there was no

Further, setting a hearing on the *Fifth Methodology Order* after the irrigation season was a tangible alternative. In fact, the Cities, in their *Motion for Reconsideration of the Denial of Continuance* (May 5, 2023), told the Director that timely administration could still occur in 2023 under the *Fourth Methodology Order*, and even conceded that they would not object to the Director implementing the *Fifth Methodology Order* during the 2023 irrigation season if it meant that the hearing were continued to later in the calendar year. R. 0282-93.[56] Still, the Director refused to continue the hearing. R. 0425-34. Thus, time was not "of the essence"—there were multiple pathways for the Director to administer the SWC Delivery Call in 2023 and the Director's "urgency" basis for denying the Cities the time and ability to gather and develop necessary evidence is a sham.

IX. To the Extent that the Director's Conclusions are not Found to be Clearly Erroneous, it is because the Cities were Deprived of Discovery.

The Director's orders limiting discovery on the *Fifth Methodology Order* and denying discovery on the *Sixth Methodology Order* resulted in a heightened evidentiary standard in these proceedings, and as discussed, have precluded Petitioners from gathering and developing the evidence apparently necessary to persuade the Director that the values he is using to predict and determine SWC's demand shortfall are flawed. While Petitioners believe they satisfied their burdens of proof with the evidence that is in the record, to the extent the Court disagrees, it must recognize that Petitioners would have presented different or additional evidence before the Department had they been given sufficient time and been able to use the tools of discovery.

shortage in 2023. *See* R. 1061-62 (no shortfall in 2023), 1130-1134 (Petitioners' discovery request), 1169-1175 (Order denying discovery request).

[56] The lack of time to prepare for hearing was not the only concern for the ground water users; they were also dealing with the unavailability of key witnesses, both during discovery and at the hearing, due to international trips that had been previously scheduled. R. 0284-86.

Therefore, to the extent the Court determines that the Director's conclusions are supported by substantial evidence, are *not* an abuse of discretion, and are consistent with law, it should determine that the Director's conclusions are nonetheless made upon unlawful procedure due to the discovery limitations that were imposed, and remand the *Sixth Methodology Order* to the Department, ordering adequate period for discovery and an opportunity for the Cities to be heard on the issues in dispute.

X. The Director's Orders and Erroneous Conclusions Prejudice Petitioners' Substantial Rights

To prevail on appeal, parties must show that their substantial rights have been prejudiced. I.C. § 67-5279(4). The Director's *Post-Hearing Order* affirming the *Fifth Methodology Order* (and endorsing issuance of the virtually identical *Sixth Methodology Order*) prejudices Petitioners' substantial rights because the Department erroneously administers ground water rights under the *Fifth Methodology Order*.

As discussed in section VII, *supra*, in 2023, in accordance with the *Fifth Methodology Order*, the Director erroneously threatened curtailment against water rights junior to December 30, 1953. R. 0052-53. While Petitioners presently have safe harbor from curtailment under their approved mitigation plan, that protection is neither absolute (if they fail to satisfy their contractual obligations due to insufficient mitigation supplies) nor permanent (expires no later than 2053). *See Coalition of Cities, City of Idaho Falls, and City of Pocatello Joint Mitigation Plan*, Docket No. CM-MP-2019-001 (Feb. 25, 2019) at Ex. 1, p. 7. Thus, the Cities have a significant interest in ensuring that the applicable Methodology Order accurately predicts and determines the SWC's material injury (and curtailment date to offset the injury) so that ground water rights are not erroneously subject to curtailment.

In Idaho, water rights are real property rights. *Clear Springs Foods, Inc. v. Spackman*, 150 Idaho 790, 797 (2011) (quoting *Olson v. Idaho Dep't of Water Res.*, 105 Idaho 98, 101 (1983); I.C. § 55-101). Because the *Sixth Methodology Order* inaccurately predicts and determines SWC's demand shortfall (and curtailment date to offset the injury), the Department's administration in accordance therewith erroneously infringes upon Petitioners' real property rights. Accordingly, the *Post-Hearing Order* prejudices Petitioners' substantial rights on that basis. Additionally, because the Director restricted Petitioners' ability to conduct discovery, thereby precluding Petitioners from presenting crucial evidence at the June 6-9, 2023 hearing, the Director also prejudiced Petitioners' substantial right to due process. *Eddins v. City of Lewiston*, 150 Idaho 30, 36 (2010).

CONCLUSION

Petitioners request that the Court set aside the *Post-Hearing Order* on the primary issues of the Department over-predicting material injury, over-determining material injury, and over-estimating a curtailment date to remedy material injury, and remand as appropriate the *Sixth Methodology Order* to the Department for further proceedings to correct its flaws.

DATED this 21st day of December 2023.

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CERTIFICATE OF SERVICE

I hereby certify that on December 21, 2023, I served the foregoing document on the persons below via email and iCourt unless otherwise indicated:

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APPENDICES A & B

CITIES' BRIEF ON JUDICIAL REVIEW, SWC POST-HEARING ORDER, FIFTH METHODOLOGY

Case No. CV01-23-13238

APPENDIX A -1

Order Granting Motion to Augment Record; Order Augmenting Record, Case No. CV01-23-13238, Fourth Judicial District, Ada County, IDWR Docket No. CM-DC-2010-001 (Nov. 15, 2023)

NO. _____
A.M. _____ FILED P.M. 12:26

NOV 15 2023

TRENT TRIPPLE, Clerk
By ERIC ROWELL
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

CITY OF IDAHO FALLS, CITY OF POCATELLO, CITY OF BLISS, CITY OF BURLEY, CITY OF CAREY, CITY OF DECLO, CITY OF DIETRICH, CITY OF GOODING, CITY OF HAZELTON, CITY OF HEYBURN, CITY OF JEROME, CITY OF PAUL, CITY OF RICHFIELD, CITY OF RUPERT, CITY OF SHOSHONE, and CITY OF WENDELL,

Petitioners,

vs.

THE IDAHO DEPARTMENT OF WATER RESOURCES, and GARY SPACKMAN in his capacity as the Director of the Idaho Department of Water Resources,

Respondents,

and

IDAHO GROUND WATER APPROPRIATORS INC., A&B IRRIGATION DISTRICT, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, TWIN FALLS CANAL COMPANY, AMERICAN FALLS RESERVOIR DISTRICT #2, MINIDOKA IRRIGATION DISTRICT, BONNEVILLE-JEFFERSON GROUND WATER DISTRICT,

Case No. CV01-23-13238

ORDER GRANTING MOTION TO AUGMENT RECORD

ORDER AUGMENTING RECORD

and BINGHAM GROUNDWATER DISTRICT,

Intervenors.

IN THE MATTER OF THE DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY AND FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIRS DISTRICT NO. 2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY.

On August 16, 2023, the Petitioners filed a *Petition* seeking judicial review of the Director's *Post-Hearing Order Regarding Fifth Amended Methodology Order*. The administrative transcript and record were lodged with the Court on September 28, 2023. On October 19, 2023, the Petitioners filed a *Motion to Augment the Record*, followed by an *Amended Motion to Augment the Record* on October 20, 2023. The *Amended Motion* requests that the Court augment the agency record to include the following three documents pursuant to Idaho Rule of Civil Procedure 84(l):

1. Motion for Clarification and Reconsideration of Denial of Request for Hearing and to Engage in Discovery, filed in IDWR Docket No. CM-DC-2010-001 on September 5, 2023,

2. Surface Water Coalition's Response to Cities' Motion for Clarification and Reconsideration, filed in IDWR Docket No. CM-DC-2010-001 on September 19, 2023, and

3. Order Denying Cities' Motion for Clarification and Reconsideration, filed in IDWR Docket No. CM-DC-2010-001 on September 25, 2023.

A hearing on the *Motion* was held before the Court on November 9, 2023. For reasons set forth on the record, the Court in an exercise of discretion determined to grant the *Amended Motion.*

THEREFORE, BASED ON THE FOREGOING, THE FOLLOWING ARE HEREBY ORDERED:

1. The Petitioners' *Amended Motion to Augment the Record* is hereby granted.

2. The agency record is hereby augmented to include the three documents identified above as bates stamped and attached hereto.

IT IS SO ORDERED.

Dated: November 15, 2023

ERIC J. WILDMAN
District Judge

CERTIFICATE OF SERVICE

I certify that on this day I served a copy of the attached to:

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Trent Tripple
Clerk of the Court

By Erin Rowell
Deputy Clerk

DISTRICT COURT 4TH JUDICIAL DISTRICT
OF THE STATE
- OF -
IDAHO
IN AND FOR ADA COUNTY

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BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY OR FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY	Docket No. CM-DC-2010-001 **MOTION FOR CLARIFICATION AND RECONSIDERATION OF DENIAL OF REQUEST FOR HEARING AND TO ENGAGE IN DISCOVERY**

COME NOW, the Cities of Bliss, Burley, Carey, Declo, Dietrich, Gooding, Hazelton, Heyburn, Jerome, Paul, Richfield, Rupert, Shoshone, and Wendell ("Coalition of Cities"), by and through their attorneys of record, Candice M. McHugh and Chris M. Bromley, the City of Idaho Falls, by and through its attorney of record, Robert L. Harris, and the City of Pocatello, by and through its attorneys of record, Sarah A. Klahn and Maximilian C. Bricker

(collectively the "Cities"), pursuant to IDAPA 37.01.01.740.02.b and 770 of the Department's rules of procedure and hereby file this *Motion for Reconsideration and Clarification* of the August 23, 2023, *Order Denying Request for Hearing and Motion Authorizing Discovery* ("Order Denying Hearing") and move for reconsideration of the Director's order denying the Parties' request for a hearing on the *Sixth Final Order Regarding Methodology for Determining Material Injury to Reasonable In-Season Demand and Reasonable Carryover* ("Sixth Methodology Order").

ARGUMENT

1. **The Cities seek clarification on the nature of the Sixth Methodology Order.**

On July 19, 2023, the Director of the Idaho Department of Water Resources ("Department") issued, as relevant here, two orders: a *Post-Hearing Order Regarding Fifth Amended Methodology Order* ("Post-Hearing Order") and the *Sixth Methodology Order*. Rather than amending the Department's April 21, 2023 *Fifth Amended Final Order Regarding Methodology for Determining Material Injury to Reasonable In-Season Demand and Reasonable Carryover* ("Fifth Methodology Order"), which was subject to a hearing on June 6-9, 2023, the Director chose to issue a new final order.

Idaho Code § 42-1701A(3) states in relevant part:

> Unless the right to a hearing before the director . . . is otherwise provided in by statute, any person aggrieved by any action of the director, including any decision, determination, order or other action . . . who is aggrieved by the action of the director, and who has not previously been afforded an opportunity for a hearing on the matter shall be entitled to a hearing before the director to contest the action.

The Director denied the Parties' request for a hearing on the *Sixth Methodology Order* because: "The parties have previously been afforded an opportunity for hearing on the issues identified related to the *Sixth Methodology Order* and are not entitled to a hearing pursuant

to Idaho Code § 42-1701A(3)." However, no hearing has actually been held on the *Sixth Methodology Order*. Thus, the Parties request clarification of the nature and status of the *Sixth Methodology Order*—is it, in fact, merely an "amended" *Fifth Methodology Order* that is ripe for immediate appeal?

2. **Regardless of the answer to the clarification question above, the Parties seek reconsideration and clarification of the denial of the request to engage in discovery.**

The Director has stated on numerous occasions that the SWC Delivery Call is a continuing contested case, requiring the Department to periodically update the Methodology Order, which is a "living document." Tr. Hearing Vol. I, 18:21. The Director has also acknowledged on numerous occasions that the Department would consider data or analyses brought forward by the Cities in updating or applying the Methodology Order—even the *Order Denying Hearing* asserted that the Director would welcome "new information [developed by the Cities that] the Director may consider in the future." *Id.* at 2-3 n.1.[1] The Parties have been down this road before, as their April 28, 2023 *Motion for Continuance*, which requested adequate time to conduct investigations prior to a hearing on the *Fifth Methodology Order*, was denied on the ground that the Director had sufficiently notified the junior groundwater users that changes to the *Fourth Methodology Order* were impending (i.e., they had had plenty of "opportunities" to develop data and analyses). *Order Denying the Cities' Motion for Appointment of Independent Hearing Officer and Motion for Continuance and Limiting Scope of Depositions* at 2. To be adequately prepared for the hearing, however, the Cities needed authorization to access SWC's lands, under IDAPA

[1] For example, at the *Fifth Methodology Order* hearing, the Director said at one point: "there have been opportunities for people to gather data; there have been opportunities for folks to take on responsibility to prepare [analyses]." Tr. Hearing Vol. IV, 205:12-14.

37.01.01.520.01.e and I.R.C.P. Rule 34, to develop data associated with the nature and extent of irrigation on SWC lands; the Cities also needed adequate time to analyze the results of these inspections and investigations. The Cities did not have such authorization prior to April 21, 2023, so any "presentations" that the "Department conducted" in fall 2022 fell far short of what was reasonably needed to prepare for the hearing on the *Fifth Methodology Order*. *Id.*

The instant request to engage in discovery reflects the Cities' efforts to take seriously the Director's invitation to present "new information" to the Department update the Methodology Order with the best available science, and to be prepared to challenge the Department's application of the *Sixth Methodology Order* in 2024 on the basis of erroneous or outdated inputs. Accordingly, the Cities request that the Director reconsider his denial of the Cities' request to conduct discovery.

However, if this is indeed a continuing contested case, perhaps no new order authorizing such discovery is necessary. In that case, the Cities seek clarification as to whether it is entitled to proceed with serving requests on SWC members notwithstanding the *Order Denying Hearing* and whether the SWC members are obligated to comply.

Submitted this 6th day of September, 2023.

/s/ Sarah Klahn

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I HEREBY CERTIFY that on this 5th day of September, 2023, the above and foregoing, was filed and served via electronic service as set forth below:

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BEFORE THE DEPARTMENT OF WATER RESOUCES

OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY OR FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY	Docket No. CM-DC-2010-001 **SURFACE WATER COALITION'S RESPONSE TO CITIES' MOTION FOR CLARIFICATION AND RECONSIDERATION**

COME NOW, A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, and TWIN FALLS CANAL COMPANY ("Surface Water Coalition" or "Coalition"), by and through counsel of record, and hereby respond to the *Motion for Clarification and Reconsideration of Denial of*

Request for Hearing and to Engage in Discovery ("Motion") filed on September 5, 2023.[1] The Coalition requests the Director to deny the Cities' Motion for the reasons set forth below.

BACKGROUND

The Sixth Methodology Order was issued as a "final" administrative order subject to reconsideration and/or appeal to district court. *See* I.C. §§ 67-5246; 67-5270 to 5272; *see also*, Explanatory Information to Accompany a Final Order (attached to the Director's Sixth Methodology Order). The Cities filed a notice of appeal and petition for judicial review concerning the Director's related *Post-Hearing Order*, another order issued as part of the matter resulting in the Sixth Methodology Order. *See City of Idaho Falls et al. v. IDWR*, Fourth Jud. Dist., Ada County Dist. Ct., Case No. CV01-23-13238 (appeal filed August 16, 2023). IGWA filed a notice of appeal and petition for judicial review of various orders as well, including specifically the Sixth Methodology Order. *See IGWA v. IDWR*, Fourth Jud. Dist., Ada County Dist. Ct., Case No. CV01-23-13173 (appeal filed August 16, 2023). The Coalition of Cities and the City of Pocatello filed notices of appearance in that case. The two appeals are pending in district court and it is anticipated the cases will be consolidated.

ARGUMENT

I. The Director Properly Denied the Cities' Request for Hearing.

The Cities request clarification of the Director's Sixth Methodology Order claiming "no hearing has actually been held on the *Sixth Methodology Order*." Motion at 2-3. Yet, the Cities' feigned ignorance about the order is merely form over substance. The Cities fully participated in the contested case and administrative hearing that resulted in the issuance of the Sixth Methodology Order. They cannot dispute this fact. There is no basis to hold a second hearing

[1] The motion was filed the Coalition of Cities (cities of Bliss et al.), the City of Idaho Falls, and the City of Pocatello.

on the Sixth Methodology Order that fully addressed all of the information either presented at or before the administrative hearing. As such, the Director properly denied the requested hearing. *See Order Denying Request for Hearing and Motion Authorizing Discovery* at 2-3.

Moreover, the Cities have appealed the Director's *Post-Hearing Order* that addresses the issues raised on the Fifth Methodology Order, including the updated data the Director included in the Sixth Methodology Order. Although the Cities had a right to appeal the Sixth Methodology Order they failed to do so. Regardless, all of the Cities except Idaho Falls have appeared in IGWA's appeal of the Sixth Methodology Order.[2] Consequently, there is nothing to clarify and the petitions for judicial appeal will proceed pursuant to Idaho's civil rules.

II. The Director Properly Denied the Cities' Request for Discovery.

The Cities have also requested the Director to reconsider the denial of their motion to authorize discovery. *See* Motion at 2-3. Since the request for hearing was denied, the request to authorize discovery was properly denied as well. The Cities misconstrue this matter as a "continuing contested case" with no end. Motion at 2. Although the Director's methodology regarding the SWC delivery call may be updated at some point in time, that does not mean the prior contested cases resulting in "final orders" that have been appealed or are currently on appeal to the District Court are continuing *ad infinitum* as the Cities suggest. To find otherwise would keep the parties in a perpetual state of discovery, motion practice, and litigation, without any culminating hearing or end.[3] Such a scenario has no basis in statute or rule and would be unduly burdensome and mire the parties in endless litigation expense.

---

[2] Whether the City of Idaho Falls will file a notice of appearance is unknown. If the cases are ultimately consolidated it may not matter as all parties will be participating.

[3] It is curious why the Cities seem determined to re-litigate prior contested cases and outcomes in the face of their approved mitigation plan for the SWC delivery call and safe harbor from curtailment pursuant to the CM Rules. The request for discovery is unwarranted and would be overly burdensome in the context of what has already

Finally, the Cities' argument that they could not "adequately prepare" for the prior hearing is also erroneous and does not support their present reconsideration request. These arguments have been previously addressed by both the Director and the District Court. The Cities' continued efforts to "redo" prior contested cases is unwarranted and was properly denied by the Director. Since the final agency orders are presently on appeal to the district court, the agency should refrain from restarting contested cases as requested by the Cities.

CONCLUSION

The Cities have pointed to no new authority or information that would warrant reconsideration of the Director's August 23, 2023 order. The Coalition respectfully requests the Director to deny the Cities' Motion accordingly.

DATED this 19th day of September, 2023.

MARTEN LAW LLP

Travis L. Thompson

Attorneys for A&B Irrigation District, Burley Irrigation District, Milner Irrigation District, North Side Canal Company, and Twin Falls Canal Company

FLETCHER LAW OFFICE

for
W. Kent Fletcher

Attorneys for American Falls Reservoir District #2 and Minidoka Irrigation District

preceded in this matter. The Department is right to deny such tactics that would result in wasted time and resources for the various canal companies and irrigation districts.

CERTIFICATE OF SERVICE

I hereby certify that on this 19th day of September, 2023, I served a true and correct copy of the foregoing on the following by the method indicated:

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BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY OR FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY	Docket No. CM-DC-2010-001 **ORDER DENYING CITIES' MOTION FOR CLARIFICATION AND RECONSIDERATION**

BACKGROUND

On June 6–9, 2023 a hearing was held on the Department's April 21, 2023 *Fifth Amended Final Order Regarding Methodology for Determining Material Injury to Reasonable In-Season Demand and Reasonable Carryover* ("*Fifth Methodology Order*"). On July 19, 2023, Gary Spackman, the then-Director of the Idaho Department of Water Resources ("Department"), issued his *Post-Hearing Order Regarding Fifth Amended Methodology Order* ("*Post-Hearing Order*") and *Sixth Final Order Regarding Methodology for Determining Material Injury to Reasonable In-Season Demand and Reasonable Carryover* ("*Sixth Methodology Order*"). The *Sixth Methodology Order* corrects data in the Department's *Fifth Methodology Order* found to be in error during the hearing held in this matter. The *Sixth Methodology Order*, like the *Fifth Methodology Order*, comprises nine steps to determine material injury to members of the Surface Water Coalition ("SWC").

On August 3, 2023, the Department received the *City of Pocatello's, City of Idaho Falls', and Coalition of Cities' Request for Hearing and Order Authorizing Discovery* ("*Request for Hearing and Discovery*"). The *Request for Hearing and Discovery* asks the Director to hold a status conference to schedule a four-day hearing, pursuant to Idaho Code § 42-1701(A)(3), on the *Sixth Methodology Order*. *Request for Hearing and Discovery* at 2. The request also asks the Director for an order authorizing discovery, pursuant to IDAPA 37.01.01.521. *Id.* at 2–3. Four issues for hearing are identified in the *Request for Hearing and Discovery*:

> a) Whether the members of the Surface Water Coalition ("SWC") operate reasonably and without waste;
>
> b) Whether the irrigated acreage numbers for the SWC members in the Sixth Methodology Order are accurate;
>
> c) Whether the number of acres irrigated with supplemental groundwater rights within the service areas of the SWC members can be accurately determined; [and]

d) Whether the number of acres irrigated with enlargement rights within the service areas of the SWC members can be accurately determined[.]

Id. at 2.

On August 22, 2023, the Department received the *Surface Water Coalition's Response to Cities' Request for Hearing and Order Authorizing Discovery* ("*SWC's Response*"). The *SWC's Response* requests the Director "deny or limit the Cities' request for hearing and an order authorizing discovery . . . ." *SWC's Response* at 7.

On August 25, 2023, Director Spackman issued an *Order Denying Request for Hearing and Motion Authorizing Discovery* ("*Order Denying Request for Hearing*"). After quoting Idaho Code § 42-1701(3), the Director concluded that "[t]he parties have previously been afforded an opportunity for hearing on the issues identified related to the Sixth Methodology Order and are not entitled to a hearing pursuant to Idaho Code § 42-1701A(3)." *Order Denying Request for Hearing* at 2.

On September 5, 2023, the City of Pocatello, the City of Idaho Falls, and Coalition of Cities (collectively "Cities") filed a *Motion for Clarification and Reconsideration of Denial of Request for Hearing and to Engage in Discovery* ("*Motion for Clarification and Reconsideration*"). The Cities "seek clarification on the nature of the Sixth Methodology Order." *Motion for Clarification and Reconsideration* at 2. The Cities "request clarification on the nature and status of the Sixth Methodology Order – is it, in fact, merely an 'amended' Fifth Methodology Order that is ripe for immediate appeal?" *Id.* at 3. The Cities also ask that the Director also "reconsider his denial of the Cities' request to conduct discovery." *Id.* at 4.

On September 19, 2023, the SWC submitted *Surface Water Coalition's Response to Cities' Motion for Clarification and Reconsideration* ("*SWC's Response to Motion for Clarification*"). The SWC argues the Director correctly denied the Cities' request for hearing and request for discovery and urges the Director to deny the latest request. *SWC's Response to Motion for Clarification* at 2–4.

ANALYSIS AND CONCLUSIONS OF LAW

A. Motion for Clarification and Reconsideration.

Idaho Code § 42-1701A(3) states in relevant part:

> Unless the right to a hearing before the director . . . is otherwise provided by statute, any person aggrieved by any action of the director, including any decision, determination, order or other action . . . who is aggrieved by the action of the director, and who has not previously been afforded an opportunity for a hearing on the matter shall be entitled to a hearing before the director to contest the action.

I.C. § 42-1701A(3) (emphasis added).

The Director denies the *Cities' Motion for Clarification and Reconsideration* because there is nothing unclear about the *Order Denying Request for Hearing*. As was stated in the *Order Denying Request for Hearing*, "[t]he parties have previously been afforded an opportunity for hearing on the issues identified related to the Sixth Methodology Order and are not entitled to a hearing pursuant to Idaho Code § 42-1701A(3)." *Order Denying Request for Hearing* at 2. The *Sixth Methodology Order* is an order issued after a hearing in response to the issues raised by the parties at hearing. The Cities ask whether "the *Sixth Methodology Order* – is it, in fact, merely an 'amended' Fifth Methodology Order." *Motion for Clarification and Reconsideration* at 3. The title of the order does not matter. What matters is that the Cities have previously been afforded an opportunity for a hearing on the issues. Because the parties were recently afforded a hearing on the issues, the parties are not entitled to another hearing at this time. I.C. § 42-1701A(3).

B. Motion to Authorize Discovery.

Because the request for an order authorizing discovery was made as part of an improper request for hearing, the Director will not consider the request for discovery.

ORDER

IT IS HEREBY ORDERED that the *Motion for Clarification and Reconsideration of Denial of Request for Hearing and to Engage in Discovery* is DENIED.

DATED this 25th day of September 2023.

MATHEW WEAVER
Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 25th day of September 2023, the above and foregoing, was served by the method indicated below, and addressed to the following:

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EXPLANATORY INFORMATION TO ACCOMPANY AN ORDER DENYING PETITION FOR RECONSIDERATION

(To be used in connection with actions when a hearing was not held)

(Required by Rule of Procedure 740.02)

The accompanying order is an **Order Denying Petition for Reconsideration** of the "final order" or "amended final order" issued previously in this proceeding by the Idaho Department of Water Resources ("department") pursuant to section 67-5246, Idaho Code.

REQUEST FOR HEARING

Unless the right to a hearing before the director or the water resource board is otherwise provided by statute, any person who is aggrieved by the action of the director, and who has not previously been afforded an opportunity for a hearing on the matter shall be entitled to a hearing before the director to contest the action. The person shall file with the director, within fifteen (15) days after receipt of written notice of the action issued by the director, or receipt of actual notice, a written petition stating the grounds for contesting the action by the director and requesting a hearing. See section 42-1701A(3), Idaho Code. **Note: The request must be received by the Department within this fifteen (15) day period.**

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 of: a) the service date of the final order, b) the service date 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.

APPENDIX A -2

Motion for Clarification and Reconsideration of Denial of Request for Hearing and to Engage in Discovery, Case No. CV01-23-13238, Fourth Judicial District, Ada County, IDWR Docket No. CM-DC-2010-001 (Sep. 5, 2023)

RECEIVED
Sep 05, 2023
DEPARTMENT OF
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BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY OR FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY	Docket No. CM-DC-2010-001 **MOTION FOR CLARIFICATION AND RECONSIDERATION OF DENIAL OF REQUEST FOR HEARING AND TO ENGAGE IN DISCOVERY**

COME NOW, the Cities of Bliss, Burley, Carey, Declo, Dietrich, Gooding, Hazelton, Heyburn, Jerome, Paul, Richfield, Rupert, Shoshone, and Wendell ("Coalition of Cities"), by and through their attorneys of record, Candice M. McHugh and Chris M. Bromley, the City of Idaho Falls, by and through its attorney of record, Robert L. Harris, and the City of Pocatello, by and through its attorneys of record, Sarah A. Klahn and Maximilian C. Bricker

(collectively the "Cities"), pursuant to IDAPA 37.01.01.740.02.b and 770 of the Department's rules of procedure and hereby file this *Motion for Reconsideration and Clarification* of the August 23, 2023, *Order Denying Request for Hearing and Motion Authorizing Discovery* ("Order Denying Hearing") and move for reconsideration of the Director's order denying the Parties' request for a hearing on the *Sixth Final Order Regarding Methodology for Determining Material Injury to Reasonable In-Season Demand and Reasonable Carryover* ("Sixth Methodology Order").

ARGUMENT

1. **The Cities seek clarification on the nature of the Sixth Methodology Order.**

On July 19, 2023, the Director of the Idaho Department of Water Resources ("Department") issued, as relevant here, two orders: a *Post-Hearing Order Regarding Fifth Amended Methodology Order* ("Post-Hearing Order") and the *Sixth Methodology Order*. Rather than amending the Department's April 21, 2023 *Fifth Amended Final Order Regarding Methodology for Determining Material Injury to Reasonable In-Season Demand and Reasonable Carryover* ("Fifth Methodology Order"), which was subject to a hearing on June 6-9, 2023, the Director chose to issue a new final order.

Idaho Code § 42-1701A(3) states in relevant part:

> Unless the right to a hearing before the director . . . is otherwise provided in by statute, any person aggrieved by any action of the director, including any decision, determination, order or other action . . . who is aggrieved by the action of the director, and who has not previously been afforded an opportunity for a hearing on the matter shall be entitled to a hearing before the director to contest the action.

The Director denied the Parties' request for a hearing on the *Sixth Methodology Order* because: "The parties have previously been afforded an opportunity for hearing on the issues identified related to the *Sixth Methodology Order* and are not entitled to a hearing pursuant

to Idaho Code § 42-1701A(3)." However, no hearing has actually been held on the *Sixth Methodology Order*. Thus, the Parties request clarification of the nature and status of the *Sixth Methodology Order*—is it, in fact, merely an "amended" *Fifth Methodology Order* that is ripe for immediate appeal?

2. **Regardless of the answer to the clarification question above, the Parties seek reconsideration and clarification of the denial of the request to engage in discovery.**

The Director has stated on numerous occasions that the SWC Delivery Call is a continuing contested case, requiring the Department to periodically update the Methodology Order, which is a "living document." Tr. Hearing Vol. I, 18:21. The Director has also acknowledged on numerous occasions that the Department would consider data or analyses brought forward by the Cities in updating or applying the Methodology Order—even the *Order Denying Hearing* asserted that the Director would welcome "new information [developed by the Cities that] the Director may consider in the future." *Id.* at 2-3 n.1.[1] The Parties have been down this road before, as their April 28, 2023 *Motion for Continuance*, which requested adequate time to conduct investigations prior to a hearing on the *Fifth Methodology Order*, was denied on the ground that the Director had sufficiently notified the junior groundwater users that changes to the *Fourth Methodology Order* were impending (i.e., they had had plenty of "opportunities" to develop data and analyses). *Order Denying the Cities' Motion for Appointment of Independent Hearing Officer and Motion for Continuance and Limiting Scope of Depositions* at 2. To be adequately prepared for the hearing, however, the Cities needed authorization to access SWC's lands, under IDAPA

[1] For example, at the *Fifth Methodology Order* hearing, the Director said at one point: "there have been opportunities for people to gather data; there have been opportunities for folks to take on responsibility to prepare [analyses]." Tr. Hearing Vol. IV, 205:12-14.

37.01.01.520.01.e and I.R.C.P. Rule 34, to develop data associated with the nature and extent of irrigation on SWC lands; the Cities also needed adequate time to analyze the results of these inspections and investigations. The Cities did not have such authorization prior to April 21, 2023, so any "presentations" that the "Department conducted" in fall 2022 fell far short of what was reasonably needed to prepare for the hearing on the *Fifth Methodology Order*. *Id.*

The instant request to engage in discovery reflects the Cities' efforts to take seriously the Director's invitation to present "new information" to the Department update the Methodology Order with the best available science, and to be prepared to challenge the Department's application of the *Sixth Methodology Order* in 2024 on the basis of erroneous or outdated inputs. Accordingly, the Cities request that the Director reconsider his denial of the Cities' request to conduct discovery.

However, if this is indeed a continuing contested case, perhaps no new order authorizing such discovery is necessary. In that case, the Cities seek clarification as to whether it is entitled to proceed with serving requests on SWC members notwithstanding the *Order Denying Hearing* and whether the SWC members are obligated to comply.

Submitted this 6th day of September, 2023.

/s/ Sarah Klahn
_____
Sarah A. Klahn
Maximilian C. Bricker
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Attorneys for City of Pocatello

/s/ Candice M. McHugh
_____
Candice M. McHugh
Chris M. Bromley
MCHUGH BROMLEY
Attorneys for Coalition of Cities

/s/ Robert Harris
_____
Robert L. Harris
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 5th day of September, 2023, the above and foregoing, was filed and served via electronic service as set forth below:

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APPENDIX A -3

Surface Water Coalition's Response to Cities' Motion for Clarification and Reconsideration, Case No. CV01-23-13238, Fourth Judicial District, Ada County, IDWR Docket No. CM-DC-2010-001 (Sep. 19, 2023)

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BEFORE THE DEPARTMENT OF WATER RESOUCES

OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY OR FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY	Docket No. CM-DC-2010-001 **SURFACE WATER COALITION'S RESPONSE TO CITIES' MOTION FOR CLARIFICATION AND RECONSIDERATION**

COME NOW, A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, and TWIN FALLS CANAL COMPANY ("Surface Water Coalition" or "Coalition"), by and through counsel of record, and hereby respond to the *Motion for Clarification and Reconsideration of Denial of*

Request for Hearing and to Engage in Discovery ("Motion") filed on September 5, 2023.[1] The Coalition requests the Director to deny the Cities' Motion for the reasons set forth below.

BACKGROUND

The Sixth Methodology Order was issued as a "final" administrative order subject to reconsideration and/or appeal to district court. *See* I.C. §§ 67-5246; 67-5270 to 5272; *see also*, Explanatory Information to Accompany a Final Order (attached to the Director's Sixth Methodology Order). The Cities filed a notice of appeal and petition for judicial review concerning the Director's related *Post-Hearing Order*, another order issued as part of the matter resulting in the Sixth Methodology Order. *See City of Idaho Falls et al. v. IDWR*, Fourth Jud. Dist., Ada County Dist. Ct., Case No. CV01-23-13238 (appeal filed August 16, 2023). IGWA filed a notice of appeal and petition for judicial review of various orders as well, including specifically the Sixth Methodology Order. *See IGWA v. IDWR*, Fourth Jud. Dist., Ada County Dist. Ct., Case No. CV01-23-13173 (appeal filed August 16, 2023). The Coalition of Cities and the City of Pocatello filed notices of appearance in that case. The two appeals are pending in district court and it is anticipated the cases will be consolidated.

ARGUMENT

I. The Director Properly Denied the Cities' Request for Hearing.

The Cities request clarification of the Director's Sixth Methodology Order claiming "no hearing has actually been held on the *Sixth Methodology Order*." Motion at 2-3. Yet, the Cities' feigned ignorance about the order is merely form over substance. The Cities fully participated in the contested case and administrative hearing that resulted in the issuance of the Sixth Methodology Order. They cannot dispute this fact. There is no basis to hold a second hearing

[1] The motion was filed the Coalition of Cities (cities of Bliss et al.), the City of Idaho Falls, and the City of Pocatello.

on the Sixth Methodology Order that fully addressed all of the information either presented at or before the administrative hearing. As such, the Director properly denied the requested hearing. *See Order Denying Request for Hearing and Motion Authorizing Discovery* at 2-3.

Moreover, the Cities have appealed the Director's *Post-Hearing Order* that addresses the issues raised on the Fifth Methodology Order, including the updated data the Director included in the Sixth Methodology Order. Although the Cities had a right to appeal the Sixth Methodology Order they failed to do so. Regardless, all of the Cities except Idaho Falls have appeared in IGWA's appeal of the Sixth Methodology Order.[2] Consequently, there is nothing to clarify and the petitions for judicial appeal will proceed pursuant to Idaho's civil rules.

II. The Director Properly Denied the Cities' Request for Discovery.

The Cities have also requested the Director to reconsider the denial of their motion to authorize discovery. *See* Motion at 2-3. Since the request for hearing was denied, the request to authorize discovery was properly denied as well. The Cities misconstrue this matter as a "continuing contested case" with no end. Motion at 2. Although the Director's methodology regarding the SWC delivery call may be updated at some point in time, that does not mean the prior contested cases resulting in "final orders" that have been appealed or are currently on appeal to the District Court are continuing *ad infinitum* as the Cities suggest. To find otherwise would keep the parties in a perpetual state of discovery, motion practice, and litigation, without any culminating hearing or end.[3] Such a scenario has no basis in statute or rule and would be unduly burdensome and mire the parties in endless litigation expense.

[2] Whether the City of Idaho Falls will file a notice of appearance is unknown. If the cases are ultimately consolidated it may not matter as all parties will be participating.

[3] It is curious why the Cities seem determined to re-litigate prior contested cases and outcomes in the face of their approved mitigation plan for the SWC delivery call and safe harbor from curtailment pursuant to the CM Rules. The request for discovery is unwarranted and would be overly burdensome in the context of what has already

Finally, the Cities' argument that they could not "adequately prepare" for the prior hearing is also erroneous and does not support their present reconsideration request. These arguments have been previously addressed by both the Director and the District Court. The Cities' continued efforts to "redo" prior contested cases is unwarranted and was properly denied by the Director. Since the final agency orders are presently on appeal to the district court, the agency should refrain from restarting contested cases as requested by the Cities.

CONCLUSION

The Cities have pointed to no new authority or information that would warrant reconsideration of the Director's August 23, 2023 order. The Coalition respectfully requests the Director to deny the Cities' Motion accordingly.

DATED this 19th day of September, 2023.

MARTEN LAW LLP

Travis L. Thompson

Attorneys for A&B Irrigation District, Burley Irrigation District, Milner Irrigation District, North Side Canal Company, and Twin Falls Canal Company

FLETCHER LAW OFFICE

for W. Kent Fletcher

Attorneys for American Falls Reservoir District #2 and Minidoka Irrigation District

preceded in this matter. The Department is right to deny such tactics that would result in wasted time and resources for the various canal companies and irrigation districts.

CERTIFICATE OF SERVICE

I hereby certify that on this 19th day of September, 2023, I served a true and correct copy of the foregoing on the following by the method indicated:

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Jessica Nielsen
Assistant for Travis L. Thompson

APPENDIX A -4

Order Denying Cities' Motion for Clarification and Reconsideration, Case No. CV01-23-13238, Fourth Judicial District, Ada County, IDWR Docket No. CM-DC-2010-001 (Sep. 25, 2023)

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY OR FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY	Docket No. CM-DC-2010-001 **ORDER DENYING CITIES' MOTION FOR CLARIFICATION AND RECONSIDERATION**

BACKGROUND

On June 6–9, 2023 a hearing was held on the Department's April 21, 2023 *Fifth Amended Final Order Regarding Methodology for Determining Material Injury to Reasonable In-Season Demand and Reasonable Carryover* ("*Fifth Methodology Order*"). On July 19, 2023, Gary Spackman, the then-Director of the Idaho Department of Water Resources ("Department"), issued his *Post-Hearing Order Regarding Fifth Amended Methodology Order* ("*Post-Hearing Order*") and *Sixth Final Order Regarding Methodology for Determining Material Injury to Reasonable In-Season Demand and Reasonable Carryover* ("*Sixth Methodology Order*"). The *Sixth Methodology Order* corrects data in the Department's *Fifth Methodology Order* found to be in error during the hearing held in this matter. The *Sixth Methodology Order*, like the *Fifth Methodology Order*, comprises nine steps to determine material injury to members of the Surface Water Coalition ("SWC").

On August 3, 2023, the Department received the *City of Pocatello's, City of Idaho Falls', and Coalition of Cities' Request for Hearing and Order Authorizing Discovery* ("*Request for Hearing and Discovery*"). The *Request for Hearing and Discovery* asks the Director to hold a status conference to schedule a four-day hearing, pursuant to Idaho Code § 42-1701(A)(3), on the *Sixth Methodology Order*. *Request for Hearing and Discovery* at 2. The request also asks the Director for an order authorizing discovery, pursuant to IDAPA 37.01.01.521. *Id*. at 2–3. Four issues for hearing are identified in the *Request for Hearing and Discovery*:

> a) Whether the members of the Surface Water Coalition ("SWC") operate reasonably and without waste;
>
> b) Whether the irrigated acreage numbers for the SWC members in the Sixth Methodology Order are accurate;
>
> c) Whether the number of acres irrigated with supplemental groundwater rights within the service areas of the SWC members can be accurately determined; [and]

d) Whether the number of acres irrigated with enlargement rights within the service areas of the SWC members can be accurately determined[.]

Id. at 2.

On August 22, 2023, the Department received the *Surface Water Coalition's Response to Cities' Request for Hearing and Order Authorizing Discovery* ("*SWC's Response*"). The *SWC's Response* requests the Director "deny or limit the Cities' request for hearing and an order authorizing discovery . . . ." *SWC's Response* at 7.

On August 25, 2023, Director Spackman issued an *Order Denying Request for Hearing and Motion Authorizing Discovery* ("*Order Denying Request for Hearing*"). After quoting Idaho Code § 42-1701(3), the Director concluded that "[t]he parties have previously been afforded an opportunity for hearing on the issues identified related to the Sixth Methodology Order and are not entitled to a hearing pursuant to Idaho Code § 42-1701A(3)." *Order Denying Request for Hearing* at 2.

On September 5, 2023, the City of Pocatello, the City of Idaho Falls, and Coalition of Cities (collectively "Cities") filed a *Motion for Clarification and Reconsideration of Denial of Request for Hearing and to Engage in Discovery* ("*Motion for Clarification and Reconsideration*"). The Cities "seek clarification on the nature of the Sixth Methodology Order." *Motion for Clarification and Reconsideration* at 2. The Cities "request clarification on the nature and status of the Sixth Methodology Order – is it, in fact, merely an 'amended' Fifth Methodology Order that is ripe for immediate appeal?" *Id*. at 3. The Cities also ask that the Director also "reconsider his denial of the Cities' request to conduct discovery." *Id*. at 4.

On September 19, 2023, the SWC submitted *Surface Water Coalition's Response to Cities' Motion for Clarification and Reconsideration* ("*SWC's Response to Motion for Clarification*"). The SWC argues the Director correctly denied the Cities' request for hearing and request for discovery and urges the Director to deny the latest request. *SWC's Response to Motion for Clarification* at 2–4.

ANALYSIS AND CONCLUSIONS OF LAW

A. Motion for Clarification and Reconsideration.

Idaho Code § 42-1701A(3) states in relevant part:

> Unless the right to a hearing before the director . . . is otherwise provided by statute, any person aggrieved by any action of the director, including any decision, determination, order or other action . . . who is aggrieved by the action of the director, and who has not previously been afforded an opportunity for a hearing on the matter shall be entitled to a hearing before the director to contest the action.

I.C. § 42-1701A(3) (emphasis added).

The Director denies the *Cities' Motion for Clarification and Reconsideration* because there is nothing unclear about the *Order Denying Request for Hearing*. As was stated in the *Order Denying Request for Hearing*, "[t]he parties have previously been afforded an opportunity for hearing on the issues identified related to the Sixth Methodology Order and are not entitled to a hearing pursuant to Idaho Code § 42-1701A(3)." *Order Denying Request for Hearing* at 2. The *Sixth Methodology Order* is an order issued after a hearing in response to the issues raised by the parties at hearing. The Cities ask whether "the *Sixth Methodology Order* – is it, in fact, merely an 'amended' Fifth Methodology Order." *Motion for Clarification and Reconsideration* at 3. The title of the order does not matter. What matters is that the Cities have previously been afforded an opportunity for a hearing on the issues. Because the parties were recently afforded a hearing on the issues, the parties are not entitled to another hearing at this time. I.C. § 42-1701A(3).

B. Motion to Authorize Discovery.

Because the request for an order authorizing discovery was made as part of an improper request for hearing, the Director will not consider the request for discovery.

ORDER

IT IS HEREBY ORDERED that the *Motion for Clarification and Reconsideration of Denial of Request for Hearing and to Engage in Discovery* is DENIED.

DATED this 25th day of September 2023.

MATHEW WEAVER
Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 25th day of September 2023, the above and foregoing, was served by the method indicated below, and addressed to the following:

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Sarah Tschohl
Paralegal

EXPLANATORY INFORMATION TO ACCOMPANY AN ORDER DENYING PETITION FOR RECONSIDERATION

(To be used in connection with actions when a hearing was **not** held)

(Required by Rule of Procedure 740.02)

The accompanying order is an **Order Denying Petition for Reconsideration** of the "final order" or "amended final order" issued previously in this proceeding by the Idaho Department of Water Resources ("department") pursuant to section 67-5246, Idaho Code.

REQUEST FOR HEARING

Unless the right to a hearing before the director or the water resource board is otherwise provided by statute, any person who is aggrieved by the action of the director, and who has not previously been afforded an opportunity for a hearing on the matter shall be entitled to a hearing before the director to contest the action. The person shall file with the director, within fifteen (15) days after receipt of written notice of the action issued by the director, or receipt of actual notice, a written petition stating the grounds for contesting the action by the director and requesting a hearing. See section 42-1701A(3), Idaho Code. **Note: The request must be received by the Department within this fifteen (15) day period.**

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 of: a) the service date of the final order, b) the service date 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.

APPENDIX B-1

Final Order Establishing 2023 Reasonable Carryover (Methodology Step 9), IDWR Docket No. CM-DC-2010-001 (Nov. 30, 2023)

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY OR FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY	Docket No. CM-DC-2010-001 **FINAL ORDER ESTABLISHING 2023 REASONABLE CARRYOVER** ***(METHODOLOGY STEP 9)***

FINDINGS OF FACT

1. On July 19, 2023, the Director ("Director") of the Idaho Department of Water Resources ("Department") issued the *Sixth Final Order Regarding Methodology for Determining Material Injury to Reasonable In-Season Demand and Reasonable Carryover* ("*Methodology Order*"). The *Methodology Order* establishes nine steps for determining material injury to members of the Surface Water Coalition ("SWC"). This order applies step nine, the final step of the *Methodology Order*, for the 2023 water year.

2. The *Methodology Order* describes step 9 as follows:

> Step 9: Following the end of the irrigation season (on or before November 30), the Department will determine the total actual volumetric demand and total actual [crop water need] for the entire irrigation season. This information will be used for the analysis of reasonable carryover shortfall, selection of future [base line year], and for the refinement and continuing improvement of the method for future use.
>
> On or before November 30, the Department will issue estimates of actual carryover and reasonable carryover shortfall volumes for all members of SWC. These estimates will be based on, but not limited to, the consideration of the best available water diversion and storage data from Water District 01, return flow monitoring, comparative years, and [reasonable in-season demand]. These estimates will establish the obligation of junior ground water users in providing water to the SWC for reasonable carryover shortfall. Fourteen (14) days following the issuance by the Department of reasonable carryover shortfall obligations, junior ground water users will be required to establish, to the satisfaction of the Director, their ability to supply a volume of storage water or to conduct other approved mitigation activities that will provide water to the injured members of the SWC equal to the reasonable carryover shortfall for all injured members of the SWC. If junior ground water users cannot provide this information, the Director will issue an order curtailing junior ground water rights. A transient ESPAM simulation will be run to determine

> the priority date of water rights that must be curtailed to produce the reasonable carryover shortfall volume by September 30 of the following year. Curtailment will be simulated within the area of common ground water supply, as described by CM Rule 50.01.

Methodology Order at 45.

3. The following table summarizes the 2023 irrigation season diversions, crop water need, and reasonable in-season demand ("RISD") volumes for each SWC entity. RISD is calculated for each SWC entity using demand, crop water need, and project efficiency. *Methodology Order* at 17. All values are reported in acre-feet ("AF"). These values are used to determine entity-specific season ending RISD values.

Entity	Demand[1]	Crop Water Need
A&B	62,080	28,401
AFRD2	433,151	135,217
BID	231,011	86,494
Milner	52,976	27,074
Minidoka	322,423	156,201
NSCC	985,149	313,401
TFCC	1,079,398	403,209

4. The following table summarizes the final calculated 2023 in-season demand shortfall values in AF, if any, for each member of the SWC. The values in this table are different from those in the *Final Order Regarding April 2023 Forecast Supply (Methodology Steps 1-3)* (April 21, 2023) ("*April Forecast Supply Order*"), *Order Revising April 2023 Forecast Supply and Amending Curtailment Order (Methodology Steps 5 & 6)* (July 19, 2023) ("*July Order*") and the *Order Revising July 2023 Forecast Supply (Methodology Steps 7-8)* (August 31, 2023). The differences are due to changes in total supply and RISD that reflect diversion and ET data not available when the *April Forecast Supply Order* and *July Order* were issued. The second column of the summary table contains the total natural flow diversions from April 1 to October 31 for each SWC member.[2] The third column summarizes the natural flow adjustments, which include natural flow delivered for recharge[3] and natural flow delivered to SWID.[4] The fourth column contains the preliminary storage allocations reported from the August 1, 2023 Water

[1] The "Demand" for each SWC entity is equal to each entity's 2023 April–October diversions.

[2] The natural flow diverted was calculated from the preliminary daily water right accounting records located here: https://research.idwr.idaho.gov/apps/Hydrologic/Accounting/.

[3] Natural flow recharge values represent accomplished recharge through the Idaho Water Resource Board's recharge water rights as of October 31, 2023.

[4] *See* column titled "Natural Flow Adjustment" in "Attachment A" for further information regarding these adjustments.

District 01 storage report.[5] The fifth column summarizes storage adjustments due to the application of the Minidoka Credit.[6] The sixth column contains the total supply available to each SWC member and is calculated by summing columns two through five. The seventh column contains the calculated RISD. The demand shortfall in the last column is calculated by subtracting the RISD from the total supply. The demand shortfall is zero when the total supply exceeds the RISD. No members of the SWC have a demand shortfall for 2023.

Entity	Natural Flow Diverted through 10/31	Natural Flow Adjustment	Preliminary Storage Allocation	In-Season Storage Adjustment	Total Supply	RISD	Demand Shortfall
A&B	15,628	-	132,888	-	148,516	46,854	0
AFRD2	155,354	(7,395)	382,422	1,000	531,380	378,375	0
BID	127,690	(3,714)	220,083	5,130	349,189	204,761	0
Milner	19,476	(3,011)	88,090	-	104,555	48,319	0
Minidoka	166,934	-	336,711	8,370	512,015	315,721	0
NSCC	508,227	(3,986)	834,525	(7,750)	1,331,016	831,620	0
TFCC	898,401	(181)	238,561	(6,750)	1,130,031	1,007,766	0

5. The following table summarizes the end of season reasonable carryover shortfall calculation for 2023. All values are reported in AF. The second column of the table contains the preliminary storage allocations reported from the August 1, 2023 Water District 01 storage report. The third column summarizes adjustments for storage water due to the application of the Minidoka Credit. The fourth column summarizes adjustments for water delivered through the SWC member's canals for use by non-SWC members.[7] The fifth column contains the total storage water use reported from the October 31, 2023 Water District 01 water right accounting report.[8] The sixth column contains the actual carryover volumes as defined by the *Methodology Order* (*Methodology Order* at 45) and is calculated by subtracting the sum of columns four and five from the sum of columns two and three. The seventh column contains the reasonable carryover volumes established in the *Methodology Order*. *Methodology Order* at 31. The reasonable carryover shortfall in the last column is zero when the actual carryover is greater than the reasonable carryover, otherwise it is calculated as the difference between reasonable carryover and the actual carryover volume for each member of the SWC. No members of the SWC have a reasonable carryover shortfall for 2023.

[5] The preliminary storage allocations can be found on Water District 01's website: https://www.waterdistrict1.com/current-data/.

[6] *See* column titled "In-Season Storage Adjustment" in "Attachment A." The Minidoka Credit is a long existing exchange of stored water among AFRD2, BID, MID, NSCC, and TFCC that has been incorporated into an agreement of those entities and accepted by the SRBA district court.

[7] *See* column titled "Storage Use Adjustment" in "Attachment A" for further information regarding these adjustments.

[8] This water right accounting report was published to the Water District 01 webpage on November 17, 2023: https://www.waterdistrict1.com/current-data/.

	Preliminary Storage Allocation	In-Season Storage Allocation Adjustment	Storage Use Adjustment[9]	Storage Use	Actual Carryover	Reasonable Carryover	Reasonable Carryover Shortfall
A&B	132,888	-	-	46,452	86,436	22,700	0
AFRD2	382,422	1,000	(45,453)	331,435	97,230	16,700	0
BID	220,083	5,130	(11,500)	118,653	118,060	0	0
Milner	88,090	-	(2,100)	38,611	51,579	16,100	0
Minidoka	336,711	8,370	-	155,372	189,709	0	0
NSCC	834,525	(7,750)	(28,091)	508,999	345,867	113,300	0
TFCC	238,561	(6,750)	(5,366)	186,544	50,633	37,400	0

6. The above determinations are based on water diversion and storage data from Water District 01. Although these preliminary numbers are subject to revision by Water District 01 during its final accounting for 2023, revisions will not become available until after issuance of this order. For this reason, these estimates establish the final obligation of junior ground water users in supplying water to the SWC for reasonable carryover shortfall. The above determination of reasonable carryover shortfall is carried forward from the *Methodology Order* and considers the best available water diversion and storage data, comparative water years, and RISD. *Methodology Order* at 45.

CONCLUSIONS OF LAW

1. The *Methodology Order* states that, on or before November 30, the Director will estimate the SWC's reasonable carryover shortfall, if any, for 2023. *Methodology Order* at 45. If a reasonable carryover shortfall is established, junior-priority ground water users shall have fourteen days to demonstrate, to the satisfaction of the Director, "their ability to supply a volume of storage water or to conduct other approved mitigation activities that will provide water to the injured members of the SWC equal to the reasonable carryover shortfall for all injured members of the SWC." *Id*.

2. The evidentiary standard to apply in conjunctive administration of hydraulically connected water rights is clear and convincing. *A&B Irr. Dist. v. Idaho Dept. of Water Resources*, 153 Idaho 500, 524, 284 P.3d 225, 249 (2012).

3. "Clear and convincing evidence refers to a degree of proof greater than a mere preponderance." *Idaho State Bar v. Topp*, 129 Idaho 414, 416, 925 P.2d 1113, 1115 (1996) (internal quotations removed). "Clear and convincing evidence is generally understood to be '[e]vidence indicating that the thing to be proved is highly probable or reasonably certain.'" *State v. Kimball*, 145 Idaho 542, 546, 181 P.3d 468, 472 (2008) (citing *In re Adoption of Doe*, 143 Idaho 188, 191, 141 P.3d 1057, 1060 (2006)); *see also Idaho Dept. of Health & Welfare v. Doe*, 150 Idaho 36, 41, 244 P.3d 180, 185 (2010).

[9] Storage Use Adjustment values include storage assignments reported on the Water District 01 Adjustment Worksheet as of November 22, 2023 (Attachment A). Personal communication with Water District 01 and water users indicates Water District 01 will finalize additional storage assignments this water year that will decrease the Storage Use Adjustment values and increase the Actual Carryover values of SWC entities.

4. Consistent with Finding of Fact 5, the Director concludes by clear and convincing evidence that no members of the SWC have a reasonable carryover shortfall for 2023.

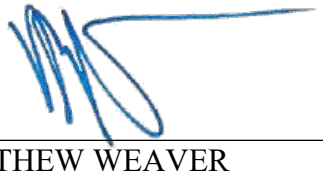
5. Because no members of the SWC have a reasonable carryover shortfall for 2023, junior ground water users do not need to establish "their ability to supply a volume of storage water or to conduct other approved mitigation activities that will provide water to the injured members of the SWC equal to the reasonable carryover shortfall for all injured members of the SWC." *Methodology Order* at 45. Therefore, the Director will not "issue an order curtailing junior ground water rights." *Id.*

ORDER

Based upon the foregoing, IT IS HEREBY ORDERED that no member of the SWC is owed reasonable carryover storage in 2023 for use in 2024.

IT IS FURTHER ORDERED that this final order concludes the application of the *Methodology Order* to the climatic, hydrologic, and agronomic facts of the 2023 irrigation season.

DATED this 30th day of November 2023.



MATHEW WEAVER
Director

Attachment A
2023 SWC Adjustments

Entitiy	Adjustment Volume (AF)	Description	Natural Flow Adjustment	In-Season Storage Adjustment	Storage Use Adjustment
A&B	-	-			
		Total A&B	**0**	**0**	**0**
AFRD2	3,500.0	Minidoka Irrigation District (Northsnake GWD)			Yes
	41,742.8	IGWA/SWC/IWRB			Yes
	1,000.0	Minidoka Credit		Yes	
	(7,395.0)	IWRB Recharge	Yes		
		Total AFRD	**(7,395)**	**1,000**	**45,243**
BID	5,000.0	Falls Irrigation District (Southwest Irrigation District)			Yes
	1,500.0	City of Pocatello (Southwest Irrigation District)			Yes
	5,000.0	City of Pocatello (LCSC Enterprises)			Yes
	5,130.0	Minidoka Credit		Yes	
	(3,714.0)	SWID Natural Flow	Yes		
		Total BID	**(3,714)**	**5,130**	**11,500**
Milner	100.0	Scott Breeding			Yes
	2,000.0	Minidoka (Southwest Irrigation District)			Yes
	(3,011.0)	SWID Natural Flow	Yes		
		Total Milner	**(3,011)**	**0**	**2,100**
MID	(11,500.0)	Northside Canal (North Snake GWD)			
	(3,500.0)	AFRD2 (North Snake GWD)			
	(5,000.0)	SWID Pumps (SWID Pumps)			
	(1,500.0)	Northside Canal (Water Mitigation Coalition)			
	8,370.0	Minidoka Credit		Yes	
		Total MID	**0**	**8,370**	**0**
NSCC	100.0	Arthur Henry Farms			Yes
	11,500.0	Minidoka Irrigation Disrict (Northsnake GWD)			Yes
	1,500.0	Minidoka Irrigation Disrict (Magic Valley GWD)			Yes
	14,991.1	IGWA/SWC/IWRB			Yes
	(7,750.0)	Minidoka Credit		Yes	
	(3,986.0)	IWRB Recharge	Yes		
		Total NSCC	**(3,986)**	**(7,750)**	**28,091**
TFCC	5,000.0	City of Pocatello (Southwest Irrigation District)			Yes
	365.6	IGWA/SWC/IWRB			Yes
	(6,750.0)	Minidoka Credit		Yes	
	(181.0)	IWRB Recharge	Yes		
		Total TFCC	**(181)**	**(6,750)**	**5,366**

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 30th day of November 2023, the above and foregoing, was served by the method indicated below, and addressed to the following:

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Megan Jenkins
Manager Assistant II

EXPLANATORY INFORMATION TO ACCOMPANY A FINAL ORDER

(To be used in connection with actions when a hearing was **not** held)

(Required by Rule of Procedure 740.02)

The accompanying order is a "**Final Order**" issued by the department pursuant to section 67-5246, Idaho Code.

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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 67-5246(4), Idaho Code.

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Unless the right to a hearing before the director or the water resource board is otherwise provided by statute, any person who is aggrieved by the action of the director, and who has not previously been afforded an opportunity for a hearing on the matter shall be entitled to a hearing before the director to contest the action. The person shall file with the director, within fifteen (15) days after receipt of written notice of the action issued by the director, or receipt of actual notice, a written petition stating the grounds for contesting the action by the director and requesting a hearing. See section 42-1701A(3), Idaho Code. **Note: The request must be received by the Department within this fifteen (15) day period.**

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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.

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Revised July 1, 2010

APPENDIX B-2

Final Order Establishing 2018 Reasonable Carryover (Methodology Step 9), IDWR Docket No. CM-DC-2010-001 (Nov. 30, 2018)

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY OR FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY	Docket No. CM-DC-2010-001 **FINAL ORDER ESTABLISHING 2018 REASONABLE CARRYOVER** ***(METHODOLOGY STEP 9)***

FINDINGS OF FACT

1. On April 19, 2016, the Director ("Director") of the Idaho Department of Water Resources ("Department") issued the *Fourth Amended Final Order Regarding Methodology for Determining Material Injury to Reasonable In-Season Demand and Reasonable Carryover* ("Methodology Order"). The Methodology Order establishes nine steps for determining material injury to members of the Surface Water Coalition ("SWC"). This order applies step nine, the final step of the Methodology Order, for the 2018 water year.

2. The Methodology Order describes step 9 as follows:

> Step 9: Following the end of the irrigation season (on or before November 30), the Department will determine the total actual volumetric demand and total actual [crop water need] for the entire irrigation season. This information will be used for the analysis of reasonable carryover shortfall, selection of future BLY, and for the refinement and continuing improvement of the method for future use.
>
> On or before November 30, the Department will issue estimates of actual carryover and reasonable carryover shortfall volumes for all members of SWC. These estimates will be based on, but not limited to, the consideration of the best available water diversion and storage data from Water District 01, return flow monitoring, comparative years, and [reasonable in-season demand]. These estimates will establish the obligation of junior ground water users in providing water to the SWC for reasonable carryover shortfall. Fourteen (14) days following the issuance by the Department of reasonable carryover shortfall obligations, junior ground water users will be required to establish, to the satisfaction of the Director, their ability to supply a volume of storage water or to conduct other approved mitigation activities

that will provide water to the injured members of the SWC equal to the reasonable carryover shortfall for all injured members of the SWC. If junior ground water users cannot provide this information, the Director will issue an order curtailing junior ground water rights.

Methodology Order at 38-39.

3. The following table summarizes the 2018 irrigation season diversions, crop water need, and reasonable in-season demand ("RISD") volumes for each SWC entity. RISD is calculated for each SWC entity using demand, crop water need, and project efficiency *Methodology Order* at 16. All values are reported in acre-feet ("AF").

Entity	Demand[1]	Crop Water Need	RISD
A&B	64,192	38,220	62,661
AFRD2	456,319	156,633	439,226
BID	256,034	111,821	261,340
Milner	68,429	31,156	54,637
Minidoka	370,890	200,689	430,338
NSCC	1,037,970	367,342	1,023,441
TFCC	1,127,305	462,889	1,174,249

4. The following table summarizes the final calculated 2018 in-season demand shortfall values in AF, if any, for each member of the SWC. The values in this table are different from those in the *Final Order Regarding April 2018 Forecast Supply (Methodology Steps 1-3)* (April 17, 2018) ("April Forecast Supply Order") and *Order Revising April 2018 Forecast Supply (Methodology Step 5 & 6)* (July 23, 2018) ("July Order"). The differences are due to changes in total supply and RISD that reflect diversion and ET data not available at the time the April Forecast Supply Order and July Order were issued. In the April Forecast Supply Order, the Director predicted no demand shortfall to members of the SWC. *April Forecast Supply Order* at 3. In the July Order, the Director continued to predict no demand shortfall. *July Order* at 8. The second column of the summary table contains the total natural flow diversions from April 1 to October 31 for each SWC member.[2] The third column summarizes the natural flow adjustments, which include natural flow delivered for recharge[3] and natural flow delivered to SWID.[4] The fourth column contains the preliminary storage allocations reported from the July 11, 2018,

[1] The "Demand" for each SWC entity is equal to each entity's 2018 April – October diversions.

[2] The natural flow diverted was calculated from the preliminary daily water right accounting records located here: http://www.idwr.idaho.gov/water-data/water-rights-accounting/research.html.

[3] Natural flow recharge values represent accomplished recharge through the Idaho Water Resource Board's recharge water rights as of October 31, 2018.

[4] *See* column titled "Natural Flow Adjustment" in "Attachment A" for further information regarding these adjustments.

Water District 01 storage report.[5] The fifth column summarizes storage adjustments due to application of the Minidoka Credit.[6] The sixth column contains the total supply available to each SWC member and is calculated by summing columns two through five. The seventh column contains the calculated RISD. The demand shortfall in the last column is calculated by subtracting the RISD from the total supply. The demand shortfall is zero when the total supply is greater than the RISD. No members of the SWC have a demand shortfall for 2018.

Entity	Natural Flow Diverted through 10/31	Natural Flow Adjustment	Preliminary Storage Allocation	In-Season Storage Adjustment	Total Supply	RISD	Demand Shortfall
A&B	25,064	-	134,983	-	160,047	62,661	0
AFRD2	257,879	(66,910)	387,120	1,000	579,089	439,226	0
BID	139,908	(3,714)	222,616	5,130	363,940	261,340	0
Milner	24,489	(3,011)	87,796	-	109,274	54,637	0
Minidoka	197,623	-	359,982	8,370	565,975	430,338	0
NSCC	555,645	-	844,619	(7,750)	1,392,514	1,023,441	0
TFCC	946,206	(923)	241,687	(6,750)	1,180,220	1,174,249	0

5. The following table summarizes the end of season reasonable carryover shortfall calculation for 2018. All values are reported in AF. The second column of the table contains the preliminary storage allocations reported from the July 11, 2018, Water District 01 storage report. The third column summarizes adjustments for storage water due to application of the Minidoka Credit. The fourth column summarizes adjustments for water delivered through the SWC member's canals for use by non-SWC members.[7] The fifth column contains the total storage water use reported from the October 31, 2018, Water District 01 water right accounting report.[8] The sixth column contains the actual carryover volumes as defined by the Methodology Order (*Methodology Order* at 38) and is calculated by subtracting the sum of columns four and five from the sum of columns two and three. The seventh column contains the reasonable carryover volumes established in the Methodology Order. *Methodology Order* at 28. The reasonable carryover shortfall in the last column is zero when the actual carryover is greater than the reasonable carryover, otherwise it is calculated as the difference between reasonable carryover and the actual carryover volume for each member of the SWC. No members of the SWC have a reasonable carryover shortfall for 2018.

[5] The preliminary storage allocations can be found on Water District 01's website located here: http://www.waterdistrict1.com/WD01%20Storage%20Report.pdf.

[6] *See* column titled "In-Season Storage Adjustment" in "Attachment A." The Minidoka Credit is a long existing exchange of stored water among AFRD2, BID, MID, NSCC, and TFCC that has been incorporated into an agreement of those entities and accepted by the SRBA district court.

[7] *See* column titled "Storage Use Adjustment" in "Attachment A" for further information regarding these adjustments.

[8] This water right accounting report was published to the Water District 01 webpage on November 6, 2018: http://www.waterdistrict1.com/SNKWRA.htm.

	Preliminary Storage Allocation	In- Season Storage Allocation Adjustment	Storage Use Adjustment	Storage Use	Actual Carryover	Reasonable Carryover	Reasonable Carryover Shortfall
A&B	134,983	0	0	39,128	95,855	18,500	0
AFRD2	387,120	1,000	(14,500)	284,850	117,770	11,500	0
BID	222,616	5,130	(6,680)	122,807	111,619	0	0
Milner	87,796	0	(1,312)	45,252	43,856	4,800	0
Minidoka	359,982	8,370	(200)	173,467	195,084	0	0
NSCC	844,619	(7,750)	(9,100)	491,424	354,545	65,500	0
TFCC	241,687	(6,750)	(1,637)	183,659	52,915	25,200	0

6. The above determinations are based on water diversion and storage data from Water District 01. Although these preliminary numbers are subject to revision by Water District 01 during final accounting for 2018, revisions will not become available until after issuance of this order. For this reason, these estimates establish the final obligation of junior ground water users in supplying water to the SWC for reasonable carryover shortfall. The above determination of reasonable carryover shortfall is carried forward from the Methodology Order and takes into account the best available water diversion and storage data, comparative water years, and RISD. *Methodology Order* at 38-39.

CONCLUSIONS OF LAW

1. The Methodology Order states that, on or before November 30, the Director will estimate the SWC's reasonable carryover shortfall, if any, for 2018. *Methodology Order* at 38-39. If a reasonable carryover shortfall is established, junior-priority ground water users shall have fourteen days to demonstrate, to the satisfaction of the Director, "their ability to provide a volume of storage water or to conduct other approved mitigation activities that will provide water to the injured members of the SWC equal to the reasonable carryover shortfall for all injured members of the SWC." *Id.* at 39.

2. The evidentiary standard to apply in conjunctive administration of hydraulically connected water rights is clear and convincing. *A&B Irr. Dist. v. Idaho Dept. of Water Resources*, 153 Idaho 500, 524, 284 P.3d 225, 249 (2012).

3. "Clear and convincing evidence refers to a degree of proof greater than a mere preponderance." *Idaho State Bar v. Topp*, 129 Idaho 414, 416, 925 P.2d 1113, 1115 (1996) (internal quotations removed). "Clear and convincing evidence is generally understood to be '[e]vidence indicating that the thing to be proved is highly probable or reasonably certain.'" *State v. Kimball*, 145 Idaho 542, 546, 181 P.3d 468, 472 (2008) citing *In re Adoption of Doe*, 143 Idaho 188, 191, 141 P.3d 1057, 1060 (2006); *see also Idaho Dept. of Health & Welfare v. Doe*, 150 Idaho 36, 41, 244 P.3d 180, 185 (2010).

4. Consistent with Finding of Fact 5, the Director concludes by clear and convincing evidence that no members of the SWC have a reasonable carryover shortfall for 2018.

5. Because no members of the SWC have a reasonable carryover shortfall for 2018, junior ground water users do not need to establish "their ability to supply a volume of storage water or to conduct other approved mitigation activities that will provide water to the injured members of the SWC equal to the reasonable carryover shortfall for all injured members of the SWC." *Methodology Order* at 39. The Director will not "issue an order curtailing junior ground water rights." *Id.*

ORDER

Based upon the foregoing, IT IS HEREBY ORDERED that no member of the SWC is owed reasonable carryover storage in 2018 for use in 2019.

IT IS FURTHER ORDERED that this final order concludes application of the Methodology Order to the climatic, hydrologic, and agronomic facts of the 2018 irrigation season.

DATED this 30th day of November 2018.

GARY SPACKMAN
Director

Attachment A
2018 SWC Adjustments

	Adjustments	Description	Natural Flow Adjustment	In-Season Storage Adjustment	Storage Use Adjustment
A&B	0	None			
		Total A&B	**0**	**0**	**0**
AFRD2	2,000	Idaho Irrigation (IGWA)			Yes
	5,000	New Sweden			Yes
	5,000	Snake River Valley			Yes
	2,500	Minidoka Irrigation District			Yes
	(3,952)	Idaho Power			
	1,000	Minidoka Credit		Yes	
	(66,910)	IWRB Recharge	Yes		
		Total AFRD	**(66,910)**	**1,000**	**(14,500)**
BID	5,130	Minidoka Credit		Yes	
	(3,714)	SWID Natural Flow	Yes		
	(7,301)	Idaho Power			
	6,680	SWID (City of Pocatello)			Yes
		Total BID	**(3,714)**	**5,130**	**6,680**
Milner	1,112	Artesian			Yes
	(1,268)	Idaho Power			
	200	Scott Breeding			Yes
	(3,011)	SWID Natural Flow	Yes		
		Total Milner	**(3,011)**	**0**	**(1,312)**
MID	(200)	Wickel Farms			
	200	Wickel Farms			Yes
	(10,000)	Water Mitigation Coalition			
	8,370	Minidoka Credit		Yes	
	(9,277)	Idaho Power			
	(10,000)	North Snake GWD			
		Total MID	**0**	**8,370**	**(200)**
NSCC	100	Arther Henry Farms			Yes
	(7,750)	Minidoka Credit		Yes	
	1,500	Water Mitigation Coalition (Minidoka)			Yes
	0	IWRB Recharge	Yes		
	7,500	North Snake GWD			Yes
	(6,390)	Idaho Power			
		Total NSCC	**0**	**(7,750)**	**(9,100)**
TFCC	1,637	Artesian			Yes
	(6,750)	Minidoka Credit		Yes	
	(923)	IWRB Recharge	Yes		
	1,899	LCSC Enterprises			
	(2,130)	Idaho Power			
		Total TFCC	**(923)**	**(6,750)**	**(1,637)**

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I HEREBY CERTIFY that on this 30th day of November 2018, the above and foregoing, was served by the method indicated below, and addressed to the following:

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Kimberle English
Kimberle English

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Revised July 1, 2010

RECEIVED
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DEPARTMENT OF
WATER RESOURCES

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BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF THE MITIGATION PLAN FILED BY A&B IRRIGATION DISTRICT FOR THE DISTRIBUTION OF WATER TO WATER RIGHTS HELD BY THE SURFACE WATER COALITION	)	**CM-MP-2015-003** **STIPULATION REGARDING A&B IRRIGATION DISTRICT'S AMENDED RULE 43 MITIGATION PLAN**

COME NOW, A&B IRRIGATION DISTRICT ("A&B" or "District"), AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, and TWIN FALLS CANAL COMPANY, by and through their respective undersigned counsel of record, and hereby submits this stipulation in the above-captioned matter for A&B's ground water rights: 36-2080, 36-15192, 36-16749, 36-15127A, 36-15193A, 36-15194A, 36-15195A, 36-15196A, 36-15127B, 36-15193B, 36-15194B, 36-15195B, and 36-15196B.

As detailed below, diversion of ground water under A&B's water rights subject to any future curtailment orders issued by the Director in response to the Surface Water Coalition delivery call can be fully mitigated with various actions undertaken by the District. The Coalition hereby stipulates to this plan as described below.

BACKGROUND

A&B filed an amended mitigation plan on May 21, 2015. After published notice pursuant to CM Rule 43, the Director issued a *Final Order Approving Plan* on December 16, 2015. The parties are filing the current stipulation consistent with other stipulated mitigation plans (i.e. SWID, IGWA, Coalition of Cities) so that A&B does not have to submit new documentation every year showing that it can mitigate for its proportionate share of a predicted demand shortfall. *See Final Order Regarding April 2023 Forecast Supply (Methodology Steps 1-3)* at 5, n. 5.

A&B has curtailed the diversion of groundwater to approximately 3,573.6 acres within the Unit B portion of the irrigation district. A&B has delivered surface water to these "soft conversion" acres dating back to 1994 (1,378 acres) and 2016 (2,195 acres). The cessation of groundwater pumping and delivery or surface water benefits the Eastern Snake Plain Aquifer (ESPA) and the hydraulically connected reaches of the Snake River, including the Near Blackfoot to Minidoka reaches.

A&B also holds rights to storage water in American Falls Reservoir (46,826 af) and Palisades Reservoir (90,800 af) and has the ability to participate in Water District 01's Rental Pool. Available storage can be delivered to injured Coalition members to mitigate for any shortfalls caused by the District's junior priority ground water that are subject to curtailment beyond what may not be covered by the "soft conversions" described above. This action would

only be necessary if the benefits of the above conversions do not satisfy the injury caused by A&B's ground water rights that are found to be subject to curtailment in any given year.

The Mitigation Plan provides replacement water "at the time and place required by the senior-priority water right, sufficient to offset the depletive effect of ground water withdrawal on the water available in the surface or ground water source at such time and place as necessary to satisfy" injured senior surface water rights held by the Coalition, including A&B. *See* CMR 43.03.b.

A&B and the other parties hereby request the Director to approve this stipulation accordingly.

DATED this 27 day of December, 2023.

MARTEN LAW LLP

Travis L. Thompson

Attorneys for A&B Irrigation District, Burley Irrigation District, Milner Irrigation District, North Side Canal Company, and Twin Falls Canal Company

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CERTIFICATE OF SERVICE

I hereby certify that on this 27th day of December, 2023, the above and foregoing **STIPULATION REGARDING A&B IRRIGATION DISTRICT'S AMENDED MITIGATION PLAN** was sent to the following by electronic mail only:

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IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

IDAHO GROUND WATER APPROPRIATORS, INC.,

Petitioner,

vs.

THE IDAHO DEPARTMENT OF WATER RESOURCES, and GARY SPACKMAN, in his capacity as Director of the Idaho Department of Water Resources,

Respondents,

and

AMERICAN FALLS RESERVOIR DISTRICT #2, MINIDOKA IRRIGATION DISTRICT, A&B IRRIGATION DISTRICT, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, TWIN FALLS CANAL COMPANY, CITY OF POCATELLO, CITY OF BLISS, CITY OF BURLEY, CITY OF CAREY, CITY OF DECLO, CITY OF DIETRICH, CITY OF GOODING, CITY OF HAZELTON, CITY OF HEYBURN, CITY OF JEROME, CITY OF PAUL, CITY OF RICHFIELD, CITY OF RUPERT, CITY OF SHOSHONE, CITY OF WENDELL, BONNEVILLE-JEFFERSON GROUND WATER DISTRICT, and BINGHAM GROUND WATER DISTRICT,

Intervenors.

IN THE MATTER OF DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY AND FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN

Case No. CV01-23-13173

FALLS RESERVOIR DISTRICT NO. 2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY.

SURFACE WATER COALITION'S RESPONSE BRIEF

Judicial Review from the Idaho Department of Water Resources
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Honorable Eric J. Wildman, Presiding

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STATEMENT OF THE CASE

I. Nature of the Case.

This case concerns the Idaho Ground Water Appropriators, Inc.'s ("IGWA" or "Districts") petition for judicial review of certain orders issued by the Director of the Idaho Department of Water Resources ("IDWR" or "Department") in the Surface Water Coalition's water right delivery call proceeding (CM-DC-2010-001). The Director updated the methodology for conjunctive administration in the spring of 2023, and affected parties were provided an opportunity for a hearing on those updates pursuant to Idaho Code § 42-1701A(3). Following the hearing, IGWA filed its present appeal challenging the Director's final *Post-Hearing Order* (R. 1067) and the *Sixth Final Order Regarding Methodology for Determining Material Injury to Reasonable In-Season Demand and Reasonable Carryover* ("*Sixth Methodology Order*" or "*Sixth Order*") (R. 1004).[1]

II. Procedural History / Statement of Facts.

The Court is well versed on the underlying history of the Coalition's delivery call and resulting appeals and decisions. *See generally, Memorandum Decision and Order on Petitions for Judicial Review* (Gooding County Dist. Ct., Fifth Jud. Dist., Consolidated Case No. CV-2010-382, Sept. 26, 2014) (hereinafter referred to as the "*382 Decision*").[2] A brief background is provided below to summarize the history of the Department's prior orders and IGWA's actions related thereto.

IDWR issued its first *Final Order Regarding Methodology for Determining Material Injury to Reasonable In Season Demand and Reasonable Carryover* ("*First Order*") on April 7,

[1] The Director issued the *Fifth Amended Final Order Regarding Methodology for Determining Material Injury to Reasonable In-Season Demand and Reasonable Carryover* on April 21, 2023 (hereinafter "*Fifth Order*"). R. 43. That order was amended and superseded by the *Sixth Methodology Order* issued on July 19, 2023. R. 1004.

[2] A copy of the Court's prior decision is attached for convenience at Addendum A.

2010. That order, issued in response to the district court's initial remand,[3] set forth a ten (10) step process for annual conjunctive administration of the Coalition's delivery call. Following issuance of that order, the Director held another administrative hearing in response to petitions requesting the same on May 24-26, 2010.[4] Shortly after that hearing, the Director issued the *Second Amended Final Order Determining Material Injury to Reasonable In-Season Demand and Reasonable Carryover* ("*Second Order*") on June 23, 2010.

Thereafter, twelve separate judicial review cases regarding the *Second Order* and various implementation orders were filed with district courts in Gooding, Lincoln, and Twin Falls Counties.[5] Those consolidated appeals culminated with the district court's *382 Decision* that comprehensively addressed the Director's methodology. *See* Addendum A. The fundamental concepts of the underlying methodology and IGWA's alleged defenses thereto have been fully adjudicated. Further, the parties' consultants have been familiar with the calculations and methods employed by the agency for over a decade. No party, including IGWA, appealed the Court's *382 Decision* and final judgment entered in that consolidated case.

Following the Court's review and ordered remand of the *Second Order*, the Director issued the *Third Methodology Order* on April 16, 2015. This order superseded the prior methodology orders and set out essentially the same nine-step process that is implemented by

[3] *See generally, Order on Petition for Judicial Review* (Gooding County Dist. Ct., Fifth Jud. Dist, Case No. CV-2008-551, July 24, 2009).

[4] Documents and hearing audio found at: https://idwr.idaho.gov/legal-actions/delivery-call-actions/SWC/. Similar to the timing of the facts in the current case, the Director held an administrative hearing on various petitions approximately six weeks from issuance of the initial methodology order. The Director recently used a similar timeframe in a conjunctive administration proceeding concerning water rights in Basin 37, where a notice of hearing was issued in early May and the hearing was held about six weeks later in early June. *See South Valley Ground Water District et al. v. IDWR*, __ P.3d__, 2024 WL 136840 (Idaho Jan. 12, 2024) ("*South Valley*").

[5] Documents filed in that case available at: https://idwr.idaho.gov/legal-actions/delivery-call-actions/swc/archived-matters/.

IDWR today.[6] Both IGWA and the City of Pocatello requested hearings on the *Third Order*. However, at about that same time the Coalition and IGWA reached general settlement terms concerning mitigation that season and filed a joint motion with IDWR requesting withdrawal of the *Third Order* and the April order applying the first three steps.[7] The City of Pocatello did not oppose that motion.

After execution and approval of the stipulated mitigation plan, the Coalition and IGWA further agreed to have IDWR reinstate the *Third Order* on March 9, 2016 and requested the agency to conjunctively administer ground water rights accordingly. The City of Pocatello requested a hearing on that order but also asked the Director to stay further action on its request.[8] Despite having an opportunity for an administrative hearing on its issues with the Director's methodology for several years, the City chose to continue that indefinite stay.

Approximately one month later the Director issued the *Fourth Methodology Order* on April 19, 2016.[9] The City of Pocatello again requested a hearing and a stay (May 4, 2016).[10] The Director continued to apply the methodology from 2017-2022 since not all junior ground water rights were covered by approved mitigation plans. R. 52-53.

In the fall of 2022 IDWR convened a technical working group comprised of staff and consultants for the parties to evaluate potential updates to the methodology. Sukow, Tr. Vol. I,

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[6] *See Third Methodology Order* at 32-36. Available at: https://idwr.idaho.gov/wp-content/uploads/sites/2/legal/CM-DC-2010-001/CM-DC-2010-001-20150417-Third-Amended-Final-Order-Regarding-Methodology.pdf

[7] *See generally, SWC and IGWA Stipulation and Joint Motion* (May 8, 2015). Available at: https://idwr.idaho.gov/legal-actions/delivery-call-actions/SWC/

[8] Available at: https://idwr.idaho.gov/legal-actions/delivery-call-actions/SWC/

[9] Available at: https://idwr.idaho.gov/legal-actions/delivery-call-actions/SWC/

[10] Similar to its *Third Order* request, the City of Pocatello never asked the Director to lift the stay on its requested hearing on the *Fourth Methodology Order* which had been pending for several years.

53:11-15, Anders, Tr. Vol I, 170:5-6, 16-18. IDWR staff Matt Anders sent the first notice to the parties in early September. *See id.* 217:20-25.[11]

The working group participants included IDWR staff, as well as the parties' consultants and counsel, and other non-active participants. The working group held meetings at IDWR (with remote participation) on November 16, 17, 28 and December 1, 9, and 14, 2022. R. 1176. At each of these meetings Department staff received comments and feedback from the participants. R. 312 (Higgs participation); R. 316 (Sigstedt participation), Tr. Vol III, 13:19-24; R. 351 (Sullivan participation), Tr. Vol. II, 119:20-22; R. 473 (Colvin participation), Tr. Vol. I, 107:18-19.

Matt Anders presented information and data related to the "baseline year" at the November 16, 2022 meeting. *See* R. 1176 (11/16/22 Anders PowerPoint). Jennifer Sukow presented the results of using a transient analysis for determining a projected curtailment date on November 28, 2022. *See* R. 1176 (11/28/22 Sukow PowerPoint), 1424. In other words, the parties were put on notice over six months before issuance of the *Fifth Methodology Order* that these specific updates could be made to the methodology.[12]

Ultimately, following the series of meetings and presentations, IDWR staff submitted a preliminary recommendation to the Director on December 23, 2022. R. 2866. Consultants for the Coalition, IGWA, and the various Cities then submitted their own comments on or before

[11] Mr. Anders identified the topics and purpose of the TWG meetings in an October 25, 2022 email to counsel and all consultants. That email specifically listed potential updates to the "baseline year" and use of "ESPAM 2.2: Steady State vs. Transient." *See generally*, Ex. D to *Thompson Dec.* filed in *IGWA v. IDWR* (Ada County Dist. Ct., Fourth Jud. Dist., Case No. CV01-23-8187); publicly available at: https://idwr.idaho.gov/wp-content/uploads/sites/2/legal/CV01-23-08187/CV01-23-08187-20230530-Declaration-of-Travis-L.-Thompson-in-Support-of-Surface-Water-Coalitions-Response-in-Opposition.pdf

[12] Any allegations of insufficient time to analyze changes to the methodology are unfounded as the Director's *Fifth Order* was not the first time parties were presented with the updated baseline year and transient modeling analyses. R. 1176 (staff PowerPoints).

January 16, 2023. *See* R. 1300, 2867, 2879. IDWR reviewed and considered the comments submitted by the parties. Anders, Tr. Vol. I, 220:10-12.

On April 21, 2023 the Director issued the *Fifth Methodology Order* and the *Final Order Regarding April 2023 Forecast Supply* ("*April 2023 Order*") implementing steps 1-3 for the 2023 irrigation season. *See* R. 1, 48. The Director issued a notice that same day setting an administrative hearing to be held over six weeks later on June 6-10, 2023. *See* R. 62.

With these updates, several parties, including the Districts and the Coalition, all filed petitions requesting a hearing pursuant to section 42-1701A(3). R. 68, 90-103, 135-163, 263. The Districts and the Cities repeatedly requested the Director to stay or continue the scheduled hearing. R. 80, 282, 323, 446. The Coalition opposed these requests noting the fact that not all ground water rights were covered by an approved mitigation plan, potential worsening water supply conditions, and the need for timely water right administration during the irrigation season. R. 378, 457.

The Director considered the requests for delay and accommodated remote participation for certain individuals unable to travel to Boise, Idaho. *See* R. 425-431. However, the Director denied the repeated requests to delay the administrative hearing. R. 425, 500. Notably, the Director recognized the following:

> The Director has a responsibility to timely respond to injury incurred by senior water users and there should be no unnecessary delays in that process. *Am. Falls Reservoir Dist. No. 2 v. Idaho Dep't of Water Res*., 143 Idaho 862, 874, 154 P.3d 433, 445 (2007). "Clearly, a timely response is required when a delivery call is made and water is necessary to respond to that call." Id. The Department also agrees with the SWC that "[i]n practice, an untimely decision effectively becomes the decision; i.e. no decision is the decision." *Objection* at 3 (citing *Order on Plaintiffs' Motion for Summary Judgment* at 97 (AFRD#2 et al. v. IDWR, No. CV-2006-600 (Gooding County Dist. Ct. Idaho June 2, 2006)).

R. 430.

The Director set a deadline to disclose witness and exhibit lists and any expert reports by May 30, 2023.[13] R. 126. The parties identified numerous witnesses and exhibits and disclosed expert reports prior to the hearing. R. 505-630, 792-861,1208-1231, 1511-1579, 1600-1632, 2112-2368. Notably, IGWA, the Cities, and individual ground water districts listed five different retained expert witnesses to testify at the administrative hearing. R. 524, 536, 546, 575. The Director presided over a four-day hearing held June 6-9, 2023.[14] The parties had a full and fair opportunity to present testimony and exhibits, as well as cross-examine IDWR staff and all other witnesses. *See generally*, Tr. Vol. I-IV.

The parties submitted post-hearing briefs at the request of the Director. R. 924-1103. Thereafter, the Director issued the final *Post-Hearing Order* and the *Sixth Methodology Order* on July 19, 2023. R. 1067, 1004. The *Sixth Order* essentially continues the same nine steps from the *Fourth Order* issued in 2016. Again, the basic framework and steps were previously litigated on judicial review before this Court. *See generally, 382 Decision.*[15]

The *Sixth Methodology Order* incorporates known additional data from 2015-2021 with the following updates to certain methodology steps:

a. Baseline Year

The methodology's baseline year "is a year or average of years when irrigation demand represents conditions that predict need in the current year of irrigation at the start of the irrigation

[13] The parties agreed to close discovery that day as well. The Cities and Districts propounded discovery and took the depositions of Jennifer Sukow, Matt Anders, and Jay Barlogi (Twin Falls Canal Company). R. 164-182, 400-406, 419-424, 435-445.

[14] The Director set the hearing date by notice on April 21st and granted the various requests for hearing that followed. R.62, 490.

[15] Documents filed in that case available at: https://idwr.idaho.gov/legal-actions/delivery-call-actions/swc/archived-matters/.

season." R. 1006. A baseline year "should represent a year(s) of above average diversions . . . and should also represent a year(s) of above average temperatures and reference ET, and below average precipitation to ensure that increased diversions were a function of crop water need and not other factors . . .[and] actual supply should be analyzed to assure that the BLY is not a year of limited supply." R. 1006-07. The criteria for selecting a baseline year have not changed since the Director issued the *Second* through *Fifth Orders*.[16]

However, what has changed is the number of years the Director had available to analyze against those criteria. R. 1015 ("the years 2000-2021 were considered for the BLY selection"). As a result of the updated data, the Director found that "BLY 06/08/12 no longer satisfies the presumption criteria that total diversions in the BLY should exceed the average annual diversions." R. 1015. Consequently, the Director concluded that "total diversions for 2018 adequately protect senior water rights when predicting the demand shortfall at the start of the irrigation season and selects 2018 as the BLY." R. 1016.

Notably, IDWR staff recommended changing the baseline year to 2018 in its December 23, 2022 staff memorandum. R. 2866. Whereas the data from 2018 was presented to the parties back in mid-November 2022, IGWA was on notice and had the ability to evaluate this data over the course of several months. R. 1176 (11/18/22 Anders PowerPoint).

b. Reasonable Carryover

The methodology for determining reasonable carryover did not change from the *Third* or *Fourth Orders* either. R. 1026-34. What changed was the Director's use of projected demand in his calculation with a projected demand (2018 BLY) instead of (06/08/12 BLY). R. 1028. The

[16] The Director previously updated the baseline year in this matter. In 2016, the Director updated the baseline year from the 06/08 average used in the *Second Order* to a new average of 06/08/12 because at that time he found "the 06/08 diversions are no longer above average." *See Fourth Order* at 11; available at: https://idwr.idaho.gov/legal-actions/delivery-call-actions/SWC/.

Director did make adjustments to certain Coalition members' "maximum projected carryover need" as well. R. 1032-34. Although the reasonable carryover quantities changed in response to a change in the baseline year, the Director's evaluation of injury to carryover storage and the basic mechanics of Step 9 did not change.

c. Determination of Curtailment Date

The Director identified how the ESPAM groundwater model has been and can be run to identify a curtailment date for junior groundwater rights causing material injury. R. 1034-36. Unless another procedure has been agreed to and approved, if a ground water right is not covered by an approved and effectively operating mitigation plan, then curtailment is the Director's only remedy to prevent material injury to the senior right.

A steady-state analysis evaluates the impact of curtailment on the aquifer and connected river reaches long-term (i.e. 50 years), whereas a transient analysis predicts the timing of changes that would occur during the irrigation season. R. 1035. The Director acknowledged that only "9% to 15% of the steady state response is predicted to accrue to the near Blackfoot to Minidoka reach between May 1 and September 30 of the same year." *See id.* In other words, if curtailment is based upon a steady-state analysis, it severely under-mitigates a predicted injury to the Coalition's senior water rights. Consequently, the Director adopted a transient analysis as being "necessary to simulate the short-term curtailments prescribed in the methodology."[17] R. 1036. The potential use of a transient simulation was first disclosed in the fall of 2022. R. 1176 (11/28/22 Sukow PowerPoint). In other words, the parties and their consultants had well over

[17] Such a finding is consistent with the Director's approval of mitigation plans where he allows the delivery of storage equal to the amount of an injury finding.

five months to analyze the Director's use of ESPAM in this manner.[18]

The Director's updates were incorporated into both the *Fifth* and *Sixth Methodology Orders* issued in 2023. No member of IGWA was curtailed in response to the issuance of these orders.

STANDARD OF REVIEW

When reviewing an agency action on a petition for judicial review, this court must affirm the agency unless it finds that the agency's findings, inferences, conclusions, or decisions are: "(a) in violation of constitutional or statutory provisions; (b) in excess of the statutory authority of the agency; (c) made upon unlawful procedure; (d) not supported by substantial evidence in the record as a whole; or (e) arbitrary, capricious, or an abuse of discretion." *3G AG LLC v. Idaho Dept. of Water Res.*, 170 Idaho 251, 257, 509 P.3d 1180, 1186 (2022) (quoting I.C. § 67-5279(3); *see also*, *South Valley*, 2024 WL 136840, at *5. Furthermore, even if one of the conditions in section 67-5279(3)(a)-(e) is met, a reviewing court should still affirm the agency action "unless substantial rights of the appellant have been prejudiced." *A&B Irr. Dist. v. Idaho Dept. of Water Res.*, 153 Idaho 500, 505-06, 284 P.3d 225, 230-31 (2012) (quoting I.C. § 67-5279(4)).

Finally, the court will not substitute its judgment for that of the agency as to the weight of the evidence on questions of fact. *See 3G AG LLC*, 170 Idaho at 257, 509 P.3d at 1186 (citing Idaho Code § 67-5279(1)); *South Valley*, 2024 WL 136840, at *5. So long as the agency's determinations are supported by substantial, competent evidence in the record, the factual determinations are binding on the court, even where there is conflicting evidence before the agency. *See In re Idaho Workers Compensation Bd.*, 167 Idaho 13, 22, 467 P.3d 377, 386 (2020);

[18] Ms. Sigstedt, IGWA's consultant, is very familiar with ESPAM as she has participated on IDWR's Eastern Snake Hydrologic Modeling Committee for years. R. 316. Mr. Sullivan, the Cities' consultant, has participated on the committee "since its inception." R. 350.

South Valley, 2024 WL 136840, at *5, 20 ("We do not resolve factual issues like this on appeal. Our duty is to review the decision of the Director to determine whether substantial, competent evidence supports his decision").

ARGUMENT

> **déjà vu**. noun. 1 a: the illusion of remembering scenes and events when experienced for the first time. b: a feeling that one has seen or heard something before. 2: something overly or unpleasantly familiar.

Webster's Dictionary (www.merriam-webster.com) (visited Jan. 8, 2024).

All counsel, parties, and this Court may be experiencing what Webster's aptly describes above, a keen sense of "déjà vu." The Surface Water Coalition's continued water right delivery call proceeding has been ongoing since 2005. Since that time the Department has held three administrative hearings, numerous petitions for judicial review have been filed, district courts have issued two memorandum decisions and final judgments, and the Idaho Supreme Court has issued two opinions. *See AFRD#2 v. IDWR*, 143 Idaho 862, 154 P.3d 433 (2007); *A&B Irr. Dist. v. IDWR*, 155 Idaho 640, 315 P.3d 828 (2013).

Through it all, the Department has produced a comprehensive procedure or "methodology" for responding to the call on an annual basis. This basic framework was fully litigated in the *382 Decision*. *See* Addendum A. No party appealed the *382 Decision*, thus that ruling, or "law of the case," is a critical adjudication of the same claims raised in IGWA's present appeal.

When IDWR released the *Fourth Methodology Order* in the summer of 2016, only the City of Pocatello requested a hearing on that decision. Despite having an opportunity for an administrative hearing on its issues for several years, the City voluntarily chose to continue the indefinite stay before the agency. IGWA did not request a hearing on that decision and did not challenge the Director's methodology.

With additional years of data, the Director updated the inputs into the methodology in the spring of 2023. The parties were put on notice of these potential updates as early as the fall of 2022, and engaged in an open technical working group process for several months. With the issuance of the *Fifth Methodology Order* in mid-April, the Director provided yet another opportunity for hearing on his decision pursuant to section 42-1701A(3). Though the Department's updates largely addressed the addition of known data from the years 2015-2021, IGWA and other parties impermissibly attempted to restart the delivery call case as if the prior 18 years of litigation didn't happen.

Contrary to IGWA's efforts, the administrative hearing and this appeal do not provide groundwater users with the chance to relitigate defenses that have already been denied. Pursuant to well-established doctrines of *res judicata* and "law of the case," the Court can deny IGWA's appeal and affirm the agency's final order. In addition, IGWA has further failed to show that the Director erred in any of the ways set forth by the Idaho APA. *See* I.C. § 67-5279.

Finally, the Director's decisions are supported by substantial competent evidence and IGWA cannot show prejudice to any substantial right. For the reasons set forth below, the Court should deny IGWA's petition for judicial review and affirm IDWR's decisions in this case.

DUE PROCESS ISSUES

I. The Director's Fifth and Sixth Methodology Orders Satisfied Due Process and the Idaho Administrative Procedures Act.

a. The Administrative Hearing Was Timely Because it Occurred Before any Deprivation of Property Rights.

IGWA argues that the Director improperly failed to hold a hearing "*before* decid[ing] the matter," in contravention of Idaho Code § 67-5242. *IGWA Br*. at 17-18 (emphasis in original). This argument fails because the Director's *Fifth Order* did not fully decide the matter and the Idaho APA does not specify when a hearing must take place. Following issuance of the *Fifth*

Order, the Director granted requests for and held an evidentiary hearing which complied with all elements of section 67-5242, as explained below. After considering the evidence and testimony, including the parties' post-hearing briefing, the Director then issued the final *Sixth Methodology Order*. R. 1004. This order was issued after the hearing and was the dispositive order that IGWA claims actually impacted the property rights of its members.

Other junior groundwater users advanced this same argument a dozen years ago, and the Supreme Court rightly rejected it in *Clear Springs Foods, Inc. v. Spackman*, 150 Idaho 790, 252 P.3d 71 (2011). In that case certain spring users filed delivery calls with IDWR in early 2005. Without holding a hearing, the Director issued orders requiring curtailment of specific junior groundwater rights, including those of the appellants. After several parties—including IGWA—moved to intervene, the Director held an evidentiary hearing regarding the delivery calls. 150 Idaho at 796, 252 P.3d at 77. Following the 12-day hearing, the hearing officer issued his findings of fact, conclusions of law, and recommendation. *See id.* In July 2008, the Director issued a final order "adopt[ing] the [2005] findings of fact and conclusions of law, the hearing officer's recommendations, and the curtailment orders," subject to certain modifications. *Id.*

The groundwater users in *Clear Springs* "ask[ed] that the curtailment orders be set aside for the failure to grant them a hearing before the orders were issued," arguing that "due process entitles property owners to an opportunity for a hearing before he is deprived of any significant property interest." *Id.* at 814 (cleaned up). The Supreme Court noted that the users "were given notice and a hearing before the Director issued his final order, and it is that order which is the subject of this appeal." *Id.* Thus, "[t]hat they may have initially been denied due process with respect to the curtailment orders issued in May and July 2005 does not invalidate the final order issued in July 2008 after the hearing." *Id.*

The facts here are no different with respect to the Director honoring IGWA's due process rights. Moreover, the parties have been provided the opportunity for several hearings on the issues advanced by IGWA. First, IDWR held a three-week hearing in 2008 on the initial orders. When the Director issued the first methodology order in early 2010 the parties were provided another opportunity for a hearing regarding the use of updated 2008 data. Finally, when the Director issued the *Fifth Order* and the *April As-Applied Order*, he held yet another hearing in June 2023. Importantly, neither of these orders substantially prejudiced IGWA's rights as its members were covered by an approved mitigation plan. Stated another way, the notice of curtailment did not deprive IGWA's members of any property right in the spring of 2023. Moreover, the Director allowed for pre-hearing procedures and discovery, allowed expert reports and testimony, and held a hearing that lasted four days. There is no question IGWA had a full and fair opportunity to examine its witnesses, introduce exhibits, and cross-examine IDWR and other parties' witnesses.

Then, on July 19, 2023, the Director issued the *Sixth Order,* which modified the *Fifth Order* based on evidence presented at the hearing. Similar to the *Clear Springs* case, the Director's process of holding a hearing after an initial order but before a final order, where the hearing affected the final order, satisfies due process and is a remedy specifically provided by section 42-1701A(3). *See* 150 Idaho at 816, 252 P.3d at 97. The litigation history in this matter further belies IGWA's due process claims. Although IGWA attempted to stop the June hearing on due process grounds, the Court recognized the need for timely action in the unique context of the in-season water right administration and the fact the methodology order had been updated before to incorporate new data and techniques. *See* Addendum B.[19]

[19] Transcript of court's ruling in *IGWA v. IDWR*, Ada County Dist. Ct., Fourth Jud. Dist., Case No. CV01-23-8187 (June 1, 2023).

Further, the Idaho Supreme Court's recent discussion of "due process" in conjunctive administration matters is instructive regarding the facts in this case. In *South Valley* the Court explained:

> Procedural due process requires that there be some process to ensure that an individual is not arbitrarily deprived of his rights in violation of the state or federal constitutions. . . . Determining whether an individual's due process rights have been violated requires this Court to engage in a two-step analysis. . . . For the first step, we must decide whether an individual's threatened interest is a liberty or property interest under the Fourteenth Amendment. *Id.* In the second step, we "determine[ ] what process is due." *Id.* Water rights are real property rights that require due process, so the first step is met. . . . On the contrary, "the determination of what process is required" for a particular curtailment "requires a balancing of both the nature of the governmental function involved and the private interests affected." . . . . Three factors guide this balancing test:
>
> > "(1) the importance of the private interest at stake; (2) the risk of an erroneous deprivation of rights given the processes at hand and the probable value, if any, of additional or substitute procedural safeguards; and (3) the Government's interest, 'including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail.'"

South Valley, 2024 WL 136840, at *23-24.

IGWA essentially claims the Director had no authority to issue the *Fifth Order* absent a hearing. IGWA's argument ignores section 42-1701A(3) and the Director's discretion and timeliness requirements for purposes of conjunctive administration. Applying the two-step analysis in *South Valley* there is no dispute that water rights are property rights. As to the second step, the Director did not "curtail" any junior rights following issuance of the order, but instead, similar to the facts in *South Valley*, "opted for a pre-curtailment process complete with advance notice, a full panoply of pre- and post-hearing procedures, and a [four]-day hearing." 2024 WL 136840, at 25 (emphasis added). Reviewing the private interests at stake, the risk of an erroneous deprivation of rights, and the government interest in timely administration of water rights, the Director satisfied due process.

First, IGWA's junior groundwater right interests did not outweigh the Coalition's senior surface water right interests as explained by the Supreme Court in *South Valley:*

> Furthermore, the risk of curtailment of a junior-priority groundwater right during a time of shortage is a risk that Idaho water users knowingly undertake and for which they should always plan, as senior surface water users must also do. We conclude that both Senior and Junior water users had significant private interests at stake, and that given the balance of risk among all water users, those with junior rights were the party fittingly most affected by a curtailment determination.

2024 WL 136840, at *24.

In this case the Director forecasted an initial injury to certain senior water rights in April and recognized his duty to act in a timely manner during the irrigation season. R. 430-31 ("To ensure timely administration for predicted material injury in this current irrigation season, the Director cannot agree to continue the hearing beyond June"). The Coalition opposed IGWA's repeated requests to delay the hearing and noted the predicted injury and potential worsening conditions that would only further injure senior rights. R. 378-87; 457-64 ("Further exacerbating potential injury this year is the deteriorating water supply evidenced by the U.S. Bureau of Reclamation's revised May 1st streamflow forecast and the recently released 2023 aquifer sentinel well index"); R. 467-79. Regardless of any snowpack conditions, groundwater levels had declined to near all-time lows in the spring of 2023 as well. R. 381, 392, 473, 478-79. Given the circumstances at the time, the junior groundwater right interests did not outweigh the interests of the senior surface rights and the need for timely water right administration.

Next, IGWA's complaints about the hearing process are similar to those rejected in the *South Valley* case. *See* 2024 WL 136840, at *24-25. There the Court noted that "[d]ue process is not a concept rigidly applied to every adversarial confrontation, but instead is a flexible concept calling for such procedural protections as are warranted by the situation." *Id.* The Court noted that "[t]ime was of the essence and in-season administration of these water rights was warranted

– curtailing out-of-priority water use *after the irrigation season had passed* would have been too little, too late." *Id.* at 25 (emphasis in original). The risk of any "erroneous deprivation of rights" was properly weighed and balanced by the Director in delaying implementing any curtailment order until after the June 2023 hearing was held. R. 430 ("The Director will not be issuing a curtailment order until after a hearing in this matter so that junior ground water users have the opportunity for a hearing before being curtailed"). IGWA and the Cities conducted pre-hearing discovery (R. 400), including deposing IDWR staff (R. 393, 435, 495) and TFCC's representative (R. 419, 452), filed several expert reports (R. 1511-2579, 1600-1632, 2369-2625) and submitted evidence through numerous witnesses and exhibits at hearing. This was in addition to prior hearings and IDWR's production of potential changes to the methodology provided months ago in the fall of 2022. R. 1176. Clearly, there was no "shortage of meaningful opportunities" for IGWA to be heard. *See e.g.*, 2024 WL 136840, at *25.

Finally, there is no question that the Director had an "essential government function" to administer water rights during the 2023 irrigation season. R. 430; *see also*, *South Valley*, 2024 WL 136840, at *25-26. As found by the Supreme Court, "[t]hese powers and duties would be hollow if, in times of drought, in-season administration of interconnected surface and groundwater rights must wait for protracted litigation before any curtailment occurs. The irrigation season is too short for that – especially in times of extreme drought." *Id.* at *26. The Director acknowledged his duty to administer within the exigencies of the irrigation season and provided an expedited hearing schedule that was consistent with prior cases (i.e. 2010 SWC hearing; 2021 Basin 37 hearing).

The Court recognized the same in its ruling denying IGWA's attempt to stop the June hearing. *See* Addendum B at 4, lns. 13-17 ("In any given year the reality is, there is a short time

frame between when water supply determinations can be made and when water users' demands for irrigation water begin. Any process employed by the director must account for the exigencies of these time constraints"). Under these circumstances the Director acted within reasonable timeframes that did not violate IGWA's due process rights.

Moreover, IGWA's reliance upon the U.S. Supreme Court's opinion in *Fuentes v. Shevin*, 407 U.S. 67 (1972) is mistaken. IGWA acknowledges *Fuentes*' requirements that the hearing must take place "before [a property owner] is deprived of a significant property interest" and "at a meaningful time and in a meaningful manner." *IGWA Br.* at 17 (quoting *Fuentes*, 407 U.S. at 80, 82). Here, the Director gave himself opportunity to—and in fact, did—amend the *Fifth Order* into the (final) *Sixth Order* to reflect the evidence and arguments presented at the hearing. Thus, the "notice and a hearing … serve[d] its full purpose" because it was "granted at a time *when the deprivation can still be prevented*." *Fuentes*, 407 U.S. at 81 (emphasis added).[20] Thus, it is not the sequence of the hearings and the orders that matter, it is whether a deprivation order preceded a hearing. IGWA can point to no "deprivation" of any property interest because no curtailment order was implemented against its members prior to the hearing (who regardless had safe harbor pursuant to an approved mitigation plan). R. 430.

Similarly, IGWA contends that a "hearing 'must be provided at a time which allows the person to reasonably be prepared to address the issue.'" *IGWA Br.* at 18 (quoting *State v. Doe*, 147 Idaho 542, 546, 211 P.3d 787, 791 (Ct. App. 2009)). IGWA's omission of the beginning of the quote is telling; in explaining the adequacy of notice for a disposition hearing, the court of appeals said: "In addition, *notice* must be provided at a time which allows the person to

[20] It also bears pointing out that the Court invalidated as violations of due process two state statutes which did not provide for opportunity to be heard before a state "authorizes its agents to seize property in the possession of a person upon the application of another." 407 U.S. at 80. The Director did no such thing here.

reasonably be prepared to address the issue." *Doe*, 147 Idaho at 546, 211 P.3d at 791. IDWR provided IGWA with notice over six weeks before the hearing occurred and IGWA was aware of the potential updates to the methodology several months before during the technical working group process. R. 1176. Again, under these unique circumstances IGWA was provided with adequate notice and had a meaningful opportunity to be heard.

IGWA further argues that "when it comes to conjunctive management, '[i]t is vastly more important that the Director have the necessary pertinent information and the time to make a reasoned decision based on the available facts.'" *See IGWA Br.* at 19 (citing *AFRD#2 v. IDWR*, 143 Idaho 862, 875, 154 P.3d 433, 446 (2007)). This quote is taken out of context—the Court was discussing the timeliness of responding to a delivery call and rejecting use of a bright-line rule in its resolution: "Given the complexity of the factual determinations that must be made in determining material injury, whether water sources are interconnected and whether curtailment of a junior's water right will indeed provide water to the senior, it is difficult to imagine how such a timeframe might be imposed across the board. It is vastly more important that the Director have the necessary pertinent information and the time to make a reasoned decision based on the available facts." *See AFRD#2*, 143 Idaho at 875, 154 P.3d at 446.

Furthermore, IGWA's argument that the Supreme Court "reprimanded the Director for issuing a curtailment order before holding a hearing" in *Clear Springs*, discussed above, is at best a red herring. It is true that the Court stated "the Director abused his discretion by issuing the curtailment orders without prior notice to those affected and an opportunity for a hearing." However, like the facts here, junior groundwater rights were not actually curtailed with the issuance of the initial orders in the *Clear Springs* case.

Furthermore, the Court's note did not invalidate the curtailment orders that were the subject of that appeal because the users "were given notice and a hearing before the Director issued his final order, and it is that order which is the subject of this appeal." *See Clear Springs*, 150 Idaho at 815-17, 252 P.3d at 96-98 (emphasis added). A reprimand is one thing; remand or vacatur entirely different. Whereas the Director repeatedly noted groundwater rights would not be curtailed until after the June 2023 hearing was held, IGWA received the due process due in this unique circumstance of timely water right administration during the exigencies of an irrigation season.[21] R. 430.

b. The Director Did Not Err in Denying the Cities' Request for an Independent Hearing Officer.

IGWA claims the Director violated section 67-5252 by denying the Cities' motion for an independent hearing officer. *IGWA Br.* at 24. The Cities requested the Director to appoint an independent hearing officer pursuant to section 42-1701A(2). R. 73. The Director denied this request in his discretion explaining that time was of the essence and that he had unique familiarity with the matter. R. 300. IGWA does not argue the Director abused his discretion but instead turns to the Idaho APA "disqualification" statute in support.

First, the statute does not apply to the Cities' underlying motion. The Cities requested appointment of an independent hearing officer, they did not seek to "disqualify" Director Spackman from presiding. R. 73. IGWA misinterprets the Cities' motion and now for the first time on appeal relies upon a statute that was not at issue before the agency.

[21] IGWA's other due process issues also fail. IGWA lists a number of issues alleging the hearing "was anything but fair." *IGWA Br.* at 22-23. All parties were subject to schedule provided, and the Director made accommodations for remote participation by IGWA's consultants. R. 431 ("Sophia Sigstedt and Jaxon Higgs may appear virtually by video link on June 6-10, 2023"). Further, the parties' consultants were familiar with the updates to the methodology going back as far as the fall of 2022. The fact certain consultants opted to continue with planned vacations was their choice and not a reason to change the hearing date or prevent timely water right administration during the 2023 irrigation season. Delaying for that reason would have unduly prejudiced the Coalition's senior water rights.

Moreover, IGWA misreads the statute by omitting subsection (4) which provides:

> (4) Where disqualification of the agency head or a member of the agency head would result in an inability to decide a contested case, the actions of the agency head shall be treated as a conflict of interest under the provisions of section 74-404, Idaho Code.

I.C. § 67-5252(4).

The Director, as the Department's agency head, is responsible for issuing final orders in this proceeding. Since section 67-5252(1) addresses "disqualification" of a presiding officer, IGWA provides no explanation or argument alleging that Director Spackman had a "conflict of interest" as defined by section 74-403(4).

IGWA has failed to demonstrate any error by the Director and has failed to present any argument or authority in support of its new theory on appeal. The Court can deny this argument accordingly. *See* I.R.C.P. 84(r); I.A.R. 35(a)(6); *Minor Miracle Productions, LLC v. Starkey*, 152 Idaho 333, 337, 271 P.3d 1189, 1193 (2012) ("When an appellant fails to assert his assignments of error with particularity and to support his position with sufficient authority, those assignments of error are too indefinite to be heard by the Court").

c. The Director's Development of and Reliance Upon the Agency Record Was Not Improper.

IGWA argues that the Director based his *Sixth Order* on an improper administrative record by blocking certain discovery prior to the hearing, preventing introduction of certain evidence at the hearing, and taking official notice of information after issuing the *Fifth Order* (but before issuing the final, *Sixth Order)*. The Coalition agrees that the APA requires "a full disclosure of all relevant facts and issues, including such cross-examination as may be necessary," and "the opportunity to respond and present evidence and argument on all issues involved." Idaho Code § 67-5242(3). To that end, the Department's rules provide that "[e]vidence should be taken by the agency to assist the parties' development of a record, not

excluded to frustrate that development." IDAPA 37.01.01.600.

The scope of the record is not without bounds, however, and the rules of procedure give the Director (or other presiding officer) substantial discretion in key respects. Contrary to IGWA's assertion, the Director, "with or without objection, *may* exclude evidence that is irrelevant, unduly repetitious, inadmissible on constitutional or statutory grounds, or on the basis of any evidentiary privilege provided by statute, rule or recognized in the courts of Idaho." IDAPA 37.01.01.600 (emphasis added); *see also* I.C. § 67-5251(1); *Chisholm v. Idaho Dept. of Water Res.*, 142 Idaho 159, 163, 125 P.3d 515, 519 (2005). Furthermore, "[a]ll other evidence *may* be admitted if it is of a type commonly relied upon by prudent persons in the conduct of their affairs." *Id.* (emphasis added). Finally, "[t]he agency's experience, technical competence and specialized knowledge may be used in evaluation of evidence." *Id.* And with respect to discovery, the presiding officer "may … authorize[]" certain types of discovery and "may limit the type and scope of discovery." IDAPA 37.01.01.520, 37.01.01.521.[22]

The courts echo this deference to the agency. "A strong presumption of validity favors an agency's actions." *Young Elec. Sign Co. v. State ex rel. Winder*, 135 Idaho 804, 807, 25 P.3d 117, 120 (2011). Courts "will only reverse a hearing officer's decision on the admissibility when there has been an abuse of discretion," though questions of relevancy are reviewed de novo. *See Chisholm*, 142 Idaho at 163, 125 P.3d at 519 (citations omitted). And of particular importance to the Director's actions here, the Director has a statutory duty to distribute water and "the details of

[22] IGWA cites *Lochsa Falls, L.L.C. v. State*, 147 Idaho 232, 241, 207 P.3d 963, 971 (2009), and *State v. Perkins*, 135 Idaho 17, 22, 13 P.3d 344, 349 (Ct. App. 2000), for the proposition that Rule 521 "must be applied in a manner that is both constitutional and consistent with the APA." *IGWA Br.* at 28. These citations are puzzling. *Lochsa Falls* does not discuss discovery or the scope or content of APA hearings; rather, it stands for the propositions that the APA governs the issuance of an encroachment permit and that, because no administrative remedies were available to the appellant, the district court violated due process by dismissing the complaint for failure to exhaust administrative remedies. *Lochsa Falls*, 147 Idaho at 235-41, 207 P.3d at 966-971. Similarly, *Perkins* does not address administrative due process at all; the case concerns a sex offender registration requirement and record expungement request. *Perkins*, 135 Idaho at 18-22, 13 P.3d at 345-349.

the performance of the duty are left to the director's discretion." *Musser v. Higginson*, 125 Idaho 392, 395, 871 P.2d 809, 812 (1994), abrogated on other grounds by *Rincover v. State, Dept. of Fin., Sec. Bureau*, 132 Idaho 547, 976 P.2d 473 (1999).

In this matter the Director and the parties have been working with the general framework of the methodology for well over a decade. Updates have been made over time and the Director convened the technical working group to address additional updates in the fall of 2022. R. 1176. The need to perform timely administration and provide for a pre-curtailment hearing process of over six weeks is not unusual in conjunctive administration cases that take place during the irrigation season. *See e.g. South Valley*, 2024 WL 136840, at *25. The Director provided a fair process given the exigencies of water right administration and did not abuse his discretion in these unique circumstances.

IGWA also protests the timing of the Director's order taking notice of certain agency materials. The Department's procedural rule 602 allows the Director to take official notice of agency reports and memoranda "before the issuance of any order that is based in whole or in part on facts or material officially noticed," and grants parties "an opportunity to contest and rebut the facts or material officially noticed." IDAPA 37.01.01.602. On May 5, 2023, the Director issued the *Notice of Materials Department Witnesses May Rely Upon and Intent to Take Official Notice*, which made available approximately 45 documents that Department officials "may rely upon *at the June 6-10 hearing*" (emphasis added). The June hearing gave the parties the opportunity to contest or rebut the noticed material, and the parties did so. The *Sixth Order* followed the June hearing and was based in part on the noticed material provided by the Department. Thus, the procedure functioned exactly as intended here and is not a basis for reversal. The Director properly exercised his discretion, and the Court should affirm accordingly.

SUBSTANTIVE ISSUES

I. IGWA's Misreading of Idaho Law Should be Denied.

IGWA begins its alleged "substantive errors" discussion with a flawed interpretation of the Ground Water Act and its application for conjunctive administration. First, IGWA vaguely implies that section 42-226 can be applied to limit conjunctive administration in some manner. *See IGWA Br.* at 30 ("it allows junior users to draw down the water table so long as they do not withdraw more water than the aquifer can sustain long-term . . . If groundwater diversions exceed the maximum sustainable yield of the aquifer priority determines which water rights are curtailed to maintain sustainable groundwater levels"). As noted, the "reasonable groundwater pumping level" provision in the Act only applies only to "groundwater" rights, not surface water rights. *See Clear Springs*, 150 Idaho at 804, 252 P.3d at 85 ("There is nothing in statute addressing reasonable aquifer levels. It only mentions reasonable pumping levels. By its terms, section 42-226 only applies to appropriators of ground water. The Spring Users are not appropriators of ground water . . . They are appropriators of surface water flowing from springs") (emphasis added). Accordingly, IGWA's misinterpretation of the statute can be soundly rejected.

Next, IGWA wrongly claims that the concept of "beneficial use" is further defined or conditioned by certain definitions and general statements of purpose in the CM Rules. Again, the Idaho Supreme Court has rejected IGWA's interpretation and has identified the limited import of CM Rule 20. In *Clear Springs* the Court held:

> On its face, [CM Rule 20.03] does not state that priority of right as between a senior surface water user and junior ground water users is to be disregarded as long as the Aquifer is not being overdrawn by ground water users. Likewise, the authorities cited in the Rule do not so state.
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> * * *

> First, neither section (Art. XV § 4 and § 5) applies to the water user who has appropriated water directly from the water source. . . . Finally, neither section governs conjunctive management. . . . There is nothing in the wording of Article XV, § 7, that indicates that it grants the legislature or the Idaho Water Resource Board the authority to modify that portion of Article XV, § 3, which states, "Priority of appropriation shall give the better right as between those using the water" . . . The policy of securing the maximum use and benefit, and least wasteful use, of the State's water resources applies to both surface and underground waters, and it requires that they be managed conjunctively.

150 Idaho at 805-807, 252 P.3d at 86-88.

Accordingly, any claims of error related to the Director's application of the Ground Water Act or CM Rule 20 should be denied. Those provisions do not apply in the manner IGWA suggests and do not expose any errors in the Director's *Sixth Order* and the continued conjunctive water right administration in this case. Further, the following legal doctrines prohibit IGWA's attempts to re-challenge the methodology and the established burdens of proof and evidentiary standards adopted by the Idaho Supreme Court. *See A&B Irr. Dist.*, 155 Idaho at 655, 315 P.3d at 843.

II. Res Judicata and The Law of the Case Doctrines Preclude IGWA's Alleged Defenses.

IGWA attempts to impermissibly re-litigate certain defenses through its "substantive errors" portion of the opening brief. *See generally IGWA Br.* at 29-31, 36-44. These defenses, having been previously raised and litigated, are barred by both the *res judicata* and "law of the case" doctrines. In other words, IGWA cannot continue to regurgitate defenses that have already been denied by Idaho's judiciary. The Court should reject IGWA's arguments accordingly.

The doctrine of *res judicata* covers both claim preclusion and issue preclusion. *See Monitor Finance, L.C. v. Wildlife Ridge Estates, LLC*, 164 Idaho 555, 560, 433 P.3d 183, 188 (2019). Claim preclusion bars a subsequent action between the same parties upon the same claim or upon claims relating to the same cause of action. *See id.*

The three criteria are: 1) the original action ended in a final judgment on the merits; 2) the present claim involves the same parties; and 3) the present claim arises out of the same transaction or series of transactions as the original action. *See id.* The doctrine exists "to prevent the resurrection of a lawsuit already laid to rest." *See Byrd v. Idaho State Bd. of Land Comm'rs*, 169 Idaho 922, 931, 505 P.3d 708, 717 (2022). Further, the doctrine applies to administrative proceedings as well. *See id.* All three of the criteria are met here and therefore the Court should apply *res judicata* to deny IGWA's present appeal of the agency's alleged "substantive errors."

First, the appeal concerns the same parties, the Coalition, IGWA, and IDWR. Next, the claims arise out of the same transaction, the underlying delivery call proceeding and the Director's methodology for administration. IGWA collaterally attacks the Director's methodology for forecasting water supply, use of irrigated acreage, accounting for supplemental groundwater use, and calculating project efficiency and system improvements. *See IGWA Br.* at 32-39. IGWA also alleges the Director wrongly refused to deny the call on theories of "futile call" and "maximum beneficial use." *See id.* at 39-44. All of these claimed errors and defenses were previously litigated and denied.[23] Moreover, any challenges to the methodology steps and underlying analysis were fully adjudicated in the *382 Decision*. Consequently, the final criteria of a final judgment on the merits is met, and the Court can deny IGWA's appeal of these issues accordingly. There simply is no legal basis to allow IGWA to continue to litigate defenses that have already been denied.

[23] IGWA originally moved for summary judgment on "futile call" and its "maximum use" theories. *See* Addendum C (*Idaho Ground Water Appropriators' Motion for Summary Judgment and Memorandum in Support*, Mar. 23, 2005). The Director denied IGWA's motion. *See* Addendum D (*Order on Petition to Intervene and Denying Motion for Summary Judgment et al.*, Apr. 6, 2005). IGWA did not appeal the Director's decision on these issues, and the resulting order on judicial review and the Supreme Court opinion constitute a final adjudication on the merits of IGWA's claimed defenses. *See Order on Petition for Judicial Review* (Gooding County Dist. Ct., Fifth Jud. Dist., Case No 2008-551); *A&B Irr. Dist. v. IDWR*, 155 Idaho 640, 315 P.3d 828 (2013).

In addition to *res judicata*, the "law of the case" doctrine precludes IGWA from re-raising previously denied defenses and alleged errors in the methodology. The doctrine of "law of the case" is well established in Idaho and provides that "upon an appeal, the Supreme Court, in deciding a case presented states in its opinion a principle or rule of law necessary to the decision, such pronouncement becomes the law of the case, and must be adhered to throughout its subsequent progress both in the trial court and upon subsequent appeal." *Swanson v. Swanson*, 134 Idaho 512, 515, 5 P.3d 973, 976 (2000); *see also*, *South Valley*, 2024 WL 136840, at *15.

Idaho courts have applied the doctrine to preclude re-litigation of issues in cases that did not reach the Supreme Court during the first appeal. *See* 134 Idaho at 516, 5 P.3d at 977. Further, where a district court acts in an appellate capacity and there is no appeal to the Supreme Court, the rulings of the district court "become final rulings in the case, not subject to attack in this appeal, and which stated the law of the case that the magistrate–and even this appellate court–must follow in this appeal." *Id.*; *see also*, 2024 WL 136840, at *15 ("The doctrine prevents relitigating issues decided by a district court acting in its appellate capacity, even when an appeal was not taken to the Supreme Court"). The law of the case doctrine "prevents consideration on a subsequent appeal of alleged errors that might have been, but were not, raised in the earlier appeal." *State v. Hawkins*, 155 Idaho 69, 72, 305 P.3d 513, 516 (2013).

IGWA's claimed defenses of "futile call" and "maximum beneficial use" have been denied and do not preclude the Director's continued conjunctive administration in this matter. IGWA did not appeal those prior denials[24] and the Idaho Supreme Court affirmed the Director's ability to employ an adjustable "methodology" for administration of the call pursuant to the "established evidentiary standards, presumptions, and burdens of proof." *See* 155 Idaho at 648-

[24] *See supra* at 25, n. 23.

53, 315 P.3d at 836-41. Any alleged errors with the methodology framework and analysis were similarly addressed in the *382 Decision*. Consequently, these decisions are "law of the case" and therefore preclude re-litigation IGWA's alleged "substantive errors" and defenses.

Further, whereas this Court previously reviewed the methodology framework and the analyses and calculations used by the Director, IGWA cannot now claim errors related to the "baseline year," "forecast supply," and "system efficiency" issues that were previously litigated. *See IGWA Br.* at 32. The Director has updated the data based upon additional years, and IGWA cannot collaterally attack the underlying technique and analysis now. In short, both the *res judicata* and "law of the case" doctrines bar IGWA's present arguments and the Court should deny its appeal accordingly.

III. Best Science Claims

IGWA casts an overly broad argument that the *Clear Springs* Court "has instructed the Director use the 'best science available'" in support of its claims related to the forecast supply, irrigated acres, and supplemental groundwater. IGWA distorts the Court's evaluation of ESPAM in that case as standing for a new standard that the Director somehow violated.[25] IGWA further alleges the Director abused his discretion by not accepting its proposed changes to technical matters in the methodology. *See IGWA Br.* at 32. IGWA's claim regarding its "more accurate methods" rings hollow, particularly in light of the standard of review under the Idaho APA.

On judicial review, courts cannot substitute their judgment for that of the agency as to the weight of the evidence on questions of fact. *See* I.C. § 67-5279(1); *Byrd v. Idaho State. Bd. of*

[25] The issue in *Clear Springs* concerned the Groundwater Users' claim that the Director failed to take into account a higher level of uncertainty in applying the model. *See* 150 Idaho at 812-15; 252 P.3d at 93-95. The Court found the Groundwater Users "failed to show that the Director abused his discretion in relying upon the model." *Id.* The case did not, as IGWA implies here, create a new standard of review different than what is provided by Idaho's APA. *See* I.C. § 67-5279.

Land Comm'rs, 169 Idaho 922, 928, 505 P.3d 708, 714 (2022). Even if there is conflicting evidence in the record, an agency's factual determinations are binding so long as they are supported by substantial and competent evidence in the record. *See In re Idaho Workers Comp. Bd.*, 167 Idaho 13, 22, 467 P.3d 377, 386 (2020). Substantial evidence is less than a preponderance, but more than a scintilla. *See id.; see also Chisholm*, 142 Idaho at 164, 125 P.3d at 520. It is also "relevant evidence that a reasonable mind might accept to support a conclusion." *South Valley*, 2024 WL 136840, at *5.

The Director comprehensively addressed IGWA's alleged technical errors and underlying evidence supporting his decision on these issues in his *Post-Hearing Order*. R. 1077-1094. IGWA fails to show that the Director committed error or abused his discretion on technical questions related to the methodology. While IGWA lists a number of technical matters it disagrees with, it does not show the Director erred in rejecting IGWA's alleged "improvements." Further, as to the three issues IGWA specially addresses, the Director's decision is supported by prior decisions and substantial and competent evidence in the record.

a. Forecast Supply

IGWA first claims the forecast supply is in error based upon tributary flow conditions that existed below Heise in 2023. *See IGWA Br.* at 32-33. This argument challenges the calculations used in Step 2 of the methodology that has been in place since the *Second Order* was issued in 2010. The *Sixth Methodology Order* continued the use of the joint forecast for the Heise Gage from April 1 through July 31 for the computed regression algorithms for purposes of the April evaluation.[26] R. 1045. The fact that certain tributary basins had higher snowpacks in early 2023

[26] The use of the Heise Gage as a starting point in the forecast supply was affirmed by Hearing Officer Schroeder in his 2008 opinion: "Initial use of the Heise Gage unregulated flow is reasonable as a starting point in predicting the water supply, but as the year progresses and adjustments become necessary other sources utilized by the irrigation districts to monitor and predict their water supplies should be included." *2008 Opinion* at 53. IGWA never

does not constitute a basis for changing the methodology. Indeed, any temporary benefits from those basins to the Coalition's water supply are taken into account throughout the year (Steps 5-8) where the Director examines the total storage allocation as well as the "sum of the year-to-date actual natural flow diversions." R. 1046; Anders, Tr. Vol I, 168:21-169:2. Stated another way, IGWA fails to show any error in the Director's use of the initial forecast as the Coalition's total water supply is fully captured by the continued evaluation of actual storage and natural flow diversions as the irrigation season progresses.

In sum, the use of the April Joint Heise forecast has been affirmed and the Director's use of it is supported by substantial evidence in the record.

b. TFCC Irrigated Acres

TFCC has complied with Step 1 of the methodology every year since 2013, and consistent with the Supreme Court's decision in *A&B Irr. Dist. v. IDWR*, the Department has used the information provided by the company. R. 1491-1507; (Anders, Tr. Vol. I, 143:12-25). TFCC's manager confirmed that it his was testimony the total irrigated acreage had not varied by more than 5% over time. Barlogi, Tr. Vol. II, 86:17-20. On appeal IGWA claims the Director erred by not relying upon certain information related to other IDWR programs and projects. Notably, IGWA alleges that the 2017 Irrigated Lands data set and the 2021 METRIC dataset should have been applied to quantity TFCC's irrigated acreage instead of what TFCC supplied in response to Step 1 of the methodology.[27]

challenged that decision. Further, the use of the initial joint forecast was noted and confirmed by this Court. *See 382 Decision* at 11 (reference to what was "step 3" at the time). IGWA did not appeal that decision and final judgment either.

[27] IGWA mischaracterizes Mr. Barlogi's testimony in an effort to show error on the Director's part on this issue. In discussing water delivery to subdivisions Mr. Barlogi acknowledged the different total acreage, but explained how those areas result in a different demand upon TFCC operations and water delivery compared to cropland. R. 1203; Tr. Vol. II, 96:11-97:20.

The Director noted that the 2017 data set was used by IDWR for "model calibration" which employs "hindcasts, not forecasts." R. 1084. The information was not compiled for the purpose of the Coalition's delivery call and did not predict potential 2023 irrigated acres. Further, Dr. Brockway, an SWC expert, identified clear errors with the 2017 data where entire fields had been omitted from the total irrigated acreage. R. 1236. Dr. Brockway also described other errors and problems relying upon that dataset for purposes of calculating irrigated acreage in 2023. R. 1233-34.

With such conflicting evidence the Director rightly rejected IGWA's attempt to shift the burden to TFCC to "re-prove" what its shareholders would irrigate within its project during the 2023 irrigation season. In the *Post-Hearing Order* the Director found:

> The purpose of the 2017 shapefile was to assist Department staff in determining TFCC's irrigation demand in 2017 for use in model calibration. . . . The 2017 shapefile is more recent than the 2013 shapefile, but it does not necessarily represent the number of acres TFCC may irrigate in 2023. The 2017 shapefile was a snapshot in time. It does not necessarily predict *future* irrigated acres. . . .
>
> Mr. Shaw also testified that in his opinion the 2013 shapefile currently represents the best available information for determining TFCC's actual irrigated acreage. Hr'g Tr. vol. IV, at 164-6. Finally, the Director has letters from TFCC's counsel stating that from 2014-2022 the number of acres TFCC irrigated has not varied by more than 5% from the previous (2013) shapefile numbers. Ex. 337.
>
> * * *
>
> At the hearing and in their post-hearing briefing, the ground water users state that the burden is on TFCC or the Department to create a new shapefile that identifies the number of acres TFCC can irrigate in 2023. The ground water users are mistaken. To reduce TFCC's predicted irrigated acreage below 194,732 acres, the burden is on the junior ground water users to establish the accuracy of a lesser number (e.g., 180,956) by clear and convincing evidence. . . . The ground water users did not establish an alternative number of acres irrigated by clear and convincing evidence.

R. 1084-85.

The Director properly applied the governing evidentiary standard and burden of proof on this defense given the conflicting evidence in the record. Whereas IGWA did not establish a lesser number by "clear and convincing evidence," the Director did not err on this issue. Pursuant to Idaho's standard of review, the Director's decision should be upheld. *See Byrd*, 169 Idaho at 928, 505 P.3d at 714; *see also*, *City of Blackfoot v. Spackman*, 162 Idaho 302, 306, 396 P.3d 1184, 1188 ("the agency's factual determinations are binding on the reviewing court, even when there is conflicting evidence before the agency, so long as the determinations are supported by substantial competent evidence in the record"). The Director had substantial competent evidence on this issue, confirmed by his staff and expert testimony from the Coalition's witnesses that supports the irrigated acreage used for TFCC in this proceeding. The Court should affirm the Director's decision accordingly.

c. Supplemental Groundwater Use

IGWA also falls back on previously rejected defenses in an effort to claim the Director erred in the *Sixth Methodology Order*. First, IGWA argues that the Director erred by not finding TFCC's water supply could be met with "supplemental groundwater." *IGWA Br.* at 36. IGWA makes this claim without any supporting factual information.[28] Instead, IGWA claims that the "groundwater fraction" in the ESPA Model is the best available science and that the Director should use this data for purposes of determining material injury. *See id.* at 37. However, this argument was previously litigated and rejected in litigation over the *Second Methodology Order*.

[28] Ground water rights and their place of use is publicly available information on IDWR's "water right search" database on its website. *See* www.idwr.idaho.gov. TFCC's place of use is similarly publicly available, and TFCC has reported its annual irrigated acreage pursuant to Step 1 of the methodology every year. IGWA's failure to research and identify any relevant information on this point is not the Director's error. Further, as instructed by the Court, "[i]f the supplemental ground water rights being used are themselves subject to curtailment under the senior call, (as suggested may be the case here by the Hearing Officer), that factor should also be accounted for by the Director." *382 Decision* at 18 (Addendum A); *see also*, *South Valley*, 2024 WL 136840, at *20 ("The Districts' focus on alternate sources of water available to the Seniors does not diminish the substantial and competent evidence of injury that would be caused by junior groundwater users").

The Court rejected IDWR's prior attempt to use the "ground water fraction" without supporting factual information. *See 382 Decision* at 18-20 ("The record does not contain evidence that acres accounted for under the Coalition's senior surface water rights are being irrigated from a supplemental ground water source"). In other words, the model's "ground water fraction" standing alone is insufficient to change the calculated water needs of the Surface Water Coalition. TFCC's expert Dr. Brockway testified about the lack of supplemental ground water use on his project and IGWA did not rebut this with any specific evidence. Brockway, Tr. Vol. IV, 85:14-86:3; R. 1246. Further, the Director specifically found that the "record in this matter equally lacks sufficient evidence to justify a reduction of the total number of acres irrigated with surface water by SWC members." R. 1085. The Director did not use the "ground water fraction" in the methodology, and his decision is supported by the Court's prior decision on this issue and the evidence in the record.

In sum, IGWA has not shown that the Director erred in the *Sixth Methodology Order* by not reducing TFCC's water supply needs due to alleged supplemental groundwater use not disclosed in the record. *See North Snake Ground Water Dist. v. IDWR*, 160 Idaho 518, 526, 376 P.3d 722, 730 (2016) ("On the record before us, it does not appear that the Director's findings were clearly erroneous"). The Director's findings on this issue should be affirmed accordingly.

IV. Water Delivery System Improvements

IGWA further attacks the Director's decision on the alleged basis that he failed to force the SWC to make "system improvements" to meet their water needs. *IGWA Br.* at 37. IGWA erroneously insinuates the Coalition is "wasting" water and could meet their "needs" with existing supplies through "operational changes and system improvements." *See id.* at 39. IGWA's alleged defense is soundly refuted by substantial and competent evidence in the record and has been repeatedly rejected in prior decisions in this matter.

First, this defense was previously addressed by the agency following the 2008 and 2010 hearings in this proceeding. In his 2008 opinion, Hearing Officer Schroeder found:

> **3. The existing facilities utilized by the Surface Water Coalition members are reasonable.** The evidence does not show substandard facilities for diversion and conveyance. The members of the Surface Water Coalition have improved their conveyance practices since the time the water rights were licensed or decreed. . . .
>
> **3. The members of the Surface Water Coalition are employing reasonable conservation practices.** There is evidence the members of the SWC monitor the use of water closely. It is very clear that during the drought period they did not apply the full extent of their water rights throughout the irrigation season. They withheld water and rationed it according to conditions. Had they not used the water reasonably they likely would have suffered catastrophic losses.

2008 Opinion at 54, 56 (emphasis in original).

Following the May 2010 hearing, the Director similarly found that "members of the SWC operate reasonably and without waste."[29] Reviewing the *Second Methodology Order* after the 2010 hearing, this Court also found the following:

> Therefore, the Court finds that the *Methodology Order* takes into consideration acres that are no longer irrigated, crop needs, water diverted by the Coalition for use by others, and water leased by the Coalition to other water users. Furthermore, both the Hearing Officer and the Director found, in considering the Rule 42 factors, that the Coalition members operate reasonable and efficient irrigation projects. The Director found that "as found by the hearing officer in his recommended order, members of the SWC operate reasonably and without waste," and that he will not "impose greater project efficiencies upon members of the SWC that have been historically realized."

382 Decision at 30; Addendum A.

Again, IGWA did not appeal these decisions rejecting the claimed defense of inefficient or wasteful water delivery systems. Those final orders and judgments are binding in the present matter. Moreover, with respect to the Twin Falls Canal Company, Mr. Barlogi (TFCC manager)

[29] *See Order on Reconsideration of Final Order et al.* at 5 (June 16, 2010). A copy of the order is available at: https://idwr.idaho.gov/legal-actions/delivery-call-actions/SWC/

and Mr. Shaw (expert witness) provided additional evidence of continued system improvements and efficiency measures that the company has employed over time. R. 1192-1204; Barlogi, Tr. Vol. II, 17:1-21:17; Shaw, Tr. Vol. IV, 146:18-21.

The Director confirmed the above findings and concluded that the Coalition members continue to operate their water delivery systems reasonably and without waste:

> TFCC's general manager Jay Barlogi testified that his organization's diversions were reasonable and that TFCC worked hard to improve its efficiency, for example by annually cleaning its canals, lining canals, and replacing over 100 concrete structures per year. . . . Mr. Shaw testified that TFCC does a good job maintaining its infrastructure compared to other water delivery organizations, and that TFCC's delivery system is reasonable.
>
> * * *
>
> The SWC entities must be able to discharge some water out of its system to ensure delivery of water to its patrons and operate efficiently within the limits of the delivery system. Testimony at the hearing established that the SWC entities operated efficiently within the limits of their delivery system. *See* Hr'g Tr. vol. II, at 75, 90-91, 94-96, Hr'g Tr. vol IV, at 146.

R. 1088-89 (emphasis added).

Again, IGWA did not prove the defense of an unreasonable water delivery system with "clear and convincing evidence." Just the opposite, the Director's decision rejecting IGWA's defense is supported by substantial and competent evidence in the record and should be affirmed. *See e.g.,* I.C. § 67-5279(4); *South Valley*, 2024 WL 136840, at *5.

V. Futile Call

IGWA next claims the Director erred by not accepting its futile call defense to the SWC delivery call. *See IGWA Br.* at 40-41. IGWA failed to prove a futile call defense in this proceeding and has never appealed such decisions from the agency. *See generally*, Addendums C and D; *2008 Opinion*; *Final Order Regarding Surface Water Coalition Delivery Call* (Sept. 5, 2008); *Order on Petition for Judicial Review* (Gooding County Dist. Ct., Fifth Jud. Dist., Case

No. 2008-551, July 24, 2009); *A&B Irr. Dist. v. Spackman*, 155 Idaho 640, 315 P.3d 828 (2013); *382 Decision*. After nearly 20 years of conjunctive administration IGWA cannot now claim the Director has erred by refusing to apply a defense that has been rejected from the outset. Consequently, the "law of the case" and *res judicata* doctrines preclude IGWA from attempting to relitigate past failed defenses in this appeal.

Further, IGWA's hyper-temporal view of the futile call doctrine in the context of conjunctive administration across the ESPA is flawed. IGWA wrongly attempts to superimpose the application of a surface water right administration futile call into this conjunctive administration proceeding. *See IGWA Br.* at 40. Conjunctive administration of an area of common ground water supply like the ESPA is not the same as regulating surface water rights on the Teton River. *See id.* Indeed, the CM Rules acknowledge the fact that even if certain ground water use does not have an immediate impact on a surface water source, that use can still be administered:

> Although a call may be denied under the futile call doctrine, these rules may require mitigation or staged or phased curtailment of a junior-priority use if diversion and use of water by the holder of the junior-priority water right causes material injury, even though not immediately measurable, to the holder of a senior-priority surface or ground water right in instances where the hydrologic connection may be remote, the resource is large and no direct immediate relief would be achieved if the junior-priority water use was discontinued.

CM Rule 20.04.

IGWA also ignores the fact that the continued impact of prior junior priority ground water use in various ground water districts (i.e. Carey Valley, Madison, Henry's Fork) is being realized on the Snake River today. Sukow, Tr. Vol. I, 79:1-9. Whereas the impact of historic ground water use in those areas is being realized now, those same juniors cannot escape conjunctive administration through misapplication of the futile call doctrine.

The Director's denial of IGWA's defense is supported by the record in this proceeding and should be affirmed.

VI. IGWA's "Public Interest" and "Maximum Beneficial Use" Should be Denied.

IGWA's final failed defense misapplies the Ground Water Act and a reasonable means of diversion case that has already been rejected by the Idaho Supreme Court. IGWA essentially argues that "full economic development" of the aquifer and "optimum development of water resources in the public interest" trumps conjunctive administration of junior priority ground water rights in the ESPA. *See IGWA Br.* at 41-42. The Supreme Court plainly rejected this argument in *Clear Springs*:

> The Groundwater Users' argument that full economic development means that priority of right is taken into consideration in managing the Aquifer only as necessary to prevent over-drafting of the Aquifer is not consistent with Idaho law. It would, in essence, preclude conjunctive management of the Aquifer. Conflicts between senior surface water users and junior ground water users would be ignored as long as withdrawals from the aquifer and recharge were in balance. . . . As we held in *Musser v. Higginson*, 125 Idaho 392, 871 P.2d 809 (1994), hydrologically connected surface and ground waters must be managed conjunctively.
>
> * * *
>
> The Idaho Water Resource Board and the Idaho legislature have the power to formulate and implement a state water plan for "optimum development of water resources in the public interest." Idaho Const. Art. XV, § 7. There is no difference between securing the maximum use and benefit, and least wasteful use, of this State's water resources and the optimum development of water resources in the public interest. Likewise, there is no material difference between "full economic development of water resources in the public interest." They are two sides of the same coin. Full economic development is the result of the optimum development of water resources in the public interest. . . . The policy of securing the maximum use and benefit, and least wasteful use, of the State's water resources applies to both surface and underground waters, and it requires that they managed conjunctively.

150 Idaho at 808; 252 P.2d at 89.

Furthermore, with respect to the issue of the water wheel means of diversion in *Schodde*, the Court explained:

> The issue in *Schodde* was whether the senior appropriator was protected in his means of diversion, not in his priority of water rights. Thus, in *American Falls Reservoir District No. 2 v. Idaho Department of Water Resources*, 143 Idaho 862, 877, 154 P.3d 433, 448 (2007), we cited *Schodde* for the proposition that "evaluation of whether a diversion is reasonable in the administration context should not be deemed a re-adjudication [of a water right]."

150 Idaho at 809; 252 P.2d at 90.

IGWA does not challenge the Coalition's "means of diversion" from the Snake River, nor the Director's findings that the Coalition members employ reasonable and efficient canal systems. R. 1088-89. Instead, IGWA turns back to the rejected argument that *Schodde* and "full economic development" preclude conjunctive administration where the impact on ground water user is too "large" in its opinion.[30] *See IGWA Br.* at 42. Where the Director's findings are supported by the substantial and competent evidence in the record, and this defense has been fully addressed before, the Court should affirm the Director accordingly.

VII. IGWA Has Failed to Show Prejudice to a Substantial Right.

In addition to showing that the Director committed error under the applicable standard of review (I.C. § 67-5279(3)), IGWA must also establish prejudice to a "substantial right" in order to succeed on appeal. *See* I.C. § 67-5279(4); *Hungate v. Bonner County*, 166 Idaho 388, 394, 458 P.3d 966, 972 (2020) ("even when an agency blatantly contravenes its own ordinance, as the County did here, contestants like the Hungates must still establish prejudice to a *substantial right* to overcome the agency action").

[30] IGWA's reliance upon *IGWA v. IDWR*, 160 Idaho 119, 369 P.3d 897 (2016) is misplaced as the facts in that case are markedly different. Whereas the Rangen delivery call required analysis of water accruing to a single model cell, the SWC case concerns vast reaches of the Snake River (i.e. Near Blackfoot to Minidoka) stretching over a hundred miles. The Director's use of the Great Rift "trim line" in Rangen thus has no application in this proceeding.

IGWA generally alleges that the claimed due process and substantive errors "violate the substantial rights of IGWA and its patrons because they deprived due process" and "generate larger and more frequent curtailments." *IGWA Br.* at 44. Although a water right, a real property right in Idaho (I.C. § 55-101), is a "substantial right" for purposes of an APA appeal, IGWA has failed to show how any right of its members has been prejudiced. Notably, the Director granted IGWA's and other parties' request for a hearing and held a four-day hearing pursuant to section 42-1701A(3). R. 62, 490. The Director acted within a reasonable timeframe given the exigencies of the irrigation season and need for timely water right administration. *See generally*, Addendum B.

Although IGWA disagreed with the timing, the Director explained that would "not be issuing a curtailment order until after a hearing in this matter so that junior ground water users have the opportunity for a hearing before being curtailed." R. 430. Ultimately, no ground water user was curtailed during the 2023 irrigation season. Hence, no "property right"' or "substantial right" was prejudiced by the Director's orders. IGWA's claim that the alleged errors "generate larger and more frequent curtailments" is pure speculation at this point and does not prejudice any substantial right either. Moreover, IGWA's members have been covered by an approved mitigation plan since 2016 and no water right was curtailed in 2023. Unless IGWA is pre-determining its future non-compliance with an approved mitigation plan, then any feigned prejudice to a substantial right is not warranted.

Whereas the Director acted expeditiously in the context of the irrigation season and required conjunctive administration, IGWA was provided due process and has not shown any substantive error that violates any substantial right. Consequently, the Court can affirm the *Sixth Methodology Order* on this separate ground as well. *See* I.C. § 67-5279(4).

CONCLUSION

The Court is familiar with this case and the prior defenses that have been raised and repeatedly denied. IGWA's dues process claims are defeated by the particular facts in this case, where the overall methodology has been fully and fairly adjudicated. Further, the Director's updates to the methodology, which were disclosed to the parties back in the fall of 2022, should be affirmed as they are supported by substantial and competent evidence in the record. Moreover, IGWA's substantive errors should be denied based upon existing law and prior decisions in this proceeding. For the foregoing reasons the Coalition respectfully requests the Court to deny IGWA's petition for judicial review accordingly.

DATED this 19th January 2024.

MARTEN LAW LLP

Travis L. Thompson

Attorneys for A&B Irrigation District, Burley Irrigation District, Milner Irrigation District, North Side Canal Company, and Twin Falls Canal Company

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CERTIFICATE OF SERVICE

I hereby certify that on this 19th day of January, 2024, the foregoing was filed electronically using the Court's e-file system, and upon such filing the following parties were served electronically.

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Travis L. Thompson

Addendum
A

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SEP 29 2014

District Court - SRBA
Fifth Judicial District
In Re: Administrative Appeals
County of Twin Falls - State of Idaho
SEP 26 2014
By
Clerk
Deputy Clerk

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF GOODING

IDAHO GROUND WATER APPROPRIATORS, INC.,

Petitioner,

vs.

CITY OF POCATELLO,

Petitioner,

vs.

TWIN FALLS CANAL COMPANY, NORTH SIDE CANAL COMPANY, A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, and MINIDOKA IRRIGATION DISTRICT,

Petitioners,

vs.

GARY SPACKMAN, in his capacity as Director of the Idaho Department of Water Resources, and THE DEPARTMENT OF WATER RESOURCES,

Respondents.

IN THE MATTER OF DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY OR FOR THE BENEFIT OF

Case No.: CV-2010-382

(consolidated Gooding County Cases CV-2010-382, CV-2010-383, CV-2010-384, CV-2010-387, CV-2010-388, Twin Falls County Cases CV-2010-3403, CV-2010-5520, CV-2010-5946, CV-2012-2096, CV-2013-2305, CV-2013-4417 and Lincoln County Case CV-2013-155)

MEMORANDUM DECISION AND ORDER ON PETITIONS FOR JUDICIAL REVIEW

A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY AND TWIN FALLS CANAL COMPANY

Appearances:

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W. Kent Fletcher of Fletcher Law Office, Burley, Idaho, attorney for American Falls Reservoir District #2 and Minidoka Irrigation District.

Randall Budge of Racine Olson Nye Budge & Bailey, Chartered, Pocatello, Idaho, attorneys for the Idaho Ground Water Appropriators, Inc.

Mitra Pemberton of White & Jankowski, LLP, Denver, Colorado, attorneys for the City of Pocatello.

Michael Orr and Garrick Baxter, Deputy Attorneys General of the State of Idaho, Idaho Department of Water Resources, Boise, Idaho, attorneys for the Idaho Department of Water Resources and Gary Spackman.

I.

STATEMENT OF THE CASE

A. Nature of the Case.

This matter involves a dispute between senior surface water users and junior ground water users over the conjunctive administration of water in the Snake River Basin. The dispute arises in the context of a delivery call initiated by the A&B Irrigation District, American Falls Reservoir District No. 2, Burley Irrigation District, Milner Irrigation District, Minidoka Irrigation District, North Side Canal Company and Twin Falls Canal Company (collectively, "Coalition" or "SWC") against certain junior ground water rights located in the Eastern Snake Plain Aquifer ("ESPA"). At issue is the methodology utilized by the Director of the Idaho Department of Water Resources ("Department") for determining material injury to reasonable in-

season demand and reasonable carryover to Coalition members, and his subsequent application of that methodology. The Coalition, Idaho Ground Water Appropriators, Inc. ("IGWA") and the City of Pocatello seek judicial review of the Director's methodology and his application of that methodology. Those parties ask this Court to set aside and remand various aspects of the Director's final orders.

B. Course of proceedings and statement of facts.[1]

1. This judicial review proceeding involves a number of *Petitions for Judicial Review*. They seek review of a series of final orders issued by the Director in relation to the Coalition's delivery call. What follows is a recitation of those final orders, the resulting *Petitions for Judicial Review*, and the subsequent proceedings on those *Petitions* before this Court.

2. On June 23, 2010, the Director issued his *Second Amended Final Order Regarding Methodology for Determining Material Injury to Reasonable In-Season Demand and Reasonable Carryover* ("*Methodology Order*"). 382 R., pp.564-604. *Petitions* seeking judicial review of the *Methodology Order* were filed by the Coalition in Gooding County Case No. CV-2010-384, IGWA in Gooding County Case No. CV-2010-383, and the City of Pocatello in Gooding County Case No. CV-2010-388.

3. On June 24, 2010, the Director issued his *Final Order Regarding April 2010 Forecast Supply (Methodology Steps 3 & 4); Order on Reconsideration* ("*As-Applied Order*"). 382 R., pp.605-625. *Petitions* seeking judicial review of the *As-Applied Order* were filed by the Coalition in Twin Falls County Case No. CV-2010-3403, IGWA in Gooding County Case No. CV-2010-382, and the City of Pocatello in Gooding County Case No. CV-2010-387.

4. The six *Petitions for Judicial Review* previously mentioned were reassigned to this Court.[2]

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[1] **Footnote Re: Citations to Agency Record.** The agency record in this proceeding consists of two subparts: (1) the previously-compiled record for the judicial review proceeding under Gooding County Case No. CV-2008-551, and (2) the more recently compiled record for the judicial review petitions consolidated under Gooding County Case No. CV-2010-382. For clarity and convenience, citations of the former record will use form "551 R., p. ___," while citations to the latter record will use the form "382 R., p.___."

[2] The reassignments were made pursuant to the Idaho Supreme Court's *Administrative Order* dated December 9, 2009, issued *In the Matter of the Appointment of the SBRA District Court to Hear All Petitions for Judicial Review from the Department of Water Resources Involving Administration of Water Rights.*

5. On July 29, 2010, pursuant to the unopposed request of the parties, the Court entered an *Order* consolidating the six *Petitions for Judicial Review* into Gooding County Case No. CV-2010-382 ("Consolidated 382 Case").

6. On September 17, 2010, the Director issued his *Final Order Revising April 2010 Forecast Supply (Methodology Step 7)*. 382 R., pp.636-645. A *Petition* seeking judicial review of that *Final Order* was filed by the Coalition in Twin Falls County Case No. CV-2010-5520. The *Petition* was reassigned to this Court.

7. On November 30, 2010, the Director issued his *Final Order Establishing 2010 Reasonable Carryover (Methodology Step 9)*. 382 R., pp.684-692. A *Petition* seeking judicial review of that *Final Order* was filed by the Coalition in Twin Falls County Case No. CV-2010-5946. The *Petition* was reassigned to this Court.

8. On December 13, 2010, the Court issued an *Order* staying proceedings in the Consolidated 382 Case pending the Idaho Supreme Court's issuance of its written decision in Idaho Supreme Court Docket No. 38193-2010. The stay was entered pursuant to the request and agreement of the parties.

9. On January 3, 2011, pursuant to the unopposed request of the parties, the Court entered an *Order* consolidating the Coalition's *Petitions* in Twin Falls County Case Nos. CV-2010-5520 and 2010-5946 into consolidated the Consolidated 382 Case.

10. On April 13, 2012, the Director issued his *Final Order Regarding April 2012 Forecast Supply (Methodology Steps 1-8)*. 382 R., pp.728-742. On May 9, 2012, the Director issued his *Order Denying Petition for Reconsideration; Denying Motion to Authorize Discovery; Denying Request for Hearing (Methodology Steps 1-8)*. 382 R., pp.753-757. A *Petition* seeking judicial review of that *Final Order* and *Order Denying Petition for Reconsideration* was filed by the Coalition in Twin Falls County Case No. CV-2012-2096. The *Petition* was reassigned to this Court.

11. On April 17, 2013, the Director issued his *Final Order Regarding April 2013 Forecast Supply (Methodology 1-4)*. 382 R., pp.829-846. On May 22, 2013, the Director issued his *Order Denying Petition for Reconsideration; Denying Request for Hearing; Denying Motion to Authorize Discovery (Methodology Steps 1-4)*. 382 R., pp.888-893. A *Petition* seeking judicial review of that *Final Order* and *Order Denying Petition for Reconsideration* was filed by

the Coalition in Twin Falls County Case No. CV-2013-2305. The *Petition* was reassigned to this Court.

12. On June 17, 2013, the Director issued his *Order Releasing IGWA from 2012 Reasonable Carryover Shortfall Obligation (Methodology Step 5)*. 382 R., pp.922-928. On July 18, 2013, the Director issued his *Order Denying AFRD2's Petition for Reconsideration of Order Releasing IGWA from 2012 Reasonable Carryover Shortfall Obligation (Methodology Step 5)*. 382 R., pp.937-943. A *Petition* seeking judicial review of that *Order* and *Order Denying Petition for Reconsideration* was filed by American Falls Reservoir District #2 in Lincoln County Case No. CV-2013-155. The *Petition* was reassigned to this Court.

13. On August 27, 2013, the Director issued his *Order Revising April 2013 Forecast Supply (Methodology 6-8)*. 382 R., pp.948-957. On September 27, 2013, the Director issued his *Order Denying Petition for Reconsideration; Denying Motion to Authorize Discovery; Denying Request for Hearing (Methodology Steps 6-8)*. 382 R., pp.1037-1044. A *Petition* seeking judicial review of that *Order* and *Order Denying Petition for Reconsideration* was filed by the Coalition in Twin Falls County Case No. CV-2013-4417. The *Petition* was reassigned to this Court.

14. On November 12, 2013, pursuant to the unopposed request of the parties, the Court entered an *Order* consolidating the Coalition's *Petitions* in Twin Falls County Case Nos., CV-2012-2096, CV-2013-2305, 2013-4417 and Lincoln County Case No. CV-2013-155 into the Consolidated 382 Case.

15. On December 17, 2013, the Idaho Supreme Court issued its written decision in Idaho Supreme Court Docket No. 38193-2010. Thereafter, the Court lifted the stay in the Consolidated 382 Case. The parties subsequently briefed the issues, and a hearing on the *Petitions* was held before this Court on August 13, 2014.

II.
MATTER DEEMED FULLY SUBMITTED FOR DECISION

Oral argument before the Court in this matter was held on August 13, 2014. The parties did not request the opportunity to submit additional briefing nor does the Court require any. Therefore, this matter is deemed fully submitted for decision on the next business day or August 14, 2014.

III.

STANDARD OF REVIEW

Judicial review of a final decision of the director of IDWR is governed by the Idaho Administrative Procedure Act, Chapter 52, Title 67, Idaho Code § 42-1701A(4). Under IDAPA, the Court reviews an appeal from an agency decision based upon the record created before the agency. Idaho Code § 67-5277; *Dovel v. Dobson,* 122 Idaho 59, 61, 831 P.2d 527, 529 (1992). The Court shall not substitute its judgment for that of the agency as to the weight of the evidence on questions of fact. Idaho Code § 67-5279(1); *Castaneda v. Brighton Corp.,* 130 Idaho 923, 926, 950 P.2d 1262, 1265 (1998). The Court shall affirm the agency decision unless the court finds that the agency's findings, inferences, conclusions, or decisions are:

(a) in violation of constitutional or statutory provisions;

(b) in excess of the statutory authority of the agency;

(c) made upon unlawful procedure;

(d) not supported by substantial evidence on the record as a whole; or,

(e) arbitrary, capricious, or an abuse of discretion.

Idaho Code § 67-5279(3); *Castaneda,* 130 Idaho at 926, 950 P.2d at 1265. The petitioner must show that the agency erred in a manner specified in Idaho Code § 67-5279(3), and that a substantial right of the party has been prejudiced. I.C. § 67-5279(4). Even if the evidence in the record is conflicting, the Court shall not overturn an agency's decision that is based on substantial competent evidence in the record.[3] *Barron v. IDWR,* 135 Idaho 414, 417, 18 P.3d 219, 222 (2001). The Petitioner also bears the burden of documenting and proving that there was not substantial evidence in the record to support the agency's decision. *Payette River Property Owners Assn. v. Board of Comm'rs.*, 132 Idaho 552, 976 P.2d 477 (1999).

IV.

HISTORY AND PRIOR DETERMINATIONS

The *Petitions for Judicial Review* filed in this case arise in the context of an ongoing delivery call. Before the Court is the methodology established by the Director for determining

[3] Substantial does not mean that the evidence was uncontradicted. All that is required is that the evidence be of such sufficient quantity and probative value that reasonable minds *could* conclude that the finding – whether it be by a jury, trial judge, special master, or hearing officer – was proper. It is not necessary that the evidence be of such quantity or quality that reasonable minds *must* conclude, only that they *could* conclude. Therefore, a hearing officer's findings of fact are properly rejected only if the evidence is so weak that reasonable minds could not come to the same conclusions the hearing officer reached. *See eg. Mann v. Safeway Stores, Inc.* 95 Idaho 732, 518 P.2d 1194 (1974); *see also Evans v. Hara's Inc.*, 125 Idaho 473, 478, 849 P.2d 934, 939 (1993).

material injury to the Coalition's reasonable in-season demand and reasonable carryover caused by junior ground water rights, and his subsequent application of that methodology. Consideration of the issues requires a review of the prior administrative and judicial proceedings undertaken in relation to this call.

A. 2005 Delivery call.

The delivery call at issue here was filed by the Coalition in 2005. 551 R., pp.1-52. On May 2, 2005, the Director issued an *Amended Order* finding that junior ground water diversions from the ESPA were materially injuring the Coalition's natural flow and storage rights. 551 R., pp.1359-1424. The Director's *Amended Order* utilized a "minimum full supply" methodology in determining material injury. 551 R., pp.1382-1385. That methodology relied upon a baseline analysis to determine material injury based upon shortfalls to a chosen baseline quantum of the Coalition's in-season irrigation and reasonable carryover needs. *Id.*

Various parties sought an administrative hearing before the Department on the *Amended Order*. *See e.g.,* 551 R., pp.1642-1657; 551 R., pp.1704-1724. However, that was put on hold while members of the Coalition filed a declaratory judgment action challenging the constitutionality of the Conjunctive Management Rules ("CM Rules").[4] The declaratory judgment action culminated in the Idaho Supreme Court's written decision in *American Falls Reservoir Dist. No. 2 v. Idaho Dep't of Water Res.*, 143 Idaho 862, 154 P.3d 433 (2007) ("*AFRD#2*"), which upheld the CM Rules as facially constitutional. Thereafter, the Department proceeded with an administrative hearing on the *Amended Order*. The Director appointed the Honorable Gerald F. Schroeder as the presiding hearing officer ("Hearing Officer").

B. Director's *2008 Final Order.*

The Hearing Officer issued his *Opinion Constituting Findings of Fact, Conclusions of Law and Recommendation* on April 29, 2008. 551 R., pp.7048-7118. The Hearing Officer's *Recommendation* analyzed the Director's use of a minimum full supply methodology in determining material injury to the Coalition. 551 R., pp.7086-7095. The Hearing Officer generally approved the Director's use of a minimum full supply methodology, including his use

[4] The term "Conjunctive Management Rules" or "CM Rules" refers to the *Rules for Conjunctive Management of Surface and Ground Water Resources*, IDAPA 37.03.11.

of a baseline as a starting point for the consideration of the call and in determining material injury. *Id.* But, the Hearing Officer noted that "[t]here have been applications of the concept of a minimum full supply that should be modified if the use of the protocol is to be retained," and that "there must be adjustments as conditions develop if any baseline supply concept is to be used." 551 R., pp.7091 & 7093. Exceptions to the Hearing Officer's *Recommendation* were subsequently filed with the Director by various parties. *See e.g.,* 551 R., pp.7126-7134; 551 R., pp.7141-7197.

On September 5, 2008, the Director issued his *Final Order Regarding the Surface Water Coalition Delivery Call* ("*2008 Final Order*"). 551 R., pp.7381-7395. The *2008 Final Order* adopted the findings of fact and conclusions of law of the Hearing Officer's *Recommendation* except as specifically modified therein, including his recommendation that certain refinements be made to the minimum full supply methodology for determining material injury. 551 R., p.7387. Of significance to the instant proceeding, the Director abandoned the "minimum full supply" methodology in his *2008 Final Order* in favor of a "reasonable in-season demand" methodology. 551 R., p.7386. Although the Director adopted the Hearing Officer's recommendation that refinements be made, he did not address those refinements or the details of his new "reasonable in-season demand" methodology in his *2008 Final Order*, stating:

> Because of the need for ongoing administration, the Director will issue a separate final order . . . detailing his approach for predicting material injury to reasonable in-season demand and reasonable carryover for the 2009 irrigation season.

551 R., p.7386. *Petitions* seeking judicial review of the Director's *2008 Final Order* were subsequently filed in Gooding County Case No. CV-2008-551.

C. District court decision in Gooding County Case No. CV-2008-551 and Director's orders on remand.

The district court entered its *Order on Petition for Judicial Review* in Gooding County Case No. CV-2008-551 on July 24, 2009. 551 R., pp.10075-10108. The district court upheld the Director's adoption of a baseline methodology for determining material injury. It held that "[t]he Director did not abuse discretion or act outside his authority in utilizing a 'minimum full supply' or 'reasonable in-season demand' baseline for determining material injury." 551 R., p.10099. However, the court did find that the Director abused his discretion by waiting to issue a separate

final order detailing his approach for determining material injury to reasonable in-season demand and reasonable carryover. The case was therefore remanded to the Director. 551 R., pp.10106-10107. On remand, the Director complied with the district court's instruction. On June 23, 2010, the Director issued his *Methodology Order*, which by its terms provides the Director's methodology for determining material injury to reasonable in-season demand and reasonable carryover. 382 R., pp.564-604. Additionally, on June 24, 2010, the Director issued his *As-Applied Order*, wherein he applied his methodology to determine material injury to members of the Coalition in 2010. 382 R., pp.605-625. Both *Orders* are presently before the Court in this proceeding.

D. Idaho Supreme Court's decision in *In the Matter of Distribution of Water to Various Water Rights Held by or for the Benefit of A&B Irr. Dist.*

Meanwhile, the Coalition appealed the District Court's *Order on Petition for Judicial Review* in Gooding County Case No. CV-2008-551. On December 17, 2013, the Idaho Supreme Court issued its written decision in *In the Matter of Distribution of Waters to Various Water Rights Held by or for the Benefit of A&B Irr., Dist.,* 155 Idaho 640, 315 P.3d 828 (2013) ("*2013 SWC Case*"). In that decision, the Court held that the Director may employ a baseline methodology for management of water resources, and as a starting point in administration proceedings for considering material injury. *2013 SWC* Case, 155 Idaho at 650, 315 P.3d at 838. Although the Director's *Methodology Order* had been issued prior to the Supreme Court's consideration of the *2013 SWC Case*, the Court in its opinion made clear that "since the district court did not review this final methodology order, the findings of fact that shape that methodology and any modifications to the methodology are not properly before this Court." *2013 SWC Case*, 155 Idaho at 649, 315 P.3d at 837.

V.

METHODOLOGY ORDER ANALYSIS

The stated purpose of the Director's *Methodology Order* "is to provide the methodology by which the Director will determine material injury to [reasonable in-season demand] and reasonable carryover to members of the SWC." 382 R., p.591. Section II of the *Methodology Order* details the Director's approach for determining material injury to reasonable in-season

demand. 382 R., pp.565-585. Section III of the *Methodology Order* details the Director's approach for determining material injury to reasonable carryover. 382 R., pp.585-590. The *Methodology Order* then sets forth a ten step process to be undertaken annually for purposes of determining material injury. 382 R., pp.597-601. The Coalition, IGWA and the City of Pocatello seek judicial review of various aspects of the Director's methodology.

A. The *Methodology Order* fails to provide a proper remedy for material injury to reasonable in-season demand when taking into account changing conditions.

The Coalition argues that the signature flaw of the *Methodology Order* is its failure to properly remedy material injury to reasonable in-season demand based on changing conditions during the irrigation season. It asserts that if material injury to its reasonable in-season demand is greater than originally determined by the Director, the *Methodology Order's* failure to remedy that injury through either curtailment or the requirement of a mitigation plan is contrary to Idaho law. For the reasons set forth below, this Court agrees.

i. Overview of the Director's methodology for determining material injury to reasonable in-season demand.

Reasonable in-season demand is defined under the *Methodology Order* as "the projected annual diversion volume for each SWC entity during the year of evaluation that is attributable to the beneficial use of growing crops within the service area of the entity." 382 R., p.575. Under steps 1 and 2 of the *Methodology Order,* the Director calculates the crop water needs of the Coalition for that year.[5] However, the Director's initial determination of reasonable in-season demand is not based on those calculations, but rather is based on a historic demand baseline analysis. The *Methodology Order* makes this clear, providing that reasonable in-season demand is initially "equal to the historic demands associated with a baseline year or years ("BLY") as selected by the Director, but will be corrected during the season to account for variations in the climate and water supply between the BLY and actual conditions." 382 R., p.568. The *Methodology Order* uses the values of 2006 and 2008 to arrive at an average baseline year for purposes of the initial reasonable in-season demand determination. 382 R., p.574.

[5] The term "crop water need" is defined in the *Methodology Order* as "the project wide volume of irrigation water required for crop growth, such that crop development is not limited by water availability, for all crops supplied with surface water by the surface water provider." 382 R., p.579.

Under step 3, the Director makes his initial determination of water supply. Step 3 occurs after the United States Bureau of Reclamation ("USBOR") and the United States Corps of Engineers ("USACE") issue their Joint Forecast predicting unregulated inflow volume at the Heise Gage. 382 R., p.598. The Joint Forecast is typically released within the first two weeks of April. *Id.* Thereafter, the Director issues an April Forecast Supply for the water year. *Id.* The Director also determines in step 3 whether a demand shortfall to any member of the Coalition will occur in the coming season. *Id.* Demand shortfall is the difference between reasonable in-season demand and the April Forecast Supply. *Id.* If reasonable in-season demand is greater that the April Forecast Supply, a demand shortfall exists. *Id.*

Under step 4, if the demand shortfall is greater than the reasonable carryover shortfall from the previous year,[6] material injury exists or will exist, and junior users are required to establish their ability to mitigate that injury to avoid curtailment. 382 R., pp.598-599. To mitigate, junior users only need establish their ability to secure mitigation water to be provided to the Coalition at a later date, which the Director refers to as the "Time of Need." The Director then makes adjustments to his calculations throughout the irrigation season as conditions develop. These adjustments are provided for in steps 6 and 7 of the *Methodology Order*, which provide that at various times throughout the irrigation season, the Director will recalculate reasonable in-season demand and adjust demand shortfall for each member of the Coalition. 382 R., pp.599-600. The Director's recalculations are based on actual crop water need up to that point and a revised Forecast Supply, among other things. *Id.*

Step 8 addresses the obligations of junior water users after the Director makes his in-season recalculations and adjustments. These obligations generally trigger when Coalition members have exhausted their storage water rights to where all that remains in the reservoirs is an amount of water equal to their reasonable carryover. The Director refers to this as the "Time of Need."[7] Step 8 provides:

> Step 8: At the Time of Need, junior ground water users are required to provide the lesser of the two volumes from Step 4 (May 1 secured water) and the

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[6] Junior water users will have previously mitigated for any reasonable carryover shortfall from the previous year under step 9 of the *Methodology Order*. 382 R., pp.600-601.

[7] The *Methodology Order* provides that "[t]he calendar day determined to be the Time of Need is established by predicting the day in which the remaining storage allocation will be equal to reasonable carryover, or the difference between the 06/08 average demand and the 02/04 supply. The Time of Need will not be earlier than the Day of Allocation." 382 R., p.584 fn.9.

[reasonable in-season demand] volume calculated at the Time of Need. **If the calculations from steps 6 or 7 indicate that a volume of water necessary to meet in-season projected demand shortfalls is greater than the volume from Step 4, no additional water is required.**

382 R., p.600. While junior user's original mitigation obligation for material injury to reasonable in-season demand may be adjusted downward under the plain language of step 8, it may not be adjusted upward.

ii. Idaho law requires that out-of-priority diversions can only be permitted pursuant to a properly enacted mitigation plan.

The Coalition takes issue with step 8 of the *Methodology Order*. They assert that it unlawfully permits out-of-priority water use to occur without remedy of curtailment or a properly enacted mitigation plan. This Court agrees. In the *2013 SWC Case*, the Idaho Supreme Court held that the CM Rules "require that out-of-priority diversions only be permitted pursuant to a properly enacted mitigation plan." *2013 SWC Case*, 155 Idaho at 653, 315 P.3d at 841. Further, that when the Director responds to a delivery call "the Director shall either regulate and curtail the diversions causing injury or approve a mitigation plan that permits out-of-priority diversion." *Id.* at 654, 315 P.3d at 842. The Court's holding in this respect was based on the plain language of Rule 40 of the CM Rules, which provides that once the Director makes a determination of material injury, the Director shall:

> a. Regulate the diversion and use of water in accordance with the priorities of rights of the various surface or ground water users whose rights are included within the district . . .; or
>
> b. Allow out-of-priority diversion of water by junior-priority ground water users pursuant to a mitigation plan that has been approved by the Director.

IDAPA 37.03.11.040.01.a, b.

This Court finds that step 8 of the *Methodology Order* is inconsistent with Rule 40 of the CM Rules and the precedent established in the *2013 SWC Case*. Step 8 effectively caps junior users' mitigation obligations for material injury to reasonable in-season demand to that amount determined in step 4. This determination is made in or around April. The cap remains in place even if changing conditions during the irrigation season establish that material injury to reasonable in-season demand is greater than originally determined. When that scenario arises,

step 8 provides that junior users are required to deliver to the Coalition the water they previously secured as mitigation under step 4. Even though that amount of water will be insufficient to remedy the full extent of material injury, the plain language of step 8 provides that "no additional water is required." The result is that material injury to reasonable in-season demand is realized by the Coalition, out-of-priority junior water use occurs, and no remedy of curtailment or the requirement of a mitigation plan exists to address that injury. The endorsement of such unmitigated out-of-priority water use is contrary to Idaho's doctrine of prior appropriation.

The Director justifies his decision as follows. First, he states that "the purpose of predicting need is to project an upper limit of material injury at the start of the season." 382 R., p.569. He then provides:

> Just as members of the SWC should have certainty at the start of the irrigation season that junior ground water users will be curtailed, in whole or in part, unless they provide the required volume of mitigation water, in whole or in part, junior ground water users should also have certainty entering the irrigation season that the predicted injury determination will not be greater than it is ultimately determined at the Time of Need . . . . **If it is determined at the time of need that the Director under-predicted the demand shortfall, the Director will not require that junior ground water users make up the difference, either through mitigation or curtailment. This determination is based upon the Director's discretion and his balancing of the principle of priority of right with the principles of optimum utilization and full economic development of the State's water resources. Idaho Const. Art XV, § 3; Idaho Const. Art. XV, § 7; Idaho Code § 42-106; Idaho Code § 42-226.**

382 R., p.594 (emphasis added).

The justifications relied upon by the Director do not permit out-of-priority water use in contravention of CM Rule 40 and the *2013 SWC Case*. Neither Article XV, Section 3, nor Article XV, Section 7 of the Idaho Constitution permits such water use to occur under the circumstances presented. The Idaho Supreme Court has held that nothing in Article XV, § 7 "grants the legislature or the Idaho Water Resource Board the authority to modify that portion of Article XV, §3, which states, 'Priority of appropriation shall give the better right as between those using the water [of any natural stream].'" *Clear Springs Foods, Inc. v. Spackman*, 150 Idaho 790, 807, 252 P.3d 71, 88 (2011). With respect to Idaho Code § 42-226, the Idaho Supreme Court has directed that it, and its reference to "full economic development," has no application in delivery calls between senior surface water users and junior ground water users, such as the one at issue here. *A&B Irr. Dist. v. Idaho Dept. of Water Res.*, 153 Idaho 500, 509,

284 P.3d 225, 234 (2012). The Court therefore finds that the legal justifications expressly relied upon by the Director do not support his determination to refrain from requiring further mitigation or curtailment from junior users if material injury to reasonable in-season demand is greater than originally determined in step 4 due to changing conditions.

iii. The Director's "total water supply" argument does not justify out-of-priority diversions without a properly enacted mitigation plan.

In briefing and at oral argument, counsel for the Department asserts another justification for step 8 of the *Methodology Order*. Counsel argues that under a "total water supply" theory, "the Director is not required to determine material injury to in-season demand and 'reasonable carryover' separately, nor is he required to order separate mitigation for each."[8] Counsel suggests that if material injury to reasonable in-season demand is greater than originally determined under step 4, the Department need not curtail or require a mitigation plan to make up the difference. Rather, it can require Coalition members to exhaust their reasonable carryover to cure the material injury. Then, at a point later in the year, make a subsequent determination as to material injury to reasonable carryover and mitigation at that time. In so arguing, counsel refers to steps 9 and 10 of the *Methodology Order*, wherein the Director in or around November 30th determines material injury to reasonable carryover and establishes the mitigation obligations of the juniors. This Court rejects this argument.

As an initial matter, counsel's total water supply argument appears contrary to the plain language of the Director's *Methodology Order*. The *Methodology Order* itself contains separate and unique methodologies for determining material injury to reasonable in-season demand (Section II) and reasonable carryover (Section III).[9] 382 R., pp.565 & 585. The methodologies described in Sections II and III of the *Methodology Order* establish that a determination of material injury will be conducted for both reasonable in-season demand and for reasonable carryover, and that such determinations will be conducted and mitigated separately. *Id.* For

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[8] The Court notes that this justification was not set forth by the Director in his *Methodology Order*. Notwithstanding, the Court will address the argument.

[9] Section II of the *Methodology Order* is entitled "Methodology for Determining Material Injury to Reasonable In-Season Demand." 382 R, p.565. Section III of the *Methodology Order* is entitled "Methodology for Determining Material Injury to Reasonable Carryover." 382 R., p.585.

example, when detailing his methodology for determining material injury to reasonable in-season demand in Section II, the Director sets forth his calculation of demand shortfall and directs:

> The amount calculated represents the volume that junior ground water users will be required to have available for delivery to members of the SWC found to be materially injured by the Director. The amounts will be calculated in April, **and if necessary, at the middle of the seasons and at the time of need.**

382 R., p.585 (emphasis added). The argument is also contrary to steps 3 and 4 of the *Methodology Order*, wherein the Director mitigates for material injury to reasonable in-season demand by requiring junior users to establish their ability to secure mitigation water or face curtailment. 382 R., pp.598-599.

More importantly, the total water supply argument is contrary to law. The concept of a "total water supply" arises out of Rule 42 of the CM Rules. The Rule permits the Director to consider the Coalition's natural flow and storage rights in conjunction with one another when determining material injury. IDAPA 37.03.011.042.g. Indeed, the Director does so in his *Methodology Order* when determining material injury to reasonable in-season demand as well as in determining the Coalition's "Time of Need." However, problems arise when the Coalition is required to deplete its reasonable carryover, *in addition to its other storage water*, to address its material injury to reasonable in-season demand. Under Idaho law the holder of a surface water storage right is entitled to maintain a reasonable amount of carryover-over storage to assure water supplies for future dry years. IDAPA 37.03.011.042.g; *AFRD#2*, 143 Idaho at 880, 154 P.3d at 451. Counsel's argument fails to address what happens if the Coalition's reasonable carryover is insufficient to address the full extent of material injury to reasonable in-season demand. Additionally, while the Coalition will have been required to deplete its reasonable carryover under counsel's argument, out-of-priority water use will have occurred without curtailment or the enactment of a mitigation plan. If junior users are unable to secure all or part of their mitigation obligation in November due to cost, scarcity or unwillingness, the remedy of curtailment is lost, as the out-of-priority water use will have already occurred. In that scenario, there is no contingency to protect senior rights as required by the *2013 SWC Case*. Such a result is not contemplated by the CM Rules, and is in contravention of the plain language of CM Rule 40 and the Idaho Supreme Court's precedent in the *2013 SWC Case*.

iv. The Director may require use of reasonable carryover pursuant to a properly enacted mitigation plan that contains appropriate contingency provisions to protect senior rights.

In conjunction with step 8, if the Director determines a greater volume of water is necessary than the previously determined to address material injury to reasonable in-season demand, the ability of junior users to secure additional in-season water during what is typically the most water intensive stage of the irrigation season is problematic. Further problematic is that curtailment at that stage would not only have a devastating impact on junior users but may not timely provide sufficient water to the Coalition. Accordingly, curtailment may still not prevent the Coalition from relying on its reasonable carryover to help get through the remainder of the irrigation season. Nonetheless, a viable mitigation plan is still possible.

In conjunction with a properly enacted and approved mitigation plan, the Director could require the Coalition to rely on its reasonable carryover provided that: 1) existing carryover storage allocations meet or exceed the additional shortfall to the revised reasonable in-season demand; and 2) junior users secure a commitment at that time for a volume of water equal to the shortfall to the revised reasonable in-season demand to be provided the following season if necessary. This could be accomplished through an option or lease to provide water. The water would provide mitigation for any shortfalls to reasonable carryover determined to exist at the end of the season. If no shortfall is determined to exist due to changing conditions, then the option or lease need not be exercised. If a shortfall is determined to exist, then the option or lease is in place to be exercised in whole or in part as required to mitigate for any shortfall. The water would be secured but not have to be provided until such time as it can be determined whether or not the storage allocations will fill next season. This process eliminates the risk of the Director not being able to compel junior users to secure water at the end of the season in lieu of curtailment the following season. And, curtailment the following season may not provide sufficient water in storage to remedy the injury to storage, particularly if curtailment will also be required as a result of a demand shortfall to reasonable in-season demand the following season.

The process is consistent with the requirement set forth in the *2013 SWC Case* "that out-of-priority diversions only be permitted pursuant to a properly enacted mitigation plan." *2013 SWC Case*, 155 Idaho at 653, 315 P.3d at 841. It also eliminates the problem of securing water that will not be put to beneficial use because the water is being secured for the next season and

the amount secured can be adjusted down at the end of the instant season thereby leaving plenty of time for the unneeded water to be used elsewhere. Following any adjustment at the end of the instant season the amount of water that ultimately be secured would be the same as is currently required under Step 9.

B. The *Methodology Order's* use of the values of 2006 and 2008 to arrive at an average baseline year for purposes of the initial reasonable in-season demand determination is supported by substantial evidence.

The Coalition argues that the Director's use of the values of 2006 and 2008 to arrive at an average baseline year for purposes of the initial reasonable in-season demand determination is not supported by substantial evidence and must be set aside. 382 R., p.574. The Idaho Supreme Court has already approved the Director's employment of a baseline methodology as a starting point in administration proceedings and for determining material injury. *2013 SWC Case*, 155 Idaho at 648-653, 315 P.3d at 836-841. The Court finds that the Director's use of the values of 2006 and 2008 to arrive at an average baseline year is supported by substantial evidence.

The *Methodology Order* explains that a baseline year is selected by analyzing three factors: (1) climate; (2) available water supply; and (3) irrigation practices. 382 R., p. 569. To capture current irrigation practices, the *Methodology Order* limits the identification of a baseline year to 1999 and beyond. *Id.* Additionally, the *Methodology Order* instructs as follows:

> [A] BLY should represent a year(s) of above average diversions, and should avoid years of below average diversions. An above average diversion year(s) selected as the BLY should also represent a year(s) of above average temperatures and ET, and below average precipitation to ensure that increased diversions were a function of crop water need and not other factors. In addition, actual supply (Heise natural flow and storage) should be analyzed to assure that the BLY is not a year of limited supply.

382 R., p.570. The Director found that "using the values of 2006 and 2008 (06/08) to arrive at an average BLY fits the selection criteria for all members of the Coalition."[10] 382 R., p.574. In so holding, the Director made findings that the 06/08 average has below average precipitation, near average ET, above average growing degree days, and represents years in which diversions were not limited by availability of water supply. *Id.* These findings are supported by the record.

[10] The Director determined that using values from a single year would not fit the selection criteria for all members of the Coalition. 382 R., p.574.

See 551 R., Ex. 8000, Vol. IV, Appdx. AS-1-8. Therefore, the Court finds that the Director's decision in this respect was reached through an exercise of reason, is within the limits of his discretion and must be affirmed.

Furthermore, the Court's holding regarding step 8 of the *Methodology Order* should alleviate the concerns raised by the Coalition on this issue. The baseline year should only be used as a starting point. As set forth above, it cannot result in the implementation of a cap on junior users' mitigation obligations. If changing conditions establish that material injury is greater than originally determined pursuant to the baseline analysis, then adjustments to the mitigation obligations of the juniors must be made when the Director undertakes his mid-season recalculations. The Coalition's concerns should be addressed since the mid-season adjustments include recalculating reasonable in-season demand for each member of the Coalition based on, among other things, actual crop water need to that point. 382 R., p.599.

C. The *Methodology Order's* provision for the consideration of supplemental ground water does not violate Idaho law. However, the Director's finding regarding ground water fractions is not supported by substantial evidence and must be remanded.

Step 1 of the *Methodology Order* provides in part that "[i]n determining the total irrigated acreage [of Coalition members], the Department will account for supplemental ground water use." 382 R., p.597. The Coalition argues that the *Methodology Order's* consideration of supplemental ground water use violates Idaho law and has no relevance to the administration of the Coalition's senior rights. This Court disagrees. The Idaho Supreme Court has directed that in responding to a delivery call, the Director has the authority "to consider circumstances when the water user is not irrigating the full number of acres decreed under the water right." *AFRD#2*, 143 Idaho at 876, 154 P.3d at 447. If it is established that acreage accounted for under the Coalition's senior surface water rights is being irrigated from a supplemental ground water source, that is a factor the Director has the authority to consider in the context of a delivery call. If the supplemental ground water rights being used are themselves subject to curtailment under the senior call, (as suggested may be the case here by the Hearing Officer[11]), that factor should also be accounted for by the Director. However, the *Methodology Order's* instruction that the Department will consider supplemental ground water use when determining the total irrigated

[11] 551 R., p.7507

acreage of Coalition members does not violate Idaho law. The Director's decision to include that instruction in the *Methodology Order* is affirmed.

That said, the Court finds that the Director's assignment of an entity wide split for each member of the Coalition of the ground water fraction to the surface water fraction is not supported by substantial evidence in the record. In the *Methodology Order*, the Director makes the following finding:

> All acres identified as receiving supplemental ground water within the boundaries of a single SWC entity will initially be evaluated by assigning an entity wide split of the ground water fraction to the surface water fraction as utilized in the development of the ESPA Model. *See Ex. 8000 Vol. II, Bibliography at II,* referencing *Final ESPA Model, IWRRI Technical Report 06-002 & Design Document DDW-017.* For each entity the ground water fraction to the surface water fraction is as follows: A&B 95:5; AFRD2 30:70; BID 30:70; Milner 50:50; Minidoka 30:70; NSCC 30:70; & TFCC 30:70. If these ratios change with a subsequent version of the ESPA Model, the Department will use the values assigned by the current version of the ESPA Model.

382 R., p.576 fn.6. The Coalition argues that there is no factual support in the record justifying these ground water fractions, and that the Director's finding is arbitrary and capricious. The Department, IGWA and the City of Pocatello do not respond to the Coalition's argument in this respect.

A review of the record supports the Coalition's position. The record does not contain evidence that acres accounted for under the Coalition's senior surface water rights are being irrigated from a supplemental ground water source. Or that the ground water fractions utilized by the *Methodology Order* reflect such supplemental ground water use. If the Director is going to administer to less than the full amount of acres set forth on the face of the Coalition's *Partial Decrees*, such a determination must be supported by clear and convincing evidence. *See. e.g., A&B Irr. Dist., v. Idaho Dept. of Water Res.*, 153 Idaho 500, 524, 284 P.3d 225, 249 (holding, "Once a decree is presented to an administrating agency or court, all changes to that decree, permanent or temporary, must be supported by clear and convincing evidence"). Here, the parties fail to cite the Court to anything submitted before the Department in either written form or via oral testimony establishing the use of supplemental ground water by individual irrigators within the Coalition. That such was the case is illustrated by the Hearing Officer's limited findings on the issue. He found only that "an undetermined number of individual irrigators within SWC *may hold supplemental ground water rights. . . .*" and that "[i]t would seem that any

such ground water rights would be junior to the surface irrigations rights and subject to curtailment." 551 R., p.7507 (emphasis added). The Director did not address the Hearing Officer's findings in his *Methodology Order*, or include any further analysis on his findings. Rather, to support his ground water fraction finding, the Director cites to a document entitled *Final ESPA Model, IWRRI Technical Report 06-002 & Design Document DDW-017*, which is not in the record. Therefore, the Court finds the Director's finding is not supported by substantial evidence in the record. The Director's ground water fractions as set forth in the *Methodology Order* are hereby set aside and remanded for further proceedings as necessary.

D. The *Methodology Order's* reliance upon the Joint Forecast, and its use of the Heise Gage, to determine the available water supply for the Twin Falls Canal Company is set aside and remanded for further proceedings as necessary.

The Coalition argues that the Director's reliance upon the Joint Forecast, and its focus on the Heise Gage, to predict the available water supply for the Twin Falls Canal Company is arbitrary and capricious and not supported by substantial evidence. In response to this argument, the Department concedes the following in its briefing:

> The Department recognizes that while the Joint Forecast is a "good indicator" for predicting the supplies of most Coalition members, it is "not the best evidence" for purposes of predicting TFCC's supply. *SWC Methodology Brief* at 36. The Director has "previously expressed to TFCC that the Department is willing to work with the TFCC to improve the predictors for TFCC for future application in the Methodology Order and Department staff have even met with TFCC consultants on this issue."

Corrected Br. of Respondents, p.37 fn.30 (July 30, 2014). As a result, the Coalition's argument on this issue is unopposed. Therefore, the Director's decision in this respect is set aside and remanded for further proceedings as necessary.

E. The Director in his discretion may use the U.S. Department of Agriculture's National Agriculture Statistics Service data as a factor in determining crop water need, but should also take in account available data reflecting current cropping patterns.

Under steps 1 and 2 of the *Methodology Order,* the Director calculates the crop water needs of the Coalition for that year. In determining crop water need, the *Methodology Order* instructs that among other things the Director "will utilize crop distributions based on

distributions from the United States Department of Agriculture's National Agricultural Statistics Service ("NASS")." 382 R., p.580. The *Methodology Order* goes onto provide:

> NASS reports annual acres of planted and harvested crops by county. NASS also categorizes harvested crops by irrigation practice, i.e., irrigated, non irrigated, non irrigated following summer fallow, etc. *Crop distribution acreage will be obtained from NASS by averaging the "harvested" area for "irrigated" crops from 1990-2008.* Years in which harvested values were not reported will not be included in the average. In the future, the NASS data may not be the most accurate source of data. The Department prefers to rely on data from the current season if and when it becomes usable.

Id. (emphasis added). The Coalition argues that the *Methodology Order's* designation of NASS data for 1990-2008 average crop distribution fails to capture current cropping patterns, resulting in under-determined crop water need. Specifically, that changes in cropping patterns have resulted in the planting of more water intensive crops such as corn and alfalfa in recent years which is not reflected in the 1990-2008 data.

The Court finds that the Director's decision to use NASS data as a factor in determining the Coalition's crop water need is a matter within his discretion. That said, while the Director may use historic cropping data as a starting point in determining crop water need, he should also take into account available data reflecting current cropping patterns. The *Methodology Order* provides that "the Department prefers to rely on data from the current season if and when it becomes usable." 382 R., p.580. Likewise, the Hearing Officer in addressing the issue of crop water need made the following recommendation which was adopted by the Director:

> **If there have been significant cropping changes resulting in either greater or less need for water, those factors should be factored.** This is an area of caution. Cropping decisions are matter for the irrigators acting within their water rights. Those decisions should be driven by the market. The fact that a particular crop may take less water does not dictate that it be planted.

551 R., p.7099. Taking in account available data reflecting current cropping patterns also addresses the Coalition's concerns regarding the Director's decision to factor in only "harvested" area when considering historic NASS data. Since the *Methodology Order* already provides that the Director prefers to use data from the current seasons if and when it becomes usable, no remand is necessary on this issue.

F. The *Methodology Order's* timing for initial determinations of water supply and material injury to reasonable in-season demand do not run afoul of Idaho law.

The Coalition takes issue with the timing of the Director's initial determinations of water supply and material injury to reasonable in-season demand under the *Methodology Order*. Under step 3 of the *Methodology Order*, the Director makes his initial determination of water supply through the issuance of his April Forecast Supply. 382 R., p.598. This occurs after the USBOR and USACE issue their Joint Forecast, which is typically released within the first two weeks of April. Then, the Director first determines whether a demand shortfall will occur for any member of the Coalition for the coming season. *Id.* If material injury exists or will exist, step 4 of the *Methodology Order* provides the juniors another fourteen days or until May 1st, whichever is later, to establish their ability to mitigate that material injury or face curtailment. *Id.* The Coalition asks this Court to set aside steps 3 and 4 of the *Methodology Order* and remand with instructions that the Director's initial determinations of water supply and material injury to reasonable in-season demand be made prior to the irrigation season (i.e., prior to March 15th).

The Coalition relies on the *2013 SWC Case* for the proposition that these initial determinations must occur prior to the irrigation season. In that case, the Court distinguished the two ways the Director may utilize a baseline methodology. *2013 SWC Case*, 155 Idaho at 650, 315 P.3d at 838. First, the Court directed that such a methodology may be used in a management context in preparing a pre-season management plan for the allocation of water resources. *Id.* Second, the Court directed that the Director may also use such a methodology in an administrative context "in determining material injury in the context of a water call." *Id.* The Court instructed that if the Director chooses to utilize a baseline methodology to "develop and implement a pre-season management plan for allocation of water resources," it must "be made available in advance of the applicable irrigation season . . . ." *Id.* at 653, 315 P.3d at 841. The irrigation season delineated on the Coalition's senior surface water rights begins March 15th.

The parties dispute whether the *Methodology Order* could be considered a pre-season management plan as contemplated in the *2013 SWC Case*. However, it is plain that the baseline methodology set forth in the *Methodology Order* is utilized by the Director in an administrative context in this case. Specifically, it is used a starting point for consideration of the Coalition's call for administration, and as a starting point in determining the issue of material injury. The

procedural background of the *Methodology Order* makes clear that it was issued in response to the Coalition's 2005 call. In his 2008 *Final Order*, the Director explained he would be issuing a separate final order because of the need for ongoing administration. 551 R., p.7386. The stated purpose of the *Methodology Order* is "to set forth the Director's methodology for determining material injury to RISD and reasonable carryover to members of the SWC." 382 R., p.565. Therefore, the Court finds that the *Methodology Order's* baseline methodology is used in an administrative context "in determining material injury in the context of a water call." *2013 SWC Case*, 155 Idaho at 650, 315 P.3d at 838.

The Idaho Supreme Court has directed that "[w]hile there must be a timely response to a delivery call, neither the Constitution nor statutes place any specific timeframes on this process," and that it is "vastly more important that the Director have the necessary and pertinent information and the time to make a reasoned decision based on the available facts." *AFRD#2*, 143 Idaho at 875, 154 P.3d at 446. In this case, the Director found that it is necessary to wait until the Joint Forecast is issued to make the initial determinations at issue here. 382 R., p.572. He held that "given current forecasting techniques, the earliest the Director can predict material injury to RISD 'with reasonable certainty' is soon after the Joint Forecast is issued." 382 R., p.582. In so finding, the Director held that the Joint Forecast "is generally as accurate a forecast as is possible using current data gathering and forecasting techniques." 382 R., p.572. And, that it is "a good indicator of the total available irrigation water supply for a season." *Id.* The Director's holding is supported by the record. *See. e.g.*, 551 R., p.1379. Therefore, the Court finds that the Director's decision in this respect was reached through an exercise of reason, is within the limits of his discretion and must be affirmed.

G. The Director's use of the ESPA Model boundary to determine a curtailment priority date in steps 4 and 10 of the *Methodology Order* is set aside and remanded.

The Coalition argues that steps 4 and 10 of the *Methodology Order* unlawfully and arbitrarily reduce junior ground water acres subject to administration in the event of curtailment. Step 4 provides in part as follows:

> If junior ground water users fail or refuse to provide this information by May 1, or within fourteen (14) days from issuance of the values set forth in Step 3, whichever is later in time, the Director will issue an order curtailing junior ground water users. Modeled curtailment shall be consistent with previous Department

> efforts. The ESPA Model will be run to determine the priority date necessary to produce the necessary volume within the model boundary of the ESPA. However, because the Director can only curtail junior ground water rights within the area of common ground water supply, CM Rule 50.01, junior ground water users will be required to meet the volumetric obligation within the area of common ground water supply, not the full model boundary.

382 R., p.598-599.

The plain language of step 4 directs that the Director will use the ESPA Model to determine the curtailment priority date necessary to remedy material injury "within the model boundary of the ESPA." *Id.* Step 4 then notes that under the CM Rules, the Director "can only curtail junior ground water rights within the area of common ground water supply." *Id.* Thus, step 4 recognizes a conflict between the model boundary of the ESPA and the area of common ground water supply. The conflict arises from the fact that the ESPA Model boundary and the boundary of the area of common ground water supply – as it is defined by the CM Rules – are not consistent with one another. The ESPA Model boundary is larger, and contains ground water rights that are not within the area of common ground water supply. This fact is undisputed by the parties. It is the Coalition's position that the *Methodology Order* wrongly uses the ESPA Model boundary, instead of the boundary of the area of common water supply, to determine a curtailment priority date. And, that the Director's practice in this respect results in unmitigated material injury contrary to law. This Court agrees.

When a senior water user seeks the conjunctive administration of ground water rights under the CM Rules, the senior user is seeking administration within the area of common ground water supply. The plain language of CM Rules make this clear. The Rules prescribe the procedures for responding to a delivery call made "in an area having a common ground water supply."[12] IDAPA 37.03.11.001. Likewise, the Rules provide for administration when a delivery call is made by the holder of a senior-priority water right "alleging that by reason of diversion of water by the holders of one (1) or more junior-priority ground water rights ... from

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[12] An "area having a common ground water supply" is defined as:

> A ground water source within which the diversion and use of ground water or changes in in ground water recharge affect 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.

IDAPA 37.03.11.010.01

an area having a common water supply in an organized water district the petitioner is suffering material injury." IDAPA 37.03.11.040.01 (emphasis added). As a result, the *Methodology Order's* use of the ESPA Model to determine the curtailment priority date necessary to remedy material injury to the Coalition's water rights "within the model boundary of the ESPA" is problematic. Absent further analysis, which the *Methodology Order* does not provide for, it will result in unmitigated material injury and out-of-priority water use to the detriment of the Coalition in the event of curtailment.

The Director's application of step 4 in 2010 is illustrative. Under steps 3 and 4 of the *Methodology Order*, the Director determined a demand shortfall to reasonable in-season demand of 84,300 acre-feet to various Coalition members. 382 R., p.186. As permitted in step 4, the Director gave the junior users 14 days to mitigate by establishing their ability to secure 84,300 acre-feet of water. 382 R., p.188. In the event the juniors could not, the Director utilized the ESPA Model boundary to determine the curtailment priority date necessary to increase appropriate reach gains in the Snake River by 84,300 acre-feet. 382 R., p.187. This exercise resulted in a curtailment priority date of April 5, 1982. *Id.* However, the Director then provided that "[c]urtailing only those ground water rights located within the area of common ground water supply [junior to April 5, 1982] , IDAPA 37.03.11.050.01, will increase reach gains . . . by 77,985 acre-feet." *Id.* The amount of 77,985 acre-feet would not have fully mitigated the material injury. Notwithstanding, the *Methodology Order* does not provide further analysis or a mechanism to adjust the curtailment priority date upward within the boundary of the area of common water supply to provide enough water to fully mitigate the injury.

Therefore, the Court finds that the *Methodology Order's* use of the ESPA Model boundary to determine a curtailment priority date is arbitrary and contrary to the CM Rules. It includes ground water rights in the modeling that are not subject to curtailment under the plain language of the CM Rules to the detriment of the Coalition. The Court further finds that the use of the ESPA Model boundary results in out-of-priority water use contrary to law. The Director should either (1) use the boundary of the area of common water supply to determine a curtailment priority date, or (2) add further analysis to the *Methodology Order* to convert the curtailment priority date arrived at by using the ESPA Model boundary to a priority date which will provide the required amount of water to the Coalition when applied to the boundary of the

area of common water supply. The Director's decision in this respect is set aside and remanded for further proceedings as necessary.

H. The Coalition's argument that mitigation water for material injury to reasonable carryover must be provided up front has previously been addressed and will not be revisited.

With respect to the issue of mitigation of material injury to reasonable carryover, the Coalition argues that the *Methodology Order* is contrary to Idaho law in that it does not require the transfer of actual mitigation water to the Coalition's storage space up front to "carryover" for use in future years. This Coalition's argument in this respect has previously been addressed and rejected. In Gooding County Case No. CV-2008-551, the district court held that as long as assurances are in place, such as an option for water, that mitigation water could be acquired and transferred the following irrigation season, then junior users need not transfer that mitigation water up front to be carried over:

> In this regard, although the Director adopted a "wait and see" approach, the Director did not require any protection to assure senior right holders that junior ground water users could secure replacement. ... *This does not mean that juniors must transfer replacement water in the season of injury,* however, the CMR require that assurances be in place such that replacement water can be acquired and will be transferred in the event of a shortage. An option for water would be such an example. Seniors can therefore plan for the future the same as if they have the water in their respective accounts and juniors may avoid the threat of curtailment.

Order on Petition for Judicial Review, Gooding County Case No. CV-2008-551, p.19 (July 24, 2009) (emphasis added). Given that the decision of the district court in this respect was not overturned by the Idaho Supreme Court in the *2013 SWC Case*, this Court sees no reason to revisit the issue. The Director's decision in this respect is affirmed.

I. The *Methodology Order's* process for determining reasonable carryover does not violate the CM Rules.

The CM Rules provide that in determining reasonable carryover, "the Director shall consider the average annual rate of fill of storage reservoirs and the average annual carry-over for prior comparable water conditions and the projected water supply for the system." IDAPA 37.03.11.042.g. The Coalition argues that the Director's *Methodology Order* fails to consider

these factors in its process for determining reasonable carryover, and asks this Court to set aside and remand the same. Section III of the *Methodology Order* sets forth the Director's methodology for determining material injury to reasonable carryover. 382 R., pp.585-590. A review of Section III reveals that the Director does consider and analyze, consistent with CM Rule 42.g, the projected water supply, average annual rate of fill and average annual carryover of the Coalition members. The *Methodology Order* first considers the projected water supply. 382 R., pp.585-586. It uses the values of Heise Gage natural flow data for the years 2002 and 2004 to establish a projected typical dry year supply as the projected water supply. 382 R., p.585. In so doing, the Director notes that "[t]he Heise natural flow, for the years 2002 and 2004, were well below the long term average . . . ." *Id.* The *Methodology Order* then considers and sets forth the annual percent fill of storage volume by Coalition members from 1995 to 2008. 382 R., pp.586-587. Last, the *Methodology Order* considers and sets forth actual average carryover of Coalition members from 1995-2008. 382 R., pp.587-588.

The CM Rules do not limit the Director's determination of reasonable carryover to consideration of the factors enumerated in CM Rule 42.g, but only require that the Director consider those enumerated factors. The Court finds based on a review of the *Methodology Order* that the Director's process for determination reasonable carryover does consider the enumerated factors. Therefore, the Court finds that the Director's process was reached through an exercise of reason, is within the limits of his discretion and must be affirmed.

J. Step 10 of the *Methodology Order* is set aside and remanded for further proceedings.

The Coalition argues that the transient modeling provision of step 10 of the *Methodology Order* is contrary to law. Step 10 provides in part as follows:

> As an alternative to providing the full volume of reasonable carryover shortfall established in Step 9, junior ground water users can request that the Department model the transient impacts of the proposed curtailment based on the Department's water rights data base and the ESPA Model. The modeling effort will determine total annual reach gain accruals due to curtailment over the period of the model exercise. In the year of injury, junior ground water users would then be obligated to provide the accrued volume of water associated with the first year of the model run. In each subsequent year, junior ground water users would be required to provide the respective volume of water associated with reach gain accruals for that respective year, until such time as the reservoir storage space held by members of the SWC fills, or the entire volume of water from Step 9 less any previous accrual payments is provided.

382 R., p.601 (internal citations omitted). The Director justifies his determination in this respect as follows:

> Because of the uncertainty associated with this prediction, and in the interest of balance priority of right with optimum utilization and full economic development of the State's water resources, Idaho Const. Art. XV, § 3; Idaho Const. Art. XV, § 7; Idaho Code § 42-106; Idaho Code § 42-226, the Director will use the ESPA Model to simulate transient curtailment of the projected reasonable carryover shortage.

382 R., pp.596-597. For reasons stated elsewhere in this decision (see Section V.A.ii above), the Court finds that the articles and code sections relied upon by the Director do not justify his decision. The Department acknowledges as much in its briefing, providing that "the Director did not have the benefit of the guidance in *Clear Springs* and the 2012 and 2013 *A&B* decisions when the *Methodology Order* was issued."[13] *Corrected Brief of Respondents*, p.68. The Department thus suggests that "a remand to the Director with instructions to apply the Idaho Supreme Court's guidance is the appropriate remedy if this Court determines that the *Methodology Order* does not provide an adequate explanation of the basis for the transient modeling provision of Step 10." *Id.*

This Court agrees that the transient modeling provision of step 10 must be set aside and remanded for further proceedings. Counsel for the Department argues that the provision is supported by the CM Rules' provisions for phased-in curtailment. However, this justification was not contemplated or detailed by the Director in the *Methodology Order*. Rather, it is being raised for the first time on judicial review. The Court does question the viability of phased curtailment as a justification for the practice outlined in step 10. Reasonable carryover is surface water "which is retained or stored for future use in years of drought or low-water." *AFRD#2*, 143 Idaho at 878, 154 P.3d at 449. As the *Methodology Order* is currently constituted, the out-of-priority use resulting in the material injury to the Coalition's reasonable carryover will have already occurred by the time the Director reaches step 10 of the *Methodology Order*. It is questionable whether after-the-fact phased curtailment, as contemplated by the CM Rules, would be consistent with Idaho law or satisfies the purpose of reasonable carryover. For the reasons set

[13] Counsel refers to the Idaho Supreme Court's decisions in *Clear Springs Foods, Inc. v. Spackman*, 150 Idaho 790, 252 P.3d 71 (2011), *A&B Irr. Dist. v. Idaho Dept. of Water Resources*, 153 Idaho 500, 284 P.3d 225 (2012), and *In the Matter of Distribution of Waters to Various Water Rights Held by or for the Benefit of A&B Irr., Dist.*, 155 Idaho 640, 315 P.3d 828 (2013), respectively.

forth in this section, the transient modeling provision of step 10 will be set aside and remanded for further proceedings as necessary.

K. The *Methodology Order's* procedures for determining Coalition members' reasonable in-season demand are consistent with Idaho law.

The City of Pocatello and IGWA both argue that the Director's methodology for determining the Coalition's reasonable in-season demand, as set forth in the *Methodology Order*, are contrary to law. They assert several arguments in support of their position. Each will be addressed in turn.

i. The Director did not act contrary to law or abuse his discretion in considering the Coalition's historic use in determining reasonable in-season demand.

The primary argument asserted by IGWA and the City of Pocatello is that the *Methodology Order* unlawfully considers the Coalition's historic use in initially determining reasonable in-season demand. As discussed above, the Director uses a historic demand baseline analysis that utilizes the values of 2006 and 2008 to arrive at an average baseline year for purposes of the initial reasonable in-season demand determination. 382 R., p.574. However, the *Methodology Order* also provides that the initial reasonable in-season demand determination "will be corrected during the season to account for variations in climate and water supply between the BLY and actual conditions." 382 R., p.568. Further, that "[g]iven the climate and system operations for the year being evaluated will likely be different from the BLY, the BLY must be adjusted for those differences." 382 R., p.575. The Director's consideration of the Coalition's historic use in this context is not contrary to law. The Idaho Supreme Court has already affirmed "the Director's use of *a predicted baseline of a senior water right holders' needs* as a starting point in considering the material injury issue in a water call." *2013 SWC Case*, 155 Idaho at 656, 315 P.3d at 844 (emphasis added). Therefore, the Court finds that the *Methodology Order's* use of a baseline analysis as the starting point in determining the Coalition's reasonable in-season demand is not contrary to law.

In conjunction with their argument, the City of Pocatello and IGWA assert that the *Methodology Order's* process for determining reasonable in-season demand fails to consider

various contemporary factors. IGWA argues that it fails to consider acres that are no longer irrigated, crop needs, water diverted by the Coalition for use by others, and water leased by the Coalition to other water users. IGWA and the City of Pocatello additionally argue that it fails to consider certain factors listed in CMR Rule 42, including the rate of diversion compared to the acreage of land served, the annual volume of water diverted, the system diversion and conveyance efficiency, and the method of irrigation water application. This Court disagrees.

A review of the *Methodology Order* reveals that the Director's calculation of reasonable in-season demand provides for the consideration of all the factors raised by IGWA and the City of Pocatello. For instance, the Director's consideration of project efficiency and crop water need includes the following:

> Monthly irrigation entity diversion ("Q_D") will be obtained from Water District 01's diversion records. Ex. 8000, Vol. II, at 8-4, 8-5. *Raw monthly diversion values will then be adjusted to remove any water diversions that can be identified to not directly support the beneficial use of crop development within the irrigation entity.* Examples of adjustments include the removal of diversions associated with in-season recharge *and diversion of irrigation water on the behalf of another irrigation entity.* Adjustments, as they become known to the Department, will be applied during the mid-season updates and in the reasonable carryover shortfall calculation. Examples of adjustments that can only be accounted for later in the season include SWC deliveries for flow augmentation, SWC Water placed in the rental pool, and SWC private leases. *Adjustments are unique to each irrigation season and will be evaluated each year. Any natural flow or storage water deliveries to entities other than the SWC for purposes unrelated to the original right will be adjusted so that the water is not included as a part of the SWC water supply or carryover volume.* Water that is purchased or leased by a SWC member may become part of IGWA's shortfall obligation; to the extent that member has been found to have been materially injured. . . . *Conversely, adjustments will be made to assure that water supplied to private leases or to the rental pool will not increase the shortfall obligation.*

382 R., p.578 (emphasis added). Therefore, the Court finds that the *Methodology Order* takes into consideration acres that are no longer irrigated, crop needs, water diverted by the Coalition for use by others, and water leased by the Coalition to other water users. Furthermore, both the Hearing Officer and the Director found, in considering the Rule 42 factors, that the Coalition members operate reasonable and efficient irrigation projects. The Director found that "as found by the hearing officer in his recommended order, members of the SWC operate reasonably and without waste," and that he will not "impose greater project efficiencies upon members of the SWC than have been historically realized." 382 R., p.551; 551 R., pp.7102-7104.

In conjunction with IGWA's and the City of Pocatello's argument in this respect, it is necessary to reiterate the presumptions and evidentiary standards that apply to a delivery call. *See e.g., 2013 SCW Case*, 155 Idaho at 650, 315 P.3d at 838 (providing, "when utilizing the baseline in the administration context, the Director must abide by established evidentiary standards, presumptions, and burdens of proof"). First, when a call is made "the presumption under Idaho law is that the senior is entitled to his decreed water right." *AFRD#2*, 143 Idaho at 878, 154 P.3d at 449. Then, "[o]nce a decree is presented to an administrating agency or court, all changes to that decree, permanent or temporary, must be supported by clear and convincing evidence." *A&B Irr., Dist.*, 153 Idaho at 524, 284 P.3d at 249. Finally, "[o]nce the initial determination is made that material injury is occurring *or will occur*, the junior then bears the burden of proving that the call would be futile or to challenge, in some other constitutionally permissible way, the senior's call." *AFRD#2*, 143 Idaho at 878, 154 P.3d at 449 (emphasis added).

These presumptions and evidentiary standards are instructive on this issue. The *Methodology Order* provides for the Director's consideration of the factors with which IGWA and the City of Pocatello are concerned. However, if the junior users believe for some reasons that the seniors will receive water they cannot beneficially use, it is their burden under the established evidentiary standards and burdens of proof to prove that fact by clear and convincing evidence. For example, the juniors may assert that the Director in their opinion is considering some, but not *all* acres that are no longer irrigated by the seniors. Or it may be their opinion that the Director is considering some, but not *the full extent* of water diverted by the seniors for use by others. In that scenario, it is then their burden under the established evidentiary standards and burdens of proof get evidence supporting their position before the Director in an appropriate fashion.

ii. The Director did not abuse his discretion or act contrary to law in declining to adopt a water budget methodology to determine the Coalition's water needs.

IGWA and the City of Pocatello argue that the Director's *Methodology Order* should have adopted a water budget methodology to determine the water needs of the Coalition. At the hearing before the Hearing Officer, the parties each proposed a water budget methodology for

determining the water needs of the Coalition. The Director declined to adopt any such methodology, favoring instead the use of a baseline demand analysis as the starting point in determining reasonable in-season demand. 382 R., pp.575-577. The Director's decision in this respect is supported by law, the record, and is within his discretion.

The Idaho Supreme Court has already affirmed "the Director's use of a predicted baseline of a senior water right holders' needs as a starting point in considering the material injury issue in a water call." *2013 SWC Case*, 155 Idaho at 656, 315 P.3d at 844. Furthermore, the Director's reasoning for declining to adopt a water budget method is supported by the record. The record establishes that both the Hearing Officer and the Director questioned the validity of using a water budget methodology under the facts and circumstances presented, recognizing the wildly differing results reached by the surface water and ground water experts under such an approach. In addressing the issue, the Hearing Officer stated:

> The irony in this case is that surface water and ground water expert testimony used much of the same information and in some respects the same approaches and came up with a difference of 869,000 acre-feet for an average diversion budget analysis of SWC districts for the period from 1990 through 2006. . . . The total under the SWC analysis is 3,274,948 acre-feet as compared to the Pocatello analysis of . . . 2,405,861 [acre-feet].

551 R., p.7096. The Hearing Officer concluded that such results do "not promote much faith in the science of the water budget analysis," and declined to adopt any of the presented water budget approaches. 551 R., pp.7096-7097. The Director echoed these sentiments in his *Methodology Order* when making the determination to utilize a baseline methodology. 382 R., pp.576-577. As set forth in detail above, the Court finds that the Director's use of the values of 2006 and 2008 to arrive at an average baseline year for purposes of the initial reasonable in-season demand determination is supported by substantial evidence. In reviewing the Director's assessment and rejection of the water budget methodology, this Court finds that the Director's decision was reached through an exercise of reason, is within the limits of his discretion and must be affirmed.

iii. The *Methodology Order's* use of the values of 2006 and 2008 to arrive at an average baseline year for purposes of the initial reasonable in-season demand determination is not contrary to law.

The City of Pocatello and IGWA allege that the *Methodology Order* impermissibly overestimates the reasonable in-season demand of the Coalition. They point to the Director's use of the values of 2006 and 2008 to arrive at an average baseline year for purposes of a reasonable in-season demand determination. They assert that the Director's use of those values results in the selection of a baseline year of above average temperatures and evapotranspiration and below average precipitation, which in turn impermissibly results in overestimated reasonable in-season demand. It is their position that the Director must determine the needs of the Coalition based on historic use data associated with a year with average temperatures, evapotranspiration and precipitation. This Court disagrees.

The Director's adoption of a baseline year intentionally utilizes above average temperatures and evapotranspiration and below average precipitation. In selecting a baseline year, Director notes that "demand for irrigation water typically increases in years of higher temperature, higher evapotranspiration ("ET"), and lower precipitation." 382 R., p.569. He then explains that it is necessary to select a baseline year of above average temperatures and evapotranspiration and below average precipitation in order to protect senior rights:

> Equality in sharing the risk will not adequately protect the senior priority surface water right holder from injury. The incurrence of actual demand shortfalls by a senior surface water right holder resulting from pre-irrigation season predictions based on average data *unreasonably shifts the risk of shortage to the senior surface water right holder*. Therefore, a BLY should represent a year(s) of above average diversions, and should avoid years of below average diversions. An above average diversion year(s) selected as the BLY should also represent a year(s) of above average temperatures and ET, and below average precipitation to ensure that increased diversions were a function of crop water need and not other facts.

382 R., pp.569-570 (emphasis added). In his *Methodology Order*, the Director found that "using the values of 2006 and 2008 (06/08) to arrive at an average BLY fits the selection criteria for all members of the SWC." 382 R., p.574.

The Director did not err in his intentional adoption of a baseline year based on above average temperatures and evapotranspiration and below average precipitation. The Court agrees that use of such data is necessary to protect senior rights if the Director is going to administer to an amount less than the full decreed quantity of the Coalition's rights. The arguments set forth by the City of Pocatello and IGWA that the Director must use data associated with an average year fail to take into account the legal limitations placed on the Director in responding to a

delivery call. The senior is entitled to a presumption under Idaho law that he is entitled to his decreed water right. *AFRD#2*, 143 Idaho at 878, 154 P.3d at 449. If the Director is going to administer to less than the full quantity of the decreed water right, his decision must be supported by clear and convincing evidence in order to adequately protect the senior right. *A&B Irr. Dist.*, 153 Idaho at 524, 284 P.3d at 249.

If the Director determined the needs of the Coalition based on historic use data associated with an average year, any decision to administer to less than the full quantity of the Coalition's decreed rights based on that data would not adequately protect its senior rights. Using data associated with an average year by its very definition would result in an under-determination of the needs of the Coalition half of the time. The Director simply cannot rely upon such data if he is going to administer to less than the decreed quantity of the Coalitions' water rights as his analysis would not be supported by clear and convincing evidence.

The City of Pocatello and IGWA additionally argue that the Director's use of the values of 2006 and 2008 violates the law of case. Specifically, they argue that the use of such data violates the Hearing Officer's recommendation, which they interpret as requiring use of data associated with an average year. Whether this interpretation of the Hearing Officer's recommendation is accurate need not be addressed. What is important is that after the Hearing Officer issued his *Recommendation*, but before the Director issued his *Methodology Order*, case law developed instructing the Director concerning the significance of a decreed water right in a delivery call. *Memorandum Decision and Order on Petition for Judicial Review*, Minidoka County Case No. 2009-647 (May 4, 2010). In that case, the district court held that if the Director determines to administer to less than the decreed quantity of water, such a determination must be supported by clear and convincing evidence. *Id.* at 38. The Director in issuing his *Methodology Order* was bound to follow this case law.[14] As set forth above, using data associated with an average year in order to administer to less than the full decreed quantity of the Coalitions' water rights would not meet a clear and convincing evidence standard. Therefore, the arguments set forth by IGWA and the City of Pocatello are unavailing.

[14] The district court's decision in this regard was ultimately affirmed by the Idaho Supreme Court on appeal. *A&B Irr. Dist. v. Idaho Dept. of Water Resources*, 153 Idaho 500, 284 P.3d 225 (2012).

L. The *Methodology Order's* procedures for determining water supply are consistent with Idaho law.

IGWA and the City of Pocatello additionally argue that the Director wrongly underestimates the forecasted water supply in the *Methodology Order*. The *Methodology Order* explains that in determining water supply "[t]he actual natural flow volume that will be used in the Director's Forecast Supply will be one standard error below the regression line, which underestimates the available supply." 382 R., p.582. Further,

> By using one standard error of estimate, the Director purposefully underestimates the water supply that is predicted in the Joint Forecast. . . . The Director's prediction of material injury to RISD is purposefully conservative. While it may ultimately be determined after final accounting that less water was owed than was provided, this is an appropriate burden for the juniors to carry. Idaho Const. Art. XV, § 3, Idaho Code § 42-106.

382 R., p.594. IGWA and the City of Pocatello argue that the Director's intentional underestimation of the forecasted water supply is an abuse of discretion and contrary to Idaho law. This Court disagrees for the reasons set forth in the preceding section regarding the Director's use of the values of 2006 and 2008 to arrive at an average baseline year for purposes of the initial reasonable in-season demand determination. The analysis set forth in that preceding section is incorporated herein by reference. The Court finds that the Director did not abuse his discretion or act contrary to law in finding that the use of one standard error below the regression line is necessary to protect senior rights if the Director is going to administer to an amount less than the full decreed quantity of the Coalition's rights. The Court finds that the Director's decision to utilize such a regression analysis was reached through an exercise of reason, is within the limits of his discretion and must be affirmed.

M. Neither the City of Pocatello nor IGWA were denied due process.

The City of Pocatello and IGWA argue that the Director denied them due process by declining to allow them to present evidence challenging the *Methodology Order* after his issuance of that *Order*. This Court disagrees. Idaho Code Section 42-1701A provides in part that "any person aggrieved by any action of the director, including any decision, determination, order or other action . . . who is aggrieved by the action of the director, and who has not previously been afforded an opportunity for a hearing on the matter shall be entitled to a hearing

before the director to contest the action." In this case, the City of Pocatello and IGWA were previously afforded an opportunity for hearing. On January 16, 2008, a hearing was commenced before the Hearing Officer that resulted in the development and issuance of the *Methodology Order*. 551 R., p.7382. For approximately fourteen days, evidence and testimony was presented to the Hearing Officer by the parties, including IGWA and the City of Pocatello. Both IGWA and Pocatello had the opportunity at that hearing to present their theories and testimony on how material injury to the Coalition should be determined. Among other things, those parties had the opportunity to present their water budget analysis, which was rejected by the Hearing Officer and Director for reasons stated in the record. After considering the parties' evidence and arguments, the Director adopted the methodology for determining material injury set forth in the *Methodology Order*. The question of whether the *Methodology Order's* process for determining material injury is contrary to law, or inconsistent with the record, is a matter for judicial review. This Court has taken up those arguments in this decision. As a result, the IGWA and the City of Pocatello are not entitled to the relief they seek on this issue.

VI.
ANALYSIS OF METHODOLOGY AS APPLIED

The Director issued his *Methodology Order* in June 2010. Since that time, the Director has issued several final orders applying his methodology to subsequent water years. Those final orders have resulted in the filing of a number of *Petitions* seeking judicial review of the Director's applications.

A. The Director's application of the *Methodology Order* in 2013 failed to adjust the mitigation obligations of the juniors to take into account changing conditions.

The Coalition argues that the Director's application of the *Methodology Order* in 2013 was contrary to law. On April 17, 2013, the Director issued his *Final Order Regarding April 2013 Forecast Supply (Methodology Steps 1-4)*. 382 R., pp.829-846. In that *Order*, the Director concluded that the Twin Falls Canal Company would experience material injury to reasonable in-season demand in the amount of 14,200 acre-feet. 382 R., p.831. He also determined that the rest of the Coalition members would experience no material injury to reasonable in-season

demand. *Id.* Consistent with step 4 of the *Methodology Order*, the Director gave IGWA fourteen days to secure 14,200 acre-feet of mitigation water to avoid curtailment. 382 R., p.835. IGWA filed its *Notice of Secured Water* with the Director on April 22, 2013. 382 R., pp.848-853.

After the Director undertook his in-season recalculations, he issued his *Order Revising April 2013 Forecast Supply (Methodology Steps 6-8)* on August 27, 2013. 382 R., pp.948-957. In that *Order*, the Director revised his original material injury determination based on changing conditions. He increased the material injury to reasonable in-season demand for the Twin Falls Canal Company from 14,200 acre-feet to 51,200 acre-feet. 382 R., p.953. He also increased the material injury to reasonable in-season demand for American Falls Reservoir District No. 2 from no material injury to 54,000 acre-feet of material injury. *Id.* Consistent with step 8 of the *Methodology Order*, the Director did not require the junior users to secure additional mitigation water to address the increased material injury, nor did he provide for curtailment. 382 R., p.954. Rather, the Director required the juniors to release the 14,200 acre-feet of mitigation water they had previously secured. *Id.* He then directed the Watermaster for Water District 01 to allocate 6,900 acre-feet to the Twin Falls Canal Company, and 7,300 acre-feet to American Falls Reservoir District No. 2 to address their respective material injuries. *Id.* As a result, the Twin Falls Canal Company did not get the amount of mitigation water that the Director ordered was to be secured for it under his *Final Order Regarding April 2013 Forecast Supply (Methodology Steps 1-4)*.

The Coalition argues that the Director's refusal to adjust the juniors' mitigation obligation in 2013 is contrary to law. This Court agrees. In 2013, the Director did not provide a proper remedy for material injury to the reasonable in-season demand of the Twin Falls Canal Company or American Falls Reservoir District No. 2 when taking into account changing conditions. Namely, the Director improperly capped the mitigation obligations of junior users to that amount of material injury determined under step 4 (i.e., 14,200 acre-feet) even though changing conditions resulted in an increase of material injury to both the Twin Falls Canal Company and American Falls Reservoir District No. 2 (i.e., 51,200 acre-feet and 54,000 acre-feet, respectively). The analysis and justifications for the Court's finding in this respect are set forth above under Section V.A. of this decision. They will not be repeated here, but are incorporated by reference. The Court finds that the Director's failure to adjust the mitigation

obligations of the juniors to take into account changing conditions in 2013 resulted in prejudice to the Coalition's senior water rights and was contrary to law.

The Department argues that no further mitigation or curtailment was required in 2013 because "the April forecast and the in-season adjustments to it were predictions of material injury . . . not final determinations of actual material injury." Respondents' Br., pp.29-30. First, this argument is internally inconsistent with the *Methodology Order*, and the Director's application of the *Methodology Order* in 2013. In contravention of this argument, the *Methodology Order* itself provides for mitigation or curtailment if material injury to reasonable in-season demand is determined to exist in April. In fact, contrary to the Department's current argument, the Director required IGWA to secure mitigation water in 2013 following his initial April determination that the Twin Falls Canal Company would experience material injury to reasonable in-season demand in the amount of 14,200 acre-feet. 382 R., p.836. Second, the Department's argument is contrary to law. The Idaho Supreme Court has made clear that the burden of proof in a delivery call switches to the junior users once a determination has been made that material injury "is occurring *or will occur*." *AFRD#2*, 143 Idaho at 878, 154 P.3d at 449 (emphasis added). When the Director makes his April and mid-seasons calculations of material injury to reasonable in-season demand, he is making the determination under the plain language of the *Methodology Order* that material injury is or will occur. Therefore, the proper burdens of proof and evidentiary standards must be applied. The Director's *Order Revising April 2013 Forecast Supply (Methodology Steps 6-8)* is set aside and remanded for further proceedings as necessary.

B. The Court finds that the *Methodology Order* provides a reasonable timeframe for the Director to make adjustments to his initial material injury determination based on changing conditions. However, the Director failed to follow that timeframe in 2013.

The Coalition argues that in 2012 and 2013 the Director failed to timely make adjustments to his initial material injury determinations to take into account changing conditions. When and how often the Director adjusts his initial material injury determination to reasonable in-season demand based on changing conditions is a matter with which the Director exercises great discretion. The Director makes his initial material injury determination in or around April. The Director then makes adjustments to his initial determination throughout the irrigation season

as conditions develop, as provided for in steps 6 and 7 of the *Methodology Order*. These occur "approximately halfway through the irrigation season." 382 R., p.599. The Court finds that the *Methodology Order* provides a reasonable timeframe for the Director to make adjustments to his initial material injury determination. It would be unreasonable, for example, to require the Director to update his material injury determination to reasonable in-season demand on a daily or weekly basis as a result of changing conditions. If the Director determines that changing conditions require earlier, or more frequent adjustments, than that provided for in his *Methodology Order*, the Director may undertake such adjustments in his discretion.

The Coalition argues that in 2012 the Director failed to timely make adjustments to his initial material injury determination to reasonable in-season demand. It points to the fact that shortly after the USBOR and USACE issued their Joint Forecast on April 5, 2012, the USBOR and USACE issued a revised Joint Forecast on April 16, 2012 that reduced predicted water flows. The Director made his initial material injury determination based on the April 5, 2012, Joint Forecast, and then declined to update his initial material injury again in April following the issuance of the revised Joint Forecast. 382 R., p755. The Court finds that the Director did not abuse his discretion in this respect. As stated above, the Court finds that the *Methodology Order* provides a reasonable timeframe for the Director to make adjustments to his initial material injury determination. When the Director makes his in-season adjustments pursuant to steps 6 and 7 of the *Methodology Order*, he issues a revised forecast supply. That revised forecast supply will take into account the changing water conditions that differ from his initial April Forecast Supply. The Director must then adjust the mitigation obligations of the junior users accordingly. It is noted that the Court's holding regarding step 8 of the *Methodology Order* should alleviate the concerns raised by the Coalition on this issue, since the initial material injury determination will not result in a cap of the junior users' mitigation obligations. The Court finds that the Director's decision in this respect was reached through an exercise of reason, is within the limits of his discretion and must be affirmed.

With respect to 2013, the Court finds that the Director acted arbitrarily and capriciously by waiting until August 27 to apply step 6 of the *Methodology Order*. Step 6 provides that "approximately half way through the irrigation season" the Director will revise the April forecast and determine the "time of need" for purposes of providing mitigation. 382 R., p. 599. In 2013, the Director did not issue his *Order Revising April 2013 Forecast Supply (Methodology 6-8)*

until August 27, 2013. 382 R., pp.948-957. The Coalition argues the Director's delay in applying step 6 required its members to make water delivery decisions for the remainder of the irrigation season without the benefit of the revised forecast and any related mitigation obligation. The Coalition argues the Director acted arbitrarily and capriciously by delaying the application of step 6. This Court agrees.

The Director identifies the "irrigation season" as running from "the middle of March to the middle of November - an eight month span." 382 R., p. 1039. Therefore, mid-July is halfway through the irrigation season. The word "approximately" is defined as "almost correct or exact: close in value or amount but not precise." *See e.g.* www. merriam-webster.com /dictionary/ approximately. Although step 6 provides for some flexibility by not requiring the revision to be made precisely halfway through the irrigation season, a delay of close to a month and half does not even fit under a generous interpretation of the word "approximately." In this regard, the Director acted arbitrarily and capriciously. The Director should apply his established procedure as written or further define and/or refine the procedure so that Coalition members relying on the procedure know when to anticipate its application and are able to plan accordingly.

C. The Director's calculation of crop water need of the Minidoka Irrigation District, Burley Irrigation District, and the Twin Falls Canal Company in 2013, as set forth in his *Order Revising April 2013 Forecast Supply (Methodology Steps 6-8)* is set aside and remanded for further proceedings as necessary.

The Coalition asserts that the Director has erroneously refused to use certain irrigated acreage information provided by it when determining its crop water need under steps 1 and 2 of the *Methodology Order*. The Coalition's argument focuses primarily on the 2013 water year. Step 1 of the *Methodology Order* requires the Coalition "to provide electronic shape files to the Department delineating the total irrigated acres within their water delivery boundary or confirm in writing that the existing electronic shape file from the previous year has not varied by more than 5%" on or before April 1. 382 R., p.597. Step 2 provides that starting at the beginning of April, the Department will calculate the cumulative crop water need volume for all land irrigated with surface water within the boundaries of each member of the SWC. *Id.* It further provides that volumetric values of crop water need will be calculated "using ET and precipitation values

from the USBR's AgriMet program, *irrigated acres provided by each entity*, and crop distributions based on NASS data." *Id.*

The record establishes that in March of 2013, the members of the Coalition provided the Director with shape files showing the acres being irrigated within the water delivery boundaries for the Minidoka Irrigation District, Burley Irrigation District, and the Twin Falls Canal Company. 382 R., pp.821-828; *see also* 20130329 BID & TFCC Folder (in Bastes Stamped OCR Docs) (382 R., Disc 1). With respect to the A&B Irrigation District, Milner Irrigation District and North Side Canal Company, the Coalition informed the Director that the acres being irrigated within the water delivery boundaries for those entities was the same as the previous year. *Id.* Therefore, the Court finds that the Coalition timely complied with the *Methodology Order's* step 1 requirements. The Director also found that the Coalition complied with step 1 in 2013. 382 R., p.830.

The record further establishes that even though the Minidoka Irrigation District, Burley Irrigation District, and the Twin Falls Canal Company timely complied with the step 1 requirements, the Director did not use the irrigated acreage data provided by those entities data to calculate their crop water needs in 2013. IDWR 8-27-13_August Background Data Folder, document entitled "DS RISD Calculator" (in Bastes Stamped OCR Docs) (382 R., Disc 1). Rather, the Director used irrigated acreage data for the Burley Irrigation District and Minidoka Irrigation District contained in a report prepared by SPF Water Engineering in 2005 (i.e., 551 Ex. 4300). *Id.* With respect to the Twin Falls Canal Company, the Director used irrigated acreage data contained in a report from 2007 (i.e., 551 Ex. 4310). *Id.* In doing so, the Director calculated the crop water needs of those entities based on less irrigated acres than that provided by those entities. *Id.* The Director provides no reasoning or rationale in his *Order Revising April 2013 Forecast Supply (Methodology Steps 6-8)* for deviating from step 2 of the *Methodology Order* in this respect. 382 R., pp.948-957. As set forth above, if the Director is going to administer to less than the full amount of acres set forth on the face of the Coalition's *Partial Decrees*, such a determination must be supported by clear and convincing evidence. *See. e.g., A&B Irr. Dist., v. Idaho Dept. of Water Res.*, 153 Idaho 500, 524, 284 P.3d 225, 249 (holding, "Once a decree is presented to an administrating agency or court, all changes to that decree, permanent or temporary, must be supported by clear and convincing evidence"). Since

the Director's decision to deviate from step 2 in this respect is not supported by reasoning it is hereby set aside and remanded for further proceedings as necessary.

D. The Coalition is not entitled to the relief it seeks on the issue of the Director's process for the use of storage water as mitigation.

The Coalition argues that the Director has failed to require that the use of storage water for mitigation be accomplished in accordance with the Water District 01 Rental Pool rules and procedures. Further, that the Director has provided no formal defined process for interaction between IDWR, Water District 01, and junior ground water users when addressing storage water leased, optioned, or otherwise contracted for mitigation purposes. The Coalition complains specifically of the mitigation water secured by IGWA in 2010 and 2013. With respect to storage water secured by IGWA under its 2010 mitigation plan, this Court has already held that mitigation plan, and its use of storage water located in the Upper Snake Reservoir System for mitigation, complied with the requirements of the CM Rules. *Memorandum Decision and Order on Petition for Judicial Review*, Twin Falls County Case No CV-2010-3075 (Jan. 25, 2011). This Court's holding in that case will not be revisited.[15] With respect to the mitigation water secured by IGWA in 2013, the Court finds that the Director reviewed leases and contracts evidencing that IGWA had secured the required amount of mitigation water. 382 R., pp.881-887. Based on his review, the Director found that those leases and contracts would provide water to the Coalition at the Time of Need, and concluded that IGWA had satisfied its mitigation obligation. 382 R., p.884. The Court finds the Director's holding in this respect complied with the requirements of the CM Rules, as well as this Court's decision in Twin Falls County Case No. CV-2010-3075. In addition, the Court finds that the Coalition is not entitled to the relief its seeks on this issue, as it has failed to establish that its substantial rights have been prejudiced as a result of the mitigation water secured in 2010 and 2013. I.C. § 67-5279(4).

[15] A final judgment was entered in Twin Falls County Case No CV-2010-3075 on January 21, 2011. No appeal was taken from that final judgment.

E. The Director's decision to deny the Coalition the opportunity for a hearing in 2012 and 2013 is in violation of Idaho Code § 42-1701A.

At the administrative level, the Coalition requested hearings before the Department with respect to several final orders issued in 2012 and 2013, wherein the Director applied his methodology to the facts and circumstances presented by those water years. Those final orders include the Director's (1) *Final Order Regarding April 2012 Forecast Supply (Methodology Steps 1-8)* dated April 13, 2012, (2) *Final Order Regarding April 2013 Forecast Supply (Methodology Steps 1-4)* dated April 17, 2013, and (3) *Order Revising April 2013 Forecast Supply (Methodology Steps 6-8)* dated August 27, 2013. 382 R., pp.728-742; 382 R., pp.829-846; and 382 R., pp.948-957. The Coalition argued it was entitled to such hearings under Idaho Code § 42-1701A, asserting that no administrative hearing had previously been held on those matters. The Director denied the requests, finding that the Coalition had been afforded hearings on the issues raised. 382 R., p.757; 382 R., pp.890-891; and 382 R., p.1040. The Director held that hearings conducted in 2008 and 2010 constituted hearings previously afforded to the Coalition on the matters. *Id.* This Court holds that the Director's decision in this respect was made in violation of Idaho Code § 42-1701A.

Idaho Code § 42-1701A provides in part that "any person aggrieved by any action of the director, including any decision, determination, order or other action . . . who is aggrieved by the action of the director, and who has not previously been afforded an opportunity for a hearing on the matter shall be entitled to a hearing before the director to contest the action." I.C. § 42-1701A. The plain language of the statute is mandatory. The Director does not specify the previous hearings in 2008 and 2010 on which he relies in denying the Coalition's requests for hearing. However, the Director likely refers to the hearing held before Hearing Officer commencing on January 18, 2008, and the hearing on the *Methodology Order* held on May 24, 2010. Those two hearings pertained specifically to the development and issuance of the *Methodology Order*. However, the Director thereafter issued a series of final orders, listed above, applying his methodology to the facts and circumstances arising in the 2012 and 2013 water years. The hearings conducted in 2008 and 2010 did not address his application of his methodology to the 2012 and 2013 water years. And, a review of the Coalition's *Requests for Hearing* establishes that the Coalition raised issues, and requested hearings on issues, not previously addressed in the 2008 and 2010 hearings.

The Coalition's *Request for Hearing on Order Revising April 2013 Forecast Supply (Steps 6-8)* is illustrative. 382 R., pp.969-979. The Coalition requested a hearing on the Director's issuance of his *Order Revising April 2013 Forecast Supply (Methodology Steps 6-8)* on August 27, 2013. It asserted that waiting until August 27 to issue a revised forecast was contrary to step 6 of the *Methodology Order*, which provides that "[a]pproximately halfway through the irrigation season" the Director will issue a revised forecast supply. 382 R., pp.970-971. The Coalition also requested a hearing on the Director's decision to apportion the 14,200 acre-feet of mitigation water secured by IGWA to give 7,300 acre-feet to American Falls Reservoir District No. 2 and 6,900 acre-feet to the Twin Falls Canal Company. 382 R., pp.971-972. It asserted that such an apportionment was in error, given that the entirety of the mitigation water was initially secured to address material injury to the Twin Falls Canal Company. *Id.* The record establishes that neither of these matters had been previously addressed in a prior administrative hearing. These arguments do not attack the *Methodology Order* itself, but rather challenge whether the Director complied with the terms of the *Methodology Order* in his application of his methodology to the 2013 water year. Therefore, the Director was statutorily required to afford the Coalition a hearing under the plain language of Idaho Code § 42-1701A.

Since the Director did not previously afford the Coalition a hearing on the issuance raised in the subject *Requests for Hearing*, the Director's decisions to deny the Coalition the opportunity for a hearing on those *Requests* were made in violation of Idaho Code § 42-1701A. The Court further finds that substantial rights of the Coalition members were prejudiced in the form of their statutory right to an administrative hearing. As a result, the Director's decisions in this respect are hereby set aside and remanded for further proceedings as necessary.

F. The City of Pocatello is not entitled to the relief it seeks with respect to the Director's *As-Applied Order*.

The City of Pocatello seeks judicial review of the Director's *As-Applied Order* on several grounds. It first argues that the *As-Applied Order*, wherein the Director applied steps 3 and 4 of the *Methodology Order* to the 2010 water year, is arbitrary and capricious. Specifically, that the *As-Applied Order* arbitrarily and capriciously based its initial material injury determination to the Coalition's reasonable in-season demand upon a historic demand baseline analysis and an intentional underestimation of water supply. This argument is not an attack on the *As-Applied*

Order, but rather another challenge to the Director's methodology for determining material injury to reasonable in-season demand as set forth in the *Methodology Order*. This Court addressed and rejected the City's argument in this respect above under Sections V.K. and V.L.

The City of Pocatello next argues that requiring junior users to secure mitigation water that is ultimately not required for beneficial use is contrary to Idaho law.[16] Again, this is not a challenge to the *As-Applied Order*, but rather a challenge to steps 4 and 8 of the *Methodology Order*. If the Director determines that material injury to reasonable in-season demand exists or will exist under steps 3 and 4, then the junior users are required under step 4 to establish their ability to mitigate that injury to avoid curtailment. 382 R., pp.598-599. To avoid curtailment, junior users only need establish their ability to secure mitigation water to be provided to the Coalition at a later date (i.e., the "Time of Need"). Step 8 then provides that if the Director's in-season recalculations and adjustments establish that material injury to reasonable in-season demand is less than initially determined due to changing conditions, the juniors will not need to provide the full amount of water initially secured to the Coalition. 382 R., p.600. The City's argument that this result is contrary to law is unavailing, and fails to account for the burdens of proof and evidentiary standards established by Idaho law.

As stated in more detail above, when the Director makes his initial material injury determination to reasonable in-season demand in April, he is making the determination that material injury is occurring or will occur. Under the CM Rules and established Idaho law, the Director must curtail at that point, or allow out-of-priority water use pursuant to a properly enacted mitigation plan. *2013 SWC Case*, 155 Idaho at 653, 315 P.3d at 841. There is no presumption that administering to the full quantity of the Coalition's decreed water rights will result in waste. To the contrary, since the Coalition's water rights are decreed rights, Idaho law dictates that proper weight must be given to the decreed quantity of those rights. As a result, the presumption under Idaho law is that the Coalition members are entitled to their decreed quantities in times of shortage. *AFRD#2*, 143 Idaho at 878, 154 P.3d at 449. If junior users believe that administering to the full decreed amount of the Coalition's water rights will result in waste, they must come forth with clear and convincing evidence establishing that fact. *A&B Irr. Dist.*, 153 Idaho at 524, 284 P.3d at 249.

---

[16] As set forth in further detail below, the Director's *As-Applied Order* did not require or result in the City of Pocatello securing mitigation water in 2010 that was not ultimately required for beneficial use.

It is against these legal presumptions, burdens of proof, and evidentiary standards that the Director's *Methodology Order* must be analyzed. In the *Methodology Order*, the Director recognizes that "[i]f the Director predicts that the SWC will be materially injured, the consequence of that prediction is an obligation that must be borne by junior ground water users." 382 R., p.593. And, that:

> By requiring that junior ground water users provide of have options to acquire water in place during the season of need, the Director ensures that the SWC does not carry the risk of shortage to their supply. By not requiring junior ground water users to provide mitigation water until the time of need, the Director ensures that junior ground water users provide only the amount of water necessary to satisfy the reasonable in-season demand.

Id. The Court finds that the Director's analysis in this respect protects senior rights in times of shortage by appropriately accounting for the legal presumptions, burdens of proof, and evidentiary standards required by Idaho law. Therefore, the Court finds that the Director's decision in this respect was reached through an exercise of reason, is within the limits of his discretion and must be affirmed.

The City of Pocatello next argues that in determining the reasonable in-season demand of the Coalition in his 2010 *As-Applied Order*, the Director failed to account for all water diverted by Coalition members for delivery to other entities (i.e., wheeled water). The *Methodology Order* provides that in calculating the Coalition's reasonable in-season demand, "any natural flow or storage water deliveries to entities other than the SWC for purposes unrelated to the original right will be adjusted so that the water is not included as a part of the SWC water supply or carryover volume." 382 R., p.578. The City argues that the Director erroneously failed to subtract all wheeled water from the Coalition's reasonable in season demand calculations. This Court disagrees. The City relies on Exhibit 3000 from the hearing on the *As-Applied Order* in 2010. That exhibit provides that "Wheeled water transactions for A&B, AFRD2, Minidoka, and TFCC *may have occurred*, but values were less than 1% of total demand and therefore were not considered." 382 Ex. 3000, *Hearing on the As-Applied Order*. That exhibit only establishes that wheeled water transactions "may have occurred." The fact that such transaction may have occurred is not is not sufficient if the Director is going to use that data to administer to less than the full amount of the Coalition's decreed rights. *A&B Irr. Dist.*, 153 Idaho at 524, 284 P.3d at 249 (holding, "Once a decree is presented to an administrating agency or court, all changes to

that decree, permanent or temporary, must be supported by clear and convincing evidence"). The City points to no clear and convincing evidence in the record establishing that such transactions did occur. Therefore, the City is not entitled to the relief it seeks on this issue.

The City of Pocatello next argues that the Director improperly limited the scope of a hearing held on one of the Director's orders applying his methodology to the 2010 water year. This Court disagrees. On April 29, 2010, the Director issued his *Order Regarding April 2010 Forecast Supply (Methodology Steps 3 & 4)*. 382 R., pp.185-198. Unlike the Coalition's requests for hearings in 2012 and 2013, which were improperly denied, the Director acted consistent with Idaho Code § 42-1701A in 2010 by granting a hearing following the issuance of his April 29, 2010, *Order* when requested. The April 29, 2010, *Order* was limited to applying steps 3 and 4 of the *Methodology Order* to the 2010 water year. Therefore, the Director did not err in limiting the evidence presented at that hearing to information relevant to whether the Director's application of steps 3 and 4 to the 2010 water year complied with the *Methodology Order*. 382 R., p.466. The Court finds, after a review of the record in this case, that the Director complied with the requirements of Idaho Code § 42-1701A, and that the City of Pocatello had a meaningful opportunity to be heard at that hearing, as Department staff familiar with the *Order* were present at that hearing to present evidence and testimony and to be subject to examination. Therefore, the City of Pocatello's request for relief on this issue is denied.

Last, with respect to all of the issues raised by the City of Pocatello relating to the Director's *As-Applied Order*, the Court finds that City of Pocatello has failed to establish that its substantial rights were prejudiced as a result of that *Order* under Idaho Code § 67-5279(4). The Director's *As-Applied Order* required no action on the part of the City of Pocatello. The Director did not order the City of Pocatello to mitigate any material injury to the Coalition in 2010 in his *As-Applied Order*. Nor has the City of Pocatello established that it would have been in the curtailment zone in 2010 under the *As-Applied Order*. Only IGWA was required to show it ability to secure mitigation water under the Director's *As-Applied Order* in 2010 in order to avoid curtailment. Therefore, since the City of Pocatello has failed to establish that its substantial rights were prejudiced as a result of the Director's *As-Applied Order*, it is not entitled to the relief it seeks with respect to that *Order*. I.C. § 67-5279(4).

VII.

REMAINING *FINAL ORDERS*

The Coalition filed *Petitions* seeking judicial review of the Director's *Final Order Revising April 2010 Forecast Supply (Methodology Step 7)*, dated September 17, 2010, *Final Order Establishing 2010 Reasonable Carryover (Methodology Step 9)*, dated November 30, 2010, and *Order Releasing IGWA from 2012 Reasonable Carryover Shortfall Obligation (Methodology Step 5)*, dated June 13, 2013. The Coalition provided no briefing or argument specific to these *Final Orders* on judicial review. However, through these *Final Orders* the Director applied his methodology as set forth in the *Methodology Order*. To the extent these *Final Orders* applied the *Methodology Order* in a manner inconsistent with this Court's analysis and holdings regarding the *Methodology Order* as set forth herein, they are set aside and remanded for further proceedings as necessary.

VIII.

CONCLUSION AND ORDER OF REMAND

For the reasons set forth above, the actions taken by Director in this matter are affirmed in part and set aside in part. The case is remanded for further proceedings as necessary consistent with this decision.

IT IS SO ORDERED.

Dated September 26, 2014

ERIC J. WILDMAN
District Judge

CERTIFICATE OF MAILING

I certify that a true and correct copy of the MEMORANDUM DECISION AND ORDER ON PETITIONS FOR JUDICIAL REVIEW was mailed on September 26, 2014, with sufficient first-class postage to the following:

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Page 1 9/26/14

/S/ Julie Murphy
Deputy Clerk

Addendum
B

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO
IN AND FOR THE COUNTY OF ADA

CASE NOS:

CV01-23-8258 - CITY OF POCATELLO vs. IDWR (Motion for Order to Show Cause)

CV01-23-8187 - IDAHO GROUND WATER ASSOCIATION vs. IDWR (Motion for Stay, Motion to Compel, Motion for Injunctive Relief, Motion for Expedited Decision, Motion for Order to Show Cause)

CV01-23-8306 - CITY OF POCATELLO vs. IDWR (Motion for Stay)

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EXCERPT FROM HEARING ON ADMINISTRATIVE APPEALS

(COURT'S RULING)

JUNE 1, 2023

HONORABLE JUDGE ERIC J.WILDMAN PRESIDING

****

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COURT'S RULING

THE COURT: Well, given the exigency of the circumstances and the time constraints and the fact that the parties have to know how they are going to be proceeding in the future, the Court does not have the luxury of taking the matter under advisement and, as such, will be ruling from the bench at this time.

So in -- with respect to Case Number CV01-23-8258, the Court, regarding the writ of prohibition and the writ of mandate, the Court will rule as follows:

Under Idaho Code Section 7-302, a writ of mandate may issue, quote, "to any inferior tribunal to compel the performance of an act which the law especially enjoins as a duty resulting from an office," end quote, or to compel the admissions of a party to the use and enjoyment of a right or office to which he is entitled and from which he is unlawfully precluded by such inferior tribunal. The writ is only available in limited circumstances where there is not a plain, speedy, and adequate remedy in the ordinary course of law. That's Idaho Code Section 7-303.

A writ of mandamus is not a writ of right, and the Court's decision whether to issue a writ is discretionary. That's *Regan vs. Denney*, 165 Idaho 15, 2019 case.

Further, the Idaho Supreme Court has instructed and this Court has held on numerous occasions -- I went through

and printed off every case where I have addressed mandamus with respect to delivery calls -- that a writ of mandate is not available to control discretionary acts of tribunals acting within their jurisdiction.

A writ of prohibition is the counterpart to a writ of mandate, Idaho Code Section 7-401. It arrests the proceedings of a tribunal when it is in excess of the jurisdiction of the tribunal. It may issue in all cases where there is not a plain, speedy, and adequate remedy in the ordinary course of law. The Court's decision whether to issue a writ is discretionary. That's *Hepworth Holzer vs. Fourth Judicial District*, 169 Idaho 387, 2021.

Okay. With regard to the issues pertaining to the legal propriety of the Fifth Amended Methodology Order and Final Order regarding the April, 2023, forecast supply, the Court finds the petitioners have a plain, speedy, and adequate remedy at law through IDAPA in the form of judicial review. The Idaho Supreme Court has made it clear, it was never that the intention of a writ should take the place of an appeal. *Smith vs. Young*, 71 Idaho 31, 1950.

The Court, importantly, the Court also notes that there is a hearing presently scheduled before the Department to commence on June 6th on these orders. That administrative remedy has not been exhausted at this time, and the director must first be given the opportunity through that hearing to address issues

raised by petitioners pertaining to the legal propriety of the 2023 orders.

That segues us into issues pertaining to due process. Petitioners raised due process concerns pertaining to the hearing process utilized by the director for the administrative hearing to commence June 6th. In evaluating the due process concerns raised by the petitioners, the Court must be cognizant of the director's duty to timely administer water rights in priority.

The Idaho Supreme Court instructed in *Musser vs. Higginson* that the director's duty to administer water is clear and executive. Time is of the essence in water administration. In any given year the reality is, there is a short time frame between when water supply determinations can be made and when water users' demands for irrigation water begin. Any process employed by the director must account for the exigencies of these time constraints. These exigencies were recognized by the drafters of our Constitution as set forth in the Idaho Supreme Court and American Falls Reservoir District Number 2. The Court found the drafters intended that there be no unnecessary delay in the delivery of water pursuant to a valid water right and that a timely response is clearly required when a delivery call is made and water is necessary to respond to that call. That's AFRD Number 2, 143 Idaho at 874.

This analysis recognizes the failure of the

director to timely administer in priority can result to senior rights in times of shortage. In conjunction, the Idaho Supreme Court further determined that neither the Constitution nor the statutes place any specific time frames on this process.

In this case the record reflects the Department began notifying individuals in September, 2022, that it would be reviewing data used in the Fourth Methodology Order. In November and December, 2022, the Department conducted six meetings regarding possible amendments to the Fourth Methodology Order where staff presented new data and analyses with respect to methodology. Later in December the Department released a document setting forth preliminary recommendations for amendments to the Fourth Methodology Order. The preliminary recommendations stated that the Department will continue to evaluate the integration of these recommendations and others into the methodology. The recommendations also invited outside consultants to submit written comments by January 16, 2023, which some outside experts did by submitting preliminary comments.

On April 21st, 2023, the director issued the Fifth Amended Methodology Order and Final Order regarding the April, 2023, forecast supply. In the final order regarding the April, 2023, forecast supply, the director predicted an in-season demand shortfall to the Twin Falls Canal Company in the amount of 75,200-acre feed. The order gave affected juniors until May 5, 2023, to establish they can mitigate for their proportionate

share of the predicted demand shortfall. For those juniors who could not, the order stated that the director would issue a curtailment order.

The director did hold a hearing prior to issuing the April 21st, 2023, orders. However, he has set a hearing -- and he has set a hearing to commence June 6th, 2023, on the orders pursuant to Idaho Code Section 42-1701A(3). Idaho Code Section 42-1701A(3) governs hearings before the director. Subsection 3 applies where the director takes action without a hearing. Normally a party has 15 days to request a hearing under Subsection 3. However, because the director found time was of the essence and because he anticipated multiple parties would request a hearing, he took the proactive step of sua sponte noticing up a hearing to save time. He also set a prehearing conference for April 28th, 2023.

The director subsequently denied a request from the petitioners to continue the June 6th hearing until December or January. He also denied a request from the petitioners to appoint an independent hearing officer.

On May 2nd, 2023, the director issued a scheduling order, directing that discovery be completed by May 31st, 2023. Then on May 5th, 2023, the director issued an order limiting discovery to preclude questions regarding the director's deliberative process.

Oh. I misread my notes here, and I want to go

back. When I said that the director held a hearing prior to issuing the April 21st, 2023, order, I meant to say he did not issue an -- he did not hold a hearing.

Okay. Again, on May 2nd, 2023, the director issued a scheduling order, directing that discovery be completed by May 31st, 2023. Then on May 5th, 2023, the director issued an order limiting discovery to preclude questions regarding the director's deliberative process on legal and policy considerations.

Okay. So in evaluating the process in this case against the director's duty to timely administer water rights in priority, the Court finds it provides due process consistent with the exigencies of the circumstances and the need to administer water in priority to avoid injury to senior rights. In making this finding, the Court is influenced by the fact that administration in this case arises in the larger context of an ongoing delivery call that has existed since 2005. The director issued its first methodology order in 2010. Since then, the methodology order has been modified and amended three times to account for new data, modeling revisions, and climate trends. So this is not a new issue. And the director gave heads-up that amendments may be required again in 2023, starting in September of 2022, when he notified individuals that the Department was investigating integrating new data techniques into the methodology order.

Again, he then conducted a series of meetings, presenting new data and techniques, and issued a preliminary recommendation setting forth proposed amendments and inviting comment from outside experts. In effect, the parties were put on notice starting in September of 2022 that amendments to the methodology order were being considered. Based on prior actions within the context of this ongoing delivery call, parties were also well-aware of the exigent time constraints following demand shortfall predictions.

In particular, in its memorandum decision issued on April 11, 2011, in Gooding County Case CV-2010-382, the Court addressed similar due process arguments concerning short time frames for notice and discovery in the context of this very call. The process provided then was found to provide due process.

In this instance the parties are being provided with a hearing on the 2023 orders to commence on June 6th. They were provided approximately six weeks actual notice for the hearing. In addition, the director began making parties aware that amendments to the methodology order were being considered back in September of 2022. At the hearing on June 6th the parties will be given the opportunity to present evidence and arguments pertaining to the 2023 orders.

The Court finds this process provides due process consistent with the exigencies of the circumstances and the director's duty to timely administer water rights in priority.

And frankly, setting a hearing after the irrigation season as requested is not a tangible alternative, given the director's duty and the demand shortfall prediction for the 2023 irrigation season.

With respect to the discovery limitations, the Court finds the director does have the discretion to limit the type and scope of discovery in an administrative hearing. We talked about IDAPA 37.01.01.521. This discretion was also recognized by the Idaho Supreme Court in *Musser* when it held that while the director has a clear duty to administer water, the details of how he chooses to do so are largely left to his discretion.

For these reasons the Court, in an exercise of its discretion, will deny petitioner's applications for writ of mandate and writ of prohibition in Case CV01-23-8258.

That brings me to the Ground Water District's petition and motions in CV01-23-8187. With respect to the motions filed in that case, the Court finds it lacks jurisdiction over the petition for judicial review filed in that proceeding pursuant to Idaho Code Section 42-1701A and the doctrine of exhaustion.

Subsection 3 of Idaho Code Section 42-1701A provides that any aggrieved person, by any action of the director, including any decision, determination order, or other action, who has not previously been afforded an opportunity for a

hearing on the matter shall be entitled to a hearing before the director to contest the action. It further provides that judicial review of any final order of the director issued following the hearing shall be had pursuant to Subsection 4 of that section of the Code.

Here the director issued the 2023 orders without a hearing. This is within the director's discretion, given that the orders were issued under the umbrella of an active and ongoing delivery call. Therefore, Subsection 3 of Idaho Code Section 42-1701A controls. Until the director holds the hearing on June 6th and issues a written decision, no person aggrieved by the 2023 orders are entitled to judicial review under Idaho Code Section 42-1701A(4). Likewise, under the doctrine of exhaustion, the pursuit of statutory remedies is a condition precedent to judicial review.

In this case the remedy provided in Idaho Code Section 42-1701A(3) has not been exhausted. The Court must -- or excuse me. The director must be given the opportunity to address the issues raised by the petitioners pertaining to the 2023 orders.

The Court notes that it has come to the same conclusion previously in several similar cases involving premature petitions for judicial review, and I'll cite a few of them. In preparation for this hearing, I went in and printed off every one of them, and I have a stack of them here. But that

includes the Order Dismissing Petition for Judicial Review in Ada County Case CV01-17-67, issued February 16, 2017; Order Dismissing Petition for Judicial Review in Ada County Case CV01-16-23173, also issued February 16, 2017; and an Order Granting Motion to Dismiss in Jerome County Case CV27-22-945, issued December of 2022. Therefore, based on the foregoing reasons, the Court will grant the motion to dismiss.

With respect to McCain Foods' motion for stay, CV -- and petition, CV01-23-8306, with respect to the motion for stay filed in that case, the Court will deny the motion for the same reason it denied the motion for stay and motion for injunctive relief in CV01-23-8187. Namely, the director has discretion to limit the type and scope of discovery in an administrative hearing and that the Court lacks jurisdiction over the petition for judicial review filed in this case due to the pendency of a hearing. Therefore, the Court, in an exercise of discretion, will deny the motion for stay and grant the motion to dismiss.

And I'm going to add one final conclusion here. You know, after reviewing the issues raised in these cases and preparing for these hearings, as I had mentioned earlier, I went back and reviewed the numerous opinions that have been addressed by this Court where substantially the same if not the same issues were raised in the context of conjunctive management delivery calls, including this same delivery call brought by the Surface

Water Coalition. The issues are not new, and my reading of the prior decisions explicitly sets forth and reiterates the overriding principles that govern these types of matters. And I'm aware in every single one of those, parties attempt to distinguish that particular set of circumstances to justify the requirement of exhausting administrative remedies.

But the issues raised -- and based on my review, the issues raised today in these cases are no different. And these include that the director's statutorily charged with administering water in priority; time is of the essence in responding to delivery calls; the director must act quickly to avoid injury to senior rights; due process is required but must account for the exigencies of the circumstances; the director has discretion in limiting the scope and timing of the hearings; and unless a statute or rule otherwise provides for a hearing, the director may issue an order and conduct a hearing after issuance of the order.

If a hearing has been requested or otherwise set, administrative remedies have not been exhausted, thereby depriving this Court of jurisdiction. The director must first have the opportunity to rule on the issues raised by the order. This process is set forth plainly in Idaho Code Section 42-1701A(3). Further, writs of mandate cannot issue for acts that are discretionary with the director. Staying hearings and holding them after the irrigation season where the director has

predicted material injury to seniors is unworkable as juniors will be permitted to pump out of priority during the irrigation season.

So that is my ruling. And anything else we need to take up at this time?

MR. BAXTER: No, Your Honor. The only thing that just briefly -- I think the parties -- do we want to stick around for a minute?

(Discussion regarding parties conferring by Zoom following the hearing)

THE COURT: Well, for the rest of -- everybody else on the Zoom, if you're not -- those that aren't participating in the discussion will be adjourned.

(Proceedings concluded)

REPORTER'S CERTIFICATE

STATE OF IDAHO)
)
COUNTY OF ADA)

CASE NOS. CV01-23-8258, CV01-23-8187, and CV01-23-8306

I, JACK L. FULLER, Certified Shorthand Reporter in and for the State of Idaho, do hereby certify:

That said proceedings were reported by me in machine shorthand at the time and place therein named and thereafter reduced to typewriting by me and that the foregoing transcript contains a verbatim record of said proceedings.

I further certify that I am not related to any of the parties nor do I have any interest, financial or otherwise, in the cause of action of which said proceedings were a part.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of office this 6th day of June, 2023.

Jack L. Fuller

Jack L. Fuller, Idaho CSR #762
CSR Expiration Date: 07-10-23

Addendum C

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BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF THE REQUEST FOR ADMINISTRATION IN WATER DISTRICT 120 AND THE REQUEST FOR DELIVERY OF WATER TO SENIOR SURFACE WATER RIGHTS BY A & B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, and TWIN FALLS CANAL COMPANY	**IDAHO GROUND WATER APPROPRIATORS' MOTION FOR SUMMARY JUDGMENT AND MEMORANDUM IN SUPPORT**

Petitioners Surface Water Coalition ("Coalition") instituted this action with their January 14, 2005 letter to the Director of the Idaho Department of Water Resources ("Department") requesting water right administration in Water District 120 (the "Delivery Call"). Pursuant to Department Rule of Procedure 260 and Idaho Rule of Civil Procedure 56, Idaho Ground Water Appropriators, Inc. ("IGWA"), through its counsel Givens Pursley LLP and on behalf of its ground water district members, American Falls-Aberdeen Ground Water District, Magic Valley Ground Water District, Bingham Ground Water District, North Snake Ground Water District,

Bonneville-Jefferson Ground Water District, Southwest Irrigation District, and Madison Ground Water District ("Ground Water Users"), hereby moves the Director for an order granting summary judgment against the Coalition on their Delivery Call. The grounds for this motion are set forth in the following memorandum.

THE FACTS, IN BRIEF

Most of the facts underlying this case are well known to the Director, and many are set forth in the Director's February 14, 2005 Order in this matter ("Director's Order") or in other portions of the record (including, for example, admissions in the Delivery Call itself and in the Coalition's submission of information in response to Director's Order). Additional facts are set forth in the attached Affidavits of Dr. Charles M. Brendecke ("Brendecke Affidavit") and Mr. John Church ("Church Affidavit"), together with their respective exhibits. But the central, animating facts in this case are simple, and are the focus of this Memorandum: The Delivery Call seeks to dry up several hundred thousand acres of irrigated crop land in southern Idaho. Shutting off wells to do this would not likely produce meaningful supplies of water to the Coalition or significantly increase their irrigated acreage, would be devastating to Idaho's economy, and would not make full economic use of our ground water resources. In Dr. Brendecke's words:

> Because curtailing ground water use on the ESPA will have delayed effects on AFR reach gains, and because Coalition members historically have experienced water shortages only rarely and as a result of intermittent drought events, curtailing ground water diversions on a large or small-scale is not likely to produce meaningful supplies of water during the short-term period when it might be diverted to beneficial use by surface water users. During the long-term, most of the predicted increases in reach gains will be expressed during periods when Coalition members already will have a full supply and/or when the reservoir system will not be able to hold the additional water and it consequently will be spilled and provide no benefit to Coalition members.

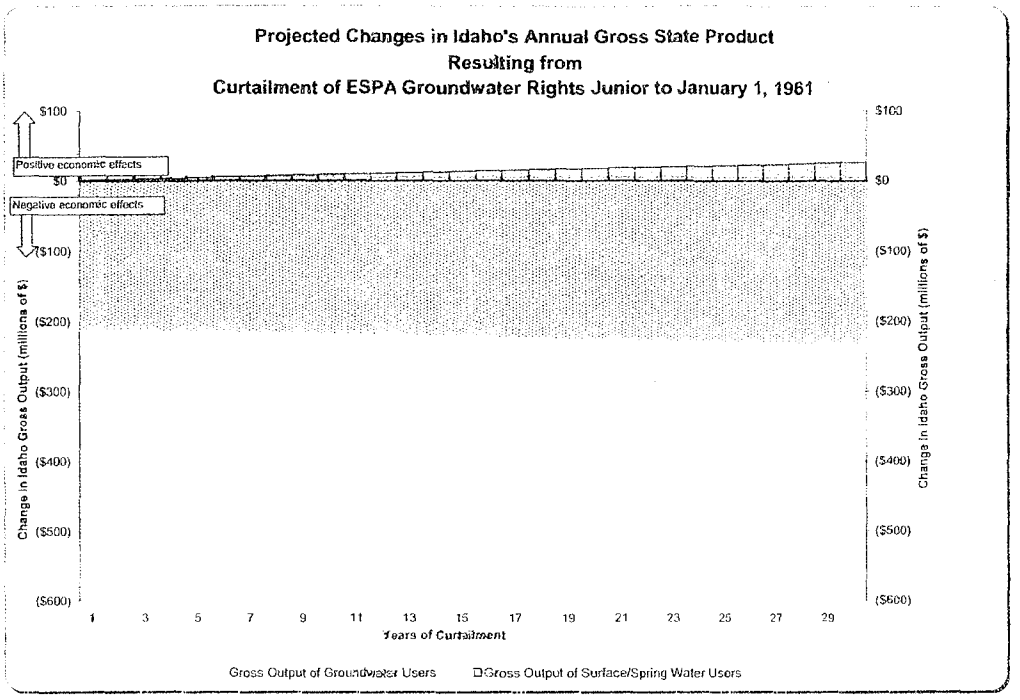
Brendecke Affidavit at 20. Dr. Brendecke also explains that "[a]ssuming the typical diversion by [Coalition] members of 6 acre-feet per acre, the dry-up of 1.1 million acres of ground water irrigated land would generate enough water to supply approximately 10,000 acres of [Coalition] land." *Id.* In other words, a curtailment along these lines would achieve an administration efficiency of 0.1%.

With regard to the proposal's effects on Idaho's economy and its relation to the "full economic development of underground water resources," Mr. Church says:

> [T]he concept of pursuing full economic development of Idaho's groundwater resources is wholly inconsistent with any alternative that regulates the use of the state's water resources to cause the state's economy to lose a present value of close to $8.1 billion in gross output during the next thirty years to gain a present value of $423.5 million. Whether or not, in the near-term, a curtailment of ESPA groundwater users would be considered a "futile call," it is quite evident that, in both the near and long terms, it would cause substantial, and likely permanent, harm to Idaho's economy that, in its first year alone, would overwhelm any possible long-term gain.

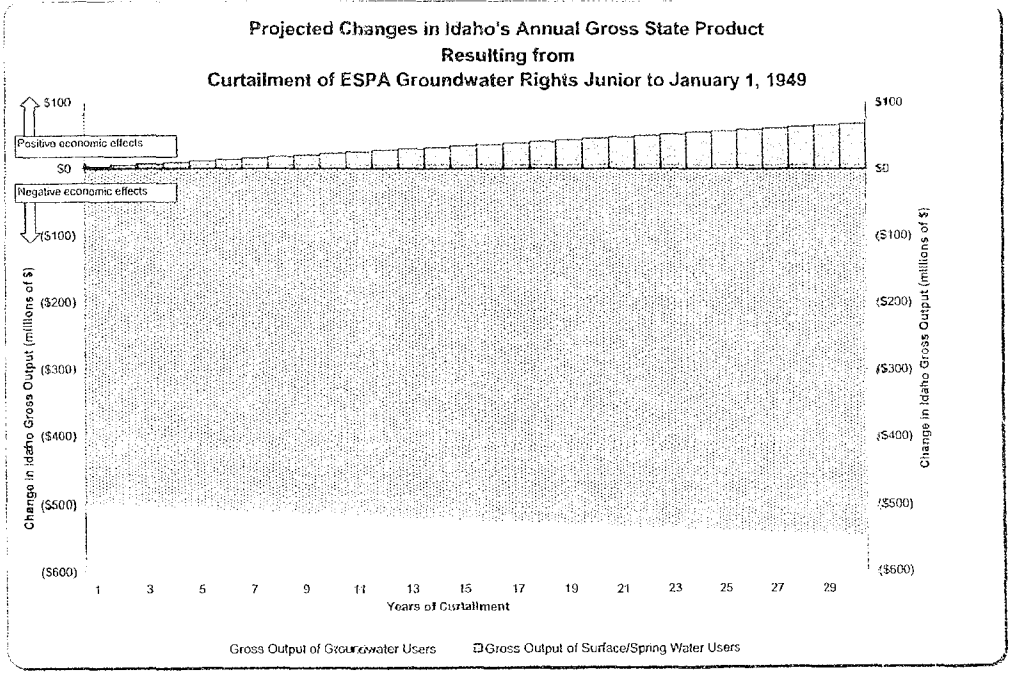
Church Affidavit at 14 (emphasis in original). The following are graphs, which Mr. Church adapted from a study recently commissioned by the Idaho Legislature, depicting the grossly disproportionate economic impacts—enormous, even devastating, costs to the state in return for paltry benefits—predicted to occur from the curtailment of ground water rights junior to 1961 and 1949, respectively.[1]

[1] These are discussed in detail in the Church Affidavit at 14, and shown in Appendix B to the affidavit.



Based on Snyder Report graphs, "Comparison of Gain and Loss Flows Over 10 Years," Snyder Report at 53.

John Church Affidavit Appendix B



Based on Snyder Report graphs, "Comparison of Gain and Loss Flows Over 10 Years," Snyder Report at 53.

John Church Affidavit Appendix B

ARGUMENT

I. Introduction.

This case presents Idaho with unprecedented questions of water law and economic policy that are vital to Idaho's future. And it is not a theoretical or distant future. The focal point for these critical questions is coming up immediately, this irrigation season, in a few weeks. A decision granting the Coalition's Delivery Call seeking to curtail all junior ground water rights in Water District 120 (or beyond)[2] would immediately idle, and probably permanently put out of business, several thousand farms in southern Idaho, beginning immediately. It would instantly change the face of our state and deal an almost unimaginable blow to Idaho's irrigated agriculture and the interconnected economies dependent upon it. In such a scenario, it is difficult to fathom when our state's agricultural economy would recover, if at all.

In policy terms, the answer to this question is self-evident: Idaho should not, with the stroke of a pen, shut off ground water deliveries to literally hundreds of thousands of acres of irrigated land, thus destroying the economic viability of thousands of farms depending on ground water and undercutting the economies of communities across the Snake Plain. Even more obvious, it would seem, is that Idaho should not implement such a shut-off because it would provide only a limited amount of water of questionable benefit this year—or next year, or the next—to surface water irrigators who have asserted pumping injures their water rights.

Fortunately, Idaho's water law does not look favorably on economic self-destruction. In resolving questions with such enormous economic and social dimensions, Idaho's foundational

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[2] The Delivery Call seeks curtailment of all junior ground water diversions within Water District 120,which contains the Aberdeen-American Falls Ground Water District, Bingham Ground Water District, Bonneville-Jefferson Ground Water District, and portions of the Magic Valley Ground Water District. However, the Director has made it clear that if there is to be a delivery call honored, he will decide where it will extend. See Director's Order at 19-20. Accordingly, as vast as Water District 120 is (over 370,000 acres of ground water irrigated land), Water District 130 and other areas of the ESPA also are implicated.

laws have never separated rights and responsibilities under the state's water law from considerations of economic development, maximum use of water resources in the public interest, or the necessities of other water users. This may come as a surprise to some, who may believe that priority and a claimed diversion amount are all that is needed to curtail any junior they believe is causing impacts to a common water source.[3]

This memorandum explains how Idaho's Constitution, statutes, case law, and administrative rules all require consideration of these important factors. Idaho water law is not a cold, one-sided assessment of priority and injury as the Coalition would have it. At least during monumental conflicts like these, Idaho water law has imposed a balancing. And as a matter of law and the undisputed facts of this case, that balancing must result in a denial of the Delivery Call.

II. Summary judgment standards.

Under Idaho Rule of Civil Procedure 56(c), the Department must grant a summary judgment motion "if the pleadings, depositions, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." I.R.C.P. 56(c). As the party moving for summary judgment, IGWA, "initially carries the burden to establish there is no 'genuine issue of material fact' and that he or she is entitled to judgment as a matter of law.'" *Dunnick v. Elder,* 126 Idaho 308, 311, 882 P.2d 475, 478 (1994). However, because IGWA will not carry the burden of production or proof at trial, IGWA can meet this burden by establishing that the Coalition lacks evidence on an essential element of its case. *See id.* "Such an absence of

[3] We use "claimed diversion amount" here advisedly. Those Coalition members located in Water District 1 have not yet had their surface water rights reported or adjudicated in the Snake River Basin Adjudication. Therefore, no ESPA ground water user has yet had an opportunity to scrutinize these surface rights as to their quantity, place of use, or other elements which, once finally determined, would be relevant in any proceeding to determine the appropriateness or scope of any such Delivery Call.

evidence may be established either (1) by an affirmative showing with the moving party's own evidence or (2) by a review of all the nonmoving party's evidence and the contention that such proof of an element is lacking." *Id.*

Once IGWA meets this burden, the burden shifts to the Coalition to respond with sufficient opposing evidence to show there is indeed a genuine issue for trial. *Id. See also Jordan v. Beeks*, 135 Idaho 586, 590, 21 P.3d 908, 912 (2001). If the Coalition does not come forward with admissible evidence sufficient to establish the existence of every single element of its case, then the Department must grant IGWA's summary judgment motion. "In such a situation, there can be 'no genuine issue as to any material fact,' since a complete failure of proof concerning an essential element of the nonmoving party's case necessarily renders all other facts immaterial." *Sparks v. St. Luke's Regional Med. Center*, 115 Idaho 505, 509, 768 P.2d 768, 772 (1988) (citing *Celotex, v. Catrett*, 477 US 317, 106 S.Ct. 2548 (1986)).

III. The Coalition's Delivery Call, if granted, would violate the longstanding requirement of Idaho law to maximize the use of Idaho's water resources.

Idaho law requires the Department to evaluate a Delivery Call by balancing the "first in time" principle of prior appropriation against other longstanding principles of the prior appropriation doctrine. These include the full economic development of ground water resources, preservation of the state's agricultural base, the necessities of other water users, and the public interest, all in light of hydrological realities. The Idaho Constitution is the original source of this balancing requirement. Over the years, the Idaho Legislature, the Idaho Supreme Court and the Department all have secured its place in Idaho law.

A. Idaho's Constitution prescribes maximizing use of the resource by balancing public cost and benefit during times of water shortage.

The Delivery Call asks the Department to do nothing more than note that the Coalition's priorities are senior, take the Coalition's word that they are about to be injured by ground water

pumping, and then simply shut off the Ground Water Users' wells across a wide expanse. In lodging a Delivery Call premised on the fact of priority and the allegation of injury, the Coalition is asking the Department to ignore not only its own rules and Idaho statutes, but the Idaho Constitution itself.

Never in the many years of the surface water users' saber-rattling about the alleged effects of irrigation diversions from the Eastern Snake Plain Aquifer ("ESPA") have they ever attempted to explain how their desire for a "toggle-switch" shut-down of hundreds of thousands of acres of irrigated agriculture to deliver a paltry amount of water to the river squares with the Idaho Constitution. What the Constitution provides is a far cry from the concept of "priority, period," that the Coalition asks the Department to employ.

At least where irrigation entities are involved, in times of shortage the Idaho Constitution contemplates that the State will balance interests, give due regard to the "necessities" of junior-priority water users, and place "reasonable limitations" on senior-priority users, all to promote the greater economic interests of the State.

Our founding document states:

> The use of all waters now appropriated, or that may hereafter be appropriated for . . . distribution . . . is hereby declared to be a public use, and subject to the regulations and control of the state in the manner prescribed by law.

Idaho Const. Art. XV, sec. 1 (emphasis added). The Coalition members are using the public's water, and the public, through the Legislature and the Department, has abiding interests, including economic interests, that must be considered.

To be sure, the Constitution sets up the familiar "first in time is first in right" principle. Idaho Const. Art. XV, sec. 3. However, as among those receiving the public's water for agricultural purposes under a distribution program—such as that occurring on the lands served

by every Coalition member---the Constitution qualifies this principle with the obligation that prior appropriators accept "reasonable limitations" in times of shortage.

> [P]riority in time shall give superiority of right to the use of such water . . .; but whenever the supply of such water shall not be sufficient to meet the demands of all those desiring to use the same, such priority of right shall be subject to such reasonable limitations as to the quantity of water used and times of use as the legislature, having due regard both to such priority of right and the necessities of those subsequent in time of settlement or improvement, may by law prescribe.

Idaho Const. Art. XV, sec. 5 (emphasis added). The Constitution also mandates that those using water in irrigation projects must comply "with such equitable terms and conditions as to the quantity used and time of use, as may be prescribed by law." Idaho Const. Art. XV, sec. 4 (emphasis added). The Idaho Constitution also establishes the Idaho Water Resource Board and empowers it to "formulate and implement a state water plan for optimum development of water resources in the public interest." Idaho Const. Art. XV, sec. 7 (emphasis added).[4] In contrast to all these directives, what the Coalition seeks with its Delivery Call is simple: impose no limitations on them at all, give no consideration to the necessities of anyone but them, and dismantle a large percentage of the water development in the state. It will not do for any water user to say that the rules of reasonable use, optimum development and reasonable limitations on the use of the public water resource apply to everyone's use but theirs.

While priority of right undeniably is a central factor in the allocation and administration of Idaho's water, it is not the only factor. Another requirement of equal importance—a

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[4] It is worth noting that nearby western states' constitutions do not contain these unique and detailed provisions and instead are silent on the matter or simply emphasize priority as the operative principle in water allocation. *See, e.g.,* Colorado Const. Art. XVI, Sec. 6; Wyoming Const. 97-8-003; Montana Const. Art. IX; and Utah Const., Art. XVII, sec. 1. The Idaho Constitution—with its provisions expressly authorizing the Legislature to subject one's priority to "reasonable limitations" so as to extend "due regard to . . . the necessities" of junior priority rights, with its language enunciating the need to provide for "optimum development" of our water resources, and with its declaration that water used under a distribution scheme is a "public use"—stands in stark contrast to the charters of these other western prior appropriation doctrine states. These provisions are in our Constitution for a reason, and this case presents the exact situation where they, and the statutes and rules enacted to implement them, should not be ignored.

requirement whose relevance is squarely apparent in this case—is the constitutional stipulation that "reasonable limitations" shall be placed on prior rights to accommodate the "necessities" of junior appropriators. Idaho Const. Art. XV, sec. 5.

While the goal of avoiding injury to senior rights is important, it is not spelled out in the Constitution; instead there is the concept of "optimum use," and the constitutional requirement that water rights used "for agricultural purposes" can be subjected to those "equitable terms and conditions as to the quantity used and time of use" that the Legislature finds appropriate from time to time.

In the simple case, on a stream or river where shutting a junior's headgate will deliver water to the senior immediately and in amounts equal (or nearly so) to the shut-off, the priority system typically can proceed without significant constraint from any constitutional principle other than priority. The action is neutral in terms of economic impact: either the junior gets a certain amount of water for beneficial use or the senior gets the same amount. In such a situation, it is proper that the senior should have it, and maximum use of the resource is preserved. This is one reason the state has supported the construction of large surface storage reservoirs—so that there is a supplemental supply to ease the impact of the "instant on/off" system of priorities that works on surface streams.

However, it is a far different story with regard to the vast ESPA and its complex relationship to the river. Here, a call seeking to improve river flows by enough to irrigate 1000 acres may require drying up 100,000 acres of land served by ground water. Here, little of the water use curtailed will be delivered to the seniors in the year the call is made. The balance will not be fully "delivered" for decades, during which the climatic conditions and water supply situation will have changed several times. Here the effect of curtailment very likely will put

many, or most, ground water users out of business, perhaps permanently. Such a proposal surely triggers the balancing factors set forth in our Constitution.

B. The Idaho Legislature has codified these Constitutional principles.

Idaho's Legislature has implemented the principles the constitution set forth. "It is the policy of the state of Idaho to promote and encourage the optimum development and augmentation of the water resources of this state." Idaho Code § 42-234. The Legislature has been particularly explicit on this subject with regard to ground water rights, such as those the Coalition seeks to curtail. In Idaho's Ground Water Act, the Legislature confirmed that a weighing of the constitutionally-recognized factors in times of shortage, not rote priority, is the law in Idaho. The stated policy of this statute is that "while the doctrine of 'first in time is first in right' is recognized, a reasonable exercise of this right shall not block the full economic development of underground water resources." Idaho Code § 42-226 (emphasis added.) The Idaho Supreme Court has noted that this statute is "consistent with the Idaho Constitution" because it seeks to promote "optimum development of water resources." *Baker v. Ore-Ida Foods, Inc.*, 95 Idaho 575, 584 (1973).

Brought down to the terms of this case, the statute means, as its constitutional heritage means, that the Coalition's priorities must be held in check so that they may be "reasonably" exercised, and so that the Department may assure that they do not block "full" economic development of the ground water resource. It would hardly serve either the Constitution or the Ground Water Act for the Department simply to eliminate the economic development that has occurred with ESPA ground water.

The Ground Water Act is not the only place that the Legislature has implemented Idaho's constitutional goals of optimum use and reasonable limitations on priority. The lawmakers have

enacted several other provisions mandating that considerations other than priority and injury be considered when it comes to the use of the public waters of the state.

For example, in evaluating water right transfers, the Legislature requires the Department to determine that the change will be "consistent with the conservation of water resources within the state of Idaho and is in the local public interest," and that "the change will not adversely affect the local economy of the watershed or local area within which the source of water for the proposed use originates." Idaho Code § 42-222(1).

This same statute expressly prohibits the director from approving "a change in the nature of use from agricultural use where such change would significantly affect the agricultural base of the local area." *Id.* (emphasis added). Where large acreages are implicated by the proposed transfer (i.e., more than 5,000), the Legislature has declared that both that body and the Department have a role in approving it, and that "[e]ach shall give due consideration to the local economic and ecological impact of the project or development so proposed." *Id.* (Emphasis added.)

The Legislature also has mandated specific adjudicatory procedures to apply when surface water users, like the Coalition here, make injury claims against ground water users. Idaho's Ground Water Act provides that if the holder of a surface water right asserts that his or her right "is being adversely affected by one or more user[s] of ground water rights of later priority" the surface water right holder may initiate an action at the Department seeking curtailment or other administration of the ground water rights. Idaho Code § 42-237b. Once the Director has received from the surface user written grounds the Director deems "sufficient" for initiating a proceeding to consider such administration, the statute requires the Director to set the matter "for hearing before a local ground water board." *Id.* The board may recognize the senior

surface water users call and curtail the junior ground water right only "if the use of the junior rights affects, contrary to the declared policy of this act, the use of the senior right." Idaho Code § 42-237c. The "declared policy" of the act is "full economic development of underground water resources," a goal that shall not be blocked by "reasonable exercise" of a prior right.

The State's policy, when it comes to using the public water resource, is not simply to tally relative priorities in a surface water-ground water dispute, accept the senior's allegation of injury, and then switch off ground water pumps.[5] The statute contemplates a process where local considerations, the hydrological and economic effects of curtailment, the legislative mandate of full economic development of ground water, and the principles enunciated by the Framers, all are taken fully into account.

IGWA contends that the Coalition's Delivery Call must be referred to a local ground water board, that the Coalition's statements in support of the call are insufficient under section 42-237b, and that this is an independent ground for summarily rejecting the Delivery Call.

C. Idaho's Supreme Court has ruled repeatedly that priority of right is not the only element to be considered during times of shortage and that maximum use and related concepts are critical elements.

In harmony with these constitutional and statutory mandates, Idaho's Supreme Court has confirmed that "maximum use" of the public's water, and its "optimum use," are overarching goals of state regulation. "The policy of the law of this State is to secure the maximum use and benefit, and least wasteful use, of its water resources." *Poole v. Olaveson*, 82 Idaho 496, 502, 356 P.2d 61, 65 (1960). *See also Reynolds Irr.Dist. v. Sproat*, 70 Idaho 217, 222, 214 P.2d 880 (1950).

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[5] Chapter 6, Idaho Code, is designed to allow administration on surface streams, where instant curtailment leading to instant relief is possible. Idaho Code § 42-237b sets up a different, more appropriate procedure where ground water rights are concerned.

> In this arid country, where the largest duty and the greatest use must be had from every inch of water, in the interest of agriculture and home building, it will not do to say that a stream may be dammed so as to cause subirrigation of a few acres, at a loss of enough water to surface irrigate ten times as much by proper application.

Van Camp v. Emery, 13 Idaho 202, 208, 89 P. 752, 754 (1907). One might also say that it will not do to demand that the ESPA be kept at an artificially high level—higher than when the Coalition's members obtained their surface water rights—so that the Coalition members may have their water rights improved beyond what they were when first appropriated.

In *State v. Hagerman Water Right Owners,* 130 Idaho 727, 735, (1997), quoting *Kunz v. Utah Power & Light Co.*, 117 Idaho 901, 904 (1990),[6] the Idaho Court stated:

> The water of this arid state is an important resource. Not only farmers, but industry and residential users depend upon it. Because Idaho receives little annual precipitation, Idahoans must make the most efficient use of the limited resource. The policy of the law of the [s]tate is to secure the maximum use and benefit, and the least wasteful use, of its water resources.

Using language that was later to be echoed in Idaho's own constitution, the U.S. Supreme Court in *Basey v. Gallagher*, 87 U.S. 670, 683 (1874), ruled that the "right of the first appropriator" is to be "exercised within reasonable limits," and with reference to "the necessities of the people, and not so as to deprive a whole neighborhood or community of its use, and vest an absolute monopoly in a single individual."

The Director's initial ruling in this very case recognizes these principles. Director's Order at 27-29. Here, the proposal is to curtail many times more acre-feet of ground water than could be delivered to or used by the Coalition's members, causing direct economic impact to the ground water-dependent economies while providing only transitory, eventual, and partial benefit

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[6] *Kunz* cites nine additional Idaho cases for this proposition. *Kunz v. Utah Power & Light Co.*, 117 Idaho at 904.

to the surface water users. The Coalition has not attempted to show how its Delivery Call can be sustained in light of this fact, or in light of the principles of law mandated by our court.

D. The Department's Conjunctive Management Rules require any Delivery Call to be considered in light of these same principles.

The Department's Conjunctive Management Rules embody the same principles—maximum use, balancing of priority against other factors—as articulated by the Framers, the Legislature, and the Idaho Supreme Court. The Department has expressly declared that:

> The policy of reasonable use includes the concepts of priority in time and superiority in right being subject to conditions of reasonable use as the legislature may by law prescribe as provided in Article XV, Section 5, Idaho Constitution, optimum development of water resources in the public interest prescribed in Article XV, Section 7, Idaho Constitution, and full economic development as defined by Idaho law.

IDAPA 37.03.11.020.03. Similar standards are set forth in other portions of the rules. *Id.* at 37.03.11.020.04 (futile calls will not be honored, or may be honored with conditions); 37.03.11.020.05 ("reasonableness of diversion and use of water" is a factor to be considered). These principles are not idle comments in the Rules; it is not by accident that the Department specifically refers to these same provisions of the Idaho Constitution. They are central to the consideration of the Coalition's Delivery Call.

The Rules also authorize the Director to consider, in evaluating whether "material injury" has occurred, the extent to which a senior's water requirements could be met by employing "reasonable diversion and conveyance efficiency and conservation practices" or "alternate reasonable means of diversion," including wells. IDAPA 37.03.11.042.01g and h. Again, the burden is on the Coalition to answer these concerns, and to come forward with a proof that they meet these standards.

These principles should require heightened scrutiny of any request, such as the Coalition's request here, to shut off over a million acre-feet of ground water pumping to deliver perhaps 5% of that amount to the seniors this irrigation season.[7]

The Department's Rules also recite a principle basic to authorities such as the United States Supreme Court's opinion, upholding the position of the predecessor to Coalition member Twin Falls Canal Company in *Schodde v. Twin Falls Water Co.*, 224 U.S. 107 (1912): "An appropriator is not entitled to command the entirety of large volumes of water in a surface or ground water source to support his appropriation contrary to the public policy of reasonable use of water as described in this rule." IDAPA 37.03.01.020.04. The Coalition's Delivery Call fails to address this factor. If granted, the Delivery Call also would violate it.

In sum, the wholesale shut-down of thousands of wells sought by the Coalition does not comport with the economic development, maximum use, and balancing principles contemplated by Idaho law.

The Coalition has made no attempt whatsoever to evaluate these hydrologic or economic factors, or to provide the Director with any facts that could support the radical and economically destructive ground water curtailment its members seek in this case.

IV. The Coalition has failed to meet its obligation to provide evidence of beneficial use and material injury.

As stated above, summary judgment is appropriate if the Coalition has failed to present evidence on at least one essential element of its case. *Dunnick v. Elder,* 126 Idaho 308, 311, 882 P.2d 475, 478 (1994). A review of the Coalition's evidence demonstrates that the Coalition has failed to present sufficient evidence on both beneficial use and material injury to prove those elements of its case.

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[7] See Brendecke Affidavit, attached.

The Department's Conjunctive Management Rules require that, before a delivery call will be honored, the Director first must "determin[e] the reasonableness of the diversion and use of water by both the holder of a senior-priority water right who requests priority delivery and the holder of a junior-priority water right against whom the call is made." IDAPA 37.03.11.020.05. To allow the Director to make this determination here, the Rules require the Coalition to provide the following information, among other required information, to support a call for water delivery: (1) "... the water diversion and delivery system being used by petitioner and the beneficial use being made of the water" and (2) "[a]ll information, measurements, data or study results available to the petitioner to support the claim of material injury." IDAPA 37.03.11.030.01 (a, c).

In addition to the Rules' requirements, the Director's February 14 Order in this case specifically directed the Coalition to supply certain information. Director's Order at 31. Although the Coalition was granted an extension to obtain and submit some of this information (the names, addresses and description of the water rights of the ground water users who are alleged to be causing material injury), the deadline has passed for the Coalition to make their record on the required items quoted above—namely, (1) documentation of their delivery system and beneficial use and (2) evidence showing material injury. March 7, 2005 letter from Travis Thompson to Director Dreher; *Order Denying Motion to Authorize Discovery; and Granting Additional Time to Serve Respondents* (March 9, 2005).

The limited information the Coalition has provided fails to satisfy both the minimum requirements of IDAPA 37.03.11.030.01 and the Director's Order. *Petitioners' Joint Response to Director's February 14, 2005 Request for Information* (March 15, 2005), as amended by March 18, 2005 letter from Travis Thompson to Director Dreher. First, the Coalition has not

provided sufficient information about its beneficial use of water. As explained in more detail below, with regard to the Coalition's lack of responsiveness to the Director's Order, the Coalition has not provided sufficient evidence showing the actual amounts of water beneficially used by each of its members' landowners and shareholders. Without this, how can the Director make a determination about material injury?

Second, and even more significantly, the Coalition has provided no information—beyond pointing out that river flows, and perhaps their diversions, have decreased in recent years (during a once-in-500-years drought)—to demonstrate how its members' landowners and shareholders are suffering material injury from ground water pumping. They have provided no evidence showing the extent of any shortage, how they have been affected by any such shortage, or what adjustments they have made to accommodate it. In this case, the Coalition has made sweeping allegations and called for thousands of acres of irrigated crop land to be dried up immediately, yet they have not made any effort to prove this central element of their case—material injury.

In addition, the Coalition provided either no information, or incomplete information, in response to the following specific requests in the Director's Order: (1) total diversions of ground water in acre feet per month by the Coalition members' landowners or shareholders, as to A&B Irrigation District, Minidoka Irrigation District, Burley Irrigation District, and Milner Irrigation District; (2) number of the Coalition members' landowners or shareholders holding individual ground water rights; (3) average monthly headgate deliveries in inches per acre to Coalition members' landowners or shareholders, as to A&B Irrigation District, Minidoka Irrigation District and Burley Irrigation District; (4) the total amount of reservoir storage in acre feet carried over to the subsequent year; (5) the quantity of water in acre feet the Coalition members' landowners or shareholders leased to other users through the water supply bank and the Water District 01

Rental Pool; (6) the quantity of water in acre feet the Coalition members' landowners or shareholders made available to other users through means other than the water supply bank and the Water District 01 Rental Pool; (7) the total number of acres irrigated by flood irrigation and the total number of acres irrigated by sprinkler irrigation, as to A&B Irrigation District, American Falls Reservoir District #2, Minidoka Irrigation District, North Side Canal Company, and Twin Falls Canal Company; and (8) the specific types of crops planted on irrigated acres served by the Coalition members' landowners or shareholders (without some indication of the number of acres on which each crop is grown, for each year for the last fifteen years, the meager information as provided is meaningless to support the Coalition's Delivery Call).[8]

The Coalition seems to be waiting for someone else to make their case, but that burden falls squarely on them. The Coalition's failure to provide evidence proving essential elements of their case warrants dismissal on summary judgment. The Ground Water Users and the State of Idaho should not be forced into the expense of full litigation when the Coalition has not brought forth evidence to support their claim.

V. The Surface Water Coalition's Delivery Call should not be granted because it would be futile.

The Department's Conjunctive Management Rules specify that a delivery call will be deemed "futile" and therefore denied if the call, "for physical and hydrologic reasons, cannot be satisfied within a reasonable time of the call by immediately curtailing diversions under junior-priority ground water rights or that would result in waste of the water resource." IDAPA 37.03.11.010.08. The Department already has refused, in response to delivery calls or proposed

[8] The Coalition itself agreed to provide any "further information concerning 'material injury'," beyond the wholly unsupported allegations in their Delivery Call. However, when requested (by the Director's Order) the Coalition again failed to provide the necessary information.

administration in water districts, to curtail juniors where it would be futile, including those situations where water could be delivered but to do so would be unreasonably wasteful.

In a 2004 case involving competing surface water rights on the Big Lost River, the Director concluded that a proposed delivery was futile and would not be attempted where channel and ditch losses between the junior diversions and the downstream seniors ranged from 75 percent to 90.2 percent. *In the Matter of Determining a Futile Call for the Delivery of Surface Water in Water District No. 34, Big Lost River* (July 30, 2004) (construing IDAPA 37.03.12.020.04, which prohibits "unreasonable waste").

In the present case, the Delivery Call asks the Department to curtail ground water use across a broad—and, as the Director's Order notes, as yet unspecified—expanse of the ESPA. The numbers implied in the Delivery Call certainly could involve drying up as many as 1.1 million acres of ground water irrigated land to "deliver" enough water to irrigate perhaps 10,000 acres of land. The Delivery Call requests an unreasonable waste of water and the antithesis of full economic development.

The Department's Rules indicate that, based on a finding that a call would be futile, the Department can either deny a curtailment or mitigation obligation outright or—provided the facts support it in light of the "full economic development" standard—require juniors to implement "mitigation" or "staged or phased curtailment." IDAPA 37.03.11.020.04 (emphasis added). The Director certainly has discretion in this regard. However, IGWA submits that, given the extreme imbalances involved and the certain harm to Idaho's economy that would result, it would be an abuse of discretion to require curtailment of any kind in this case.

Based on any one of the arguments raised in this memorandum and the facts set forth in the attached affidavits of H. J. Church and Charles M. Brendecke, the Coalition's Delivery Call should be dismissed on summary judgment.

RESPECTFULLY SUBMITTED this 23d day of March 2005.

GIVENS PURSLEY LLP

Jeffrey C. Fereday

Michael C. Creamer

Attorneys for Idaho Ground Water Appropriators, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on this 23rd day of March 2005, I served a true and correct copy of the foregoing by delivering the same to each of the following individuals by the method indicated below, addressed as follows:

Mr. Karl J. Dreher Director Idaho Department of Water Resources 322 East Front Street P.O. Box 83720 Boise, ID 83720-0098	_____ U.S. Mail _____ Facsimile _____ Overnight Mail ✓ Hand Delivery
C. Tom Arkoosh, Esq. Arkoosh Law Offices, Chtd. 301 Main Street P.O Box 32 Gooding, ID 83330	✓ U.S. Mail _____ Facsimile _____ Overnight Mail _____ Hand Delivery
W. Kent Fletcher, Esq. Fletcher Law Office P.O. Box 248 Burley, ID 83318-0248	✓ U.S. Mail _____ Facsimile _____ Overnight Mail _____ Hand Delivery
Roger D. Ling, Esq. Ling, Robinson & Walker 615 H St. P.O. Box 396 Rupert, ID 83350-0396	✓ U.S. Mail _____ Facsimile _____ Overnight Mail _____ Hand Delivery
John A. Rosholt, Esq. John K. Simpson, Esq. Travis L. Thompson, Esq. Barker, Rosholt & Simpson 113 Main Avenue West, Ste. 303 Twin Falls, ID 83301-6167	✓ U.S. Mail _____ Facsimile _____ Overnight Mail _____ Hand Delivery
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Kathleen Marion Carr, Esq. Office of the Field Solicitor U.S. Department of the Interior 550 West Fort Street, MSC 020 Boise, ID 83724-0020	✓ U.S. Mail ____ Facsimile ____ Overnight Mail ____ Hand Delivery
E. Gail McGarry, P.E. Program Manager Water Rights & Acquisitions PN-3100 U.S. Bureau of Reclamation Pacific Northwest Region 1150 N. Curtis Road Boise, ID 83706-1234	✓ U.S. Mail ____ Facsimile ____ Overnight Mail ____ Hand Delivery
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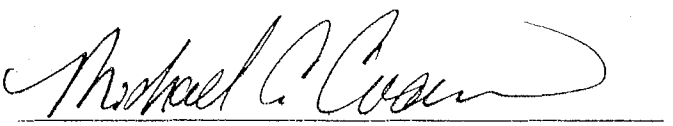
Idaho Department of Water Resources Eastern Regional Office 900 North Skyline Dr. Idaho Falls, ID 83402-6105	✓ U.S. Mail ____ Facsimile ____ Overnight Mail ____ Hand Delivery
Idaho Department of Water Resources Southern Regional Office 1341 Fillmore St., Ste. 200 Twin Falls, ID 83301-3033	✓ U.S. Mail ____ Facsimile ____ Overnight Mail ____ Hand Delivery



Michael C. Creamer

Addendum
D

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF THE REQUEST FOR ADMINISTRATION IN WATER DISTRICT 120 AND THE REQUEST FOR DELIVERY OF WATER TO SENIOR SURFACE WATER RIGHTS BY A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY	**ORDER ON PETITIONS TO INTERVENE AND DENYING MOTION FOR SUMMARY JUDGMENT; RENEWED REQUEST FOR INFORMATION; AND REQUEST FOR BRIEFS**

Background

On February 14, 2005, the Director of the Department of Water Resources ("Director" or "Department") issued an Order in this matter and other related matters. The Order provided an initial response by the Director to the water delivery call made by letter on January 14, 2005, by the seven irrigation districts, reservoir district, and canal companies named in the above caption and referred to as the Surface Water Coalition ("Coalition"). The delivery call seeks the administration and curtailment of ground water rights within Water District No. 120 that are junior in priority to water rights held by or for the benefit of members of the Coalition. Among other actions, the Order designated the Coalition's delivery call as a contested case and granted the petition of the Idaho Ground Water Appropriators, Inc. ("IGWA") to intervene in the delivery call proceeding involving Water District No. 120.

In addition, the Order required each member of the Coalition to submit to the Director within thirty (30) days certain information called for in the Order. The Order states that the Director will consider the water delivery call as a call for administration and curtailment of junior priority ground water rights in Water Districts No. 120 and No. 130 that are alleged to, or may, be causing injury to the senior surface water rights of the members of the Coalition. The Order further states that the Director will make a determination of the extent of likely injury after April 1, 2005, when the U. S. Bureau of Reclamation and U. S. Army Corps of Engineers release their jointly prepared operating forecasts for inflow from the Upper Snake River Basin for the period April 1 through July 31, 2005. The forecasts are expected to be released on or about April 8, 2005. The Director expects to be able to issue an order addressing the extent of likely injury during the week of April 18, 2005.

4-6-05

Additional Petitions to Intervene

In addition to IGWA, other entities have filed timely petitions to intervene in this matter including the Idaho Dairymen's Association ("IDA"), the United States Bureau of Reclamation ("USBR"), and the Idaho Power Company ("Idaho Power"). IDAPA 37.03.01.353 provides as follows:

> If a timely-filed petition to intervene shows direct and substantial interest in any part of the subject matter of a proceeding and does not unduly broaden the issues, the presiding officer will grant intervention, subject to reasonable conditions, unless the applicant's interest is adequately represented by existing parties. If it appears that an intervenor has no direct or substantial interest in the proceeding, the presiding officer may dismiss the intervenor from the proceeding.

The IDA represents entities holding ground water rights that, based on the Coalition's water delivery call, are potentially subject to curtailment. Therefore, the IDA has a direct and substantial interest in the subject of the proceeding that may not be adequately represented by the present parties. Because the interests of the IDA will not unduly broaden the issues, the IDA is granted intervention.

The USBR is the legal owner of some of the water rights directly at issue in this proceeding as stated in Finding of Fact 54 of the Order of February 14, 2005. Therefore, the USBR has a direct and substantial interest in the subject of the proceeding that is not adequately represented by the present parties. Because the interests of the USBR will not unduly broaden the issues, the USBR is granted intervention.

Unlike the USBR, Idaho Power does not identify in its petition any water rights it holds that are the subject of this proceeding. Furthermore, unlike the IDA, Idaho Power does not state in its petition that it holds ground water rights that are potentially subject to the actions and relief requested. Therefore, Idaho Power has not demonstrated a direct and substantial interest in the subject of the proceeding and is denied intervention. Additionally, to the extent Idaho Power believes its water rights are being interfered with by the exercise of junior priority ground water rights, it has other adequate forms of relief available, such as the filing of a separate delivery call.

Motion for Summary Judgment

On March 23, 2005, IGWA filed *Idaho Ground Water Appropriators' Motion for Summary Judgment and Memorandum in Support*. IGWA also filed the *Affidavit of Dr. Charles M. Brendecke* ("Brendecke Affidavit") and the *Affidavit of Mr. John Church* ("Church Affidavit") in support of the summary judgment motion. The motion asks the Director to dismiss the Coalition's delivery call based upon the supporting affidavits and numerous factual and legal arguments. On March 28, 2005, the Coalition submitted a letter to the Director objecting to the filing of the summary judgment motion by IGWA. The Coalition argues that the motion for summary judgment is inappropriate at this informal stage of the proceeding and

should be stricken, or if not stricken the Director should inform the Coalition as to whether it is expected or required to respond to the motion pursuant to Rule 270 of the Department's Rules of Procedure.

The Order issued by the Director on February 14, 2005, designated this matter as a contested case and did not specify that the matter would proceed under the Informal Proceedings provided for by Rules 100 through 103 of the Department's Rules of Procedure. IDAPA 37.01.01.100 - 103. The Order did state, however, that the Director intended to make a determination of the extent of likely injury to the rights held by or for the benefit of members of the Coalition after April 1, 2005, which will be prior to any opportunity for a hearing in the contested case. Once the Director has issued a further order addressing the merits of the delivery call, the parties will have an opportunity to request a hearing and engage in the normal steps of a contested case provided for under the Department's Rules of Procedure. IGWA's *Motion for Summary Judgment* will, therefore, be denied without prejudice at this time, and the Coalition shall have no duty to respond. The Director has reviewed the *Motion for Summary Judgment* and the Brendecke Affidavit, but does not intend to rely upon the information contained therein in making a determination of the extent of likely injury to the members of the Coalition. The Director has not reviewed the Church Affidavit and does not intend to do so.

Renewed Request for Information

The Order of February 14, 2005, required that each member of the Surface Water Coalition file with the Director certain information called for under Conclusion of Law No. 38 of the Order for the past fifteen (15) irrigation seasons, 1990 to 2004, within thirty (30) days of the Order. The Coalition members filed information in response to this request on March 15 and 18, 2005.

The response filed by the Coalition members relied heavily on data obtained from the Department (total monthly diversions of natural flow and total monthly diversions of water released from reservoir storage), failed to identify members or shareholders holding individual ground water rights (alleging that such information is "irrelevant for purposes of the request for water right administration of Petitioners' surface water rights"), referred the Director to his own staff or the watermaster for Water District 01 (total amount of reservoir storage carried over to the subsequent year, quantity of water leased to other users through the water supply bank and the Water District 01 Rental Pool, and quantity of water made available to other users through means other than the water supply bank or the Water District 01 Rental Pool), provided data or estimates for the total number of acres irrigated by flood irrigation and the total number of acres irrigated by sprinkler irrigation for one year only (Minidoka Irrigation District, North Side Canal Company, and Twin Falls Canal Company), and a single list of crops for each member of the coalition (no acreage numbers and no history of crop rotation).

All of the information that was to have been provided pursuant to the Order of February 14, 2005, is relevant for the determination of the extent of material injury to surface water rights held by or for members of the Coalition. Ground water rights held by individual members of the entities comprising the Coalition (landowners in irrigation districts and shareholders in canal

companies) is especially relevant since such rights may have been established and used to supplement surface water supplies during times of shortage. If information about the ground water rights held by individuals within the Coalition members is not available, the Coalition may, as an alternative, supply documented information to the Director identifying the number and location of acres served by each Coalition member for which an inadequate water supply was available to irrigate or finish crops in specific years from any available water source.

The Coalition alleges that: "Since the Department 'maintains complete records for all claimed, permitted, licensed, and decreed water rights authorizing the diversion and use of ground water from the ESPA', the Department is capable of determining whether or not any landowners or shareholders of the respective Petitioner entity hold individual ground water rights." With the exception of the North Side Canal Company, the Department does not have records of the landowners and shareholders that receive water delivered by the member entities comprising the Coalition. Consequently, with the exception of the North Side Canal Company, the Department cannot determine whether landowners or shareholders of the respective member entity of the Surface Water Coalition hold individual ground water rights.

The Director hereby reiterates the request of the members of the Surface Water Coalition for submission of all information called for under Conclusion of Law No. 38 of the Order of February 14, 2005, to the extent that information has not been submitted to date. The failure to fully comply with this request will limit the Director's ability to fully address the relief requested by the Coalition.

Request for Briefs

In preparing the forthcoming order determining the extent of likely injury that will be experienced by the members of the Surface Water Coalition, the Director has identified a legal issue for which briefing by the parties is requested. The issue is whether Idaho law permits the Coalition members to pursue a delivery call to supply water rights that were decreed in a proceeding(s) to which the ground water users were not a party.

The Director requests that the parties review the cases of *Mays v. District Court*, 34 Idaho 200, 200 P. 115 (1921); *Scott v. Nampa Meridian Irr. Dist.*, 55 Idaho 672, 45 P.2d 1062 (1934); *Nettleton v. Higginson*, 98 Idaho 87, 558 P.2d 1048 (1977); *State v. Hagerman Water Right Owners, Inc.*, 130 Idaho 736, 947 P.2d 409 (1997), and any other Idaho Supreme Court decisions that may be relevant to the issue raised. The Director requests that the parties provide simultaneous briefing on this issue to the Director within seven (7) days from the date of this order.

ORDER

Based upon and consistent with the foregoing,

IT IS HEREBY ORDERED as follows:

1. The Petitions to Intervene as parties in this matter filed by the Idaho Dairymen's Association and the United States Bureau of Reclamation are GRANTED, and the Petition to Intervene filed by the Idaho Power Company is DENIED.

2. The Motion for Summary Judgment filed by the Idaho Ground Water Appropriators is DENIED without prejudice.

3. The Director renews his request of the members of the Surface Water Coalition for submission of all information called for under Conclusion of Law No. 38 of the Order of February 14, 2005, to the extent that information has not already been submitted to the Director.

4. The parties are requested to provide simultaneous briefing to the Director within seven (7) days from the date of this order on whether Idaho law permits the Coalition members to pursue a delivery call to supply water rights that were decreed in a proceeding(s) to which the ground water users were not a party.

DATED this 6th day of April 2005.

KARL J. DREHER
Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 6th day of April 2005, the above and foregoing, was served on the following by facsimile and by placing a copy of the same in the United States mail, postage prepaid and properly addressed to the following:

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Patsy McGourty
Administrative Assistant to the Director
Idaho Department of Water Resources

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY OR FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY	Docket No. CM-DC-2010-001 **FINAL ORDER REGARDING APRIL 2024 FORECAST SUPPLY** **(METHODOLOGY STEPS 1–3)**

FINDINGS OF FACT

1. On July 19, 2023, the Idaho Department of Water Resources ("Department") issued its *Sixth Final Order Regarding Methodology for Determining Material Injury to Reasonable In-Season Demand and Reasonable Carryover* ("*Methodology Order*"). The *Methodology Order* established nine steps for determining material injury to members of the Surface Water Coalition ("SWC"). This order applies steps 1, 2, and 3 of the *Methodology Order*.[1]

A. Step 1

2. By April 1 of each year, Step 1 requires members of the SWC to submit to the Department electronic shapefiles delineating the total anticipated irrigated acres for the upcoming year "or confirm in writing that the existing electronic shape file submitted by SWC has not varied by more than five percent." *Methodology Order* ¶ 1 at 41.

3. On February 21, 2024, the Department received a letter from American Falls Reservoir District #2 ("AFRD2"), stating that its total number of irrigated acres has not varied by more than five percent.

4. On March 5, 2024, Minidoka Irrigation District ("Minidoka") submitted its electronic shapefile delineating its total irrigated acres to the Department.

5. On April 1, 2024, the Department received a letter from A&B Irrigation District ("A&B"), Burley Irrigation District ("BID"), Milner Irrigation District ("Milner"), North Side Canal Company ("NSCC") and Twin Falls Canal Company ("TFCC"). In the letter, A&B, BID, Milner, and NSCC confirmed that their total number of irrigated acres for 2024 will not vary by

[1] Shortly after the *Methodology Order* was issued, the Idaho Ground Water Appropriators, Inc., and certain Idaho cities filed petitions for judicial review in Ada County (Nos. CV01-23-13173 and CV01-23-13238). The filing of a petition for judicial review does not stay the effectiveness of the order. I.C. § 67-5274. No party to the judicial review proceedings has requested a stay of the *Methodology Order*. Accordingly, the Director will apply the *Methodology Order* in this order.

more than five percent from the electronic shapefiles submitted in prior years. With the letter, TFCC submitted an electronic shapefile delineating its total irrigated acres.

6. Based on the information submitted by the SWC, the Department will use the following total irrigated acres:

	Total Irrigated Acres[2]	Data Source
A&B	15,924[3]	SRBA Partial Decree
AFRD2	62,361	SRBA Partial Decree
BID	46,035	2013 shapefile submitted by BID, reduced by the Department for overlapping acres and acres outside of service area.
Milner	13,264	2010 service area shapefile, reduced by the Department for overlapping acres and acres outside of service area.
Minidoka	74,725	2024 shapefile submitted by Minidoka, reduced by the Department for overlapping acres and acres outside of the service area.
NSCC	154,067	SRBA Partial Decree
TFCC	196,162	SRBA Partial Decree

B. Step 2

7. Step 2 states that, within fourteen days of the issuance of the joint forecast prepared by the United States Bureau of Reclamation ("USBR") and the United States Army Corp of Engineers ("USACE"), the Director "will issue a final order predicting the April [Forecast Supply] for the water year for each SWC entity. The Director will compare the April [Forecast Supply] for each SWC entity to the [Baseline Demand] for each SWC entity to determine if an in-season demand shortfall ("IDS") is anticipated for the upcoming irrigation season." *Methodology Order* ¶ 3 at 42.

8. On April 4, 2024, the USBR and USACE issued their joint forecast ("Joint Forecast"), predicting an unregulated inflow of 3,370,000 acre-feet at the Snake River near Heise gage for the period of April through July. The forecasted flow volume equates to 102% percent of the average.[4] The Joint Forecast "is generally as accurate a forecast as is possible using current data gathering and forecasting techniques." *Id.* ¶ 49 at 19 (citation omitted).

[2] "The number of irrigated acres used in this methodology order is the number of reported acres unless that number is larger than the decreed irrigated acres, and if so, then the decreed acres are used." *Methodology Order* ¶ 22 at 11.

[3] The question of whether A&B's enlargement acres should be included in A&B's total irrigated acreage count is an issue raised in the appeal of the *Methodology Order* currently pending before Judge Wildman in Ada County (No. CV01-23-13238). Because the matter is still under consideration and because there is no shortfall predicted for A&B, the Department has not modified the total irrigated acreage count for A&B.

[4] The average is based on the years 1991–2020. The Joint Forecast relies on a "30-Year Climate Normal" to calculate an average April through July runoff volume.

9. The April–July Heise natural flow data from the years 1990–2023 were data inputs for the development of regression equations for A&B and Milner to predict the natural flow supply.[5] Data greater or less than two standard deviations from average were excluded from the regression development.

10. The April–July Heise natural flow data from the years 1990–2023 and Box Canyon November–March total discharge data for the period 1989–2023, were data inputs for the development of multiple linear regression equations to predict the natural flow supplies for AFRD2, BID, Minidoka, NSCC, and TFCC. *Methodology Order* ¶ 49 at 19. The U.S. Geological Survey measures and monitors the flow at the Box Canyon stream flow measurement gage. The Box Canyon November–March total discharge used by the Director in the regression models for 2024 totaled 92,979 acre-feet.

11. The storage allocations were predicted for each SWC member. As of April 8, 2024, Water District No. 1's preliminary water right accounting indicates water rights for Jackson Lake 1906, Lake Walcott, Jackson Lake 1910, Jackson Lake 1913, Henrys Lake 1917, Palisades Winter Water Savings, Island Park 1921, American Falls Winter Water Savings, American Falls, and Henrys Lake 1965 are satisfied. The remaining reservoir rights are 271,024 acre-feet short of satisfaction. Based on a comparison of the current Heise natural flow forecast to the analogous year of 2020, the Director anticipates the remaining reservoir water rights will be satisfied, and the SWC will receive a full storage allocation. The storage allocations are based on the anticipated full allocation minus evaporation charges.

12. Based on the above, the Director projects the following shortfalls:

	Predicted Natural Flow Supply	Predicted Storage Allocation	Minidoka Credit Adjustment	Total Forecast Supply	Baseline Demand (BLY 2018)	In-Season Demand Shortfall
A&B	11,752	135,194		146,946	64,192	0
AFRD2	97,606	386,596	1,000	485,202	458,890	0
BID	102,178	222,485	5,130	329,793	262,211	0
Milner	15,166	87,870		103,036	58,417	0
Minidoka	146,201	360,077	8,370	514,648	354,851	0
NSCC	421,878	844,703	-7,750	1,258,831	1,026,661	0
TFCC	812,780	241,584	-6,750	1,047,614	1,121,717	74,100
				Total Predicted April In-Season Demand Shortfall (AF)		74,100

[5] Attached hereto, as Attachment A, are the regression analyses for each SWC entity used to predict natural flow supply.

C. Step 3

13. Step 3 requires the following:

> Step 3: By May 1, or within fourteen (14) days from issuance of the final order predicting the April [Forecast Supply], whichever is later in time, junior ground water users with approved mitigation plans for delivery of water must secure, to the satisfaction of the Director, a volume of water equal to their proportionate share of the April IDS unless the April IDS is revised as explained below in paragraph 6. If junior ground water users secured water for a reasonable carryover shortfall to an individual SWC member in the previous year, the current-year mitigation obligation to the individual SWC member will be reduced by the quantity of water secured for the reasonable carryover shortfall. The secured water will not be required to be delivered to the injured members of the SWC until the Time of Need.

Methodology Order ¶ 4 at 42.

14. The predicted April IDS for TFCC is 74,100 acre-feet. Because the TFCC is the only SWC entity with a predicted shortfall, the total predicted April IDS is 74,100 acre-feet.

15. The Eastern Snake Plain Aquifer Model ("ESPAM") is used to predict the junior priority water rights that must be curtailed to produce the volume of water equal to the predicted April IDS in the near Blackfoot to Minidoka reach. The ESPAM is updated periodically as new field measurements and advancements in modeling technology become available. ESPAM Version 2.2 ("ESPAM2.2") is the latest model version.[6]

16. The Department ran ESPAM2.2 to predict the junior priority water rights within the area of common ground water supply that must be curtailed to produce the volume of water equal to the predicted April IDS between the May 1 and September 30 of this irrigation season pursuant to the *Methodology Order*. Ground water rights bearing priority dates junior to March 31, 1954, must be curtailed to produce the volume of water equal to the predicted April IDS in the near Blackfoot to Minidoka reach.

CONCLUSIONS OF LAW

1. The Fifth Judicial District Court, in and for the County of Minidoka, held that the evidentiary standard of proof to apply in conjunctive administration of hydraulically connected water rights is clear and convincing. *See* Mem. Decision & Order on Pets. for Jud. Rev., *A&B Irr. Dist., Inc. v. Idaho Dep't of Water Res.*, No. CV-2009-647 (Minidoka Cnty. Dist. Ct. Idaho May 4, 2010); Mem. Decision & Order on Pets. for Reh'g, *A&B Irr. Dist., Inc. v. Idaho Dep't of Water Res.*, No. CV-2009-647 (Minidoka Cnty. Dist. Ct. Idaho Nov. 2, 2010).

[6] The Department finalized ESPAM2.2 model documentation reports (including a model calibration report, a predictive uncertainty analysis, a superposition model scenario, and a curtailment scenario) on May 27, 2021. *See* Idaho Dep't of Water Res., *ESPAM2.2 Reports* (2021), https:// research.idwr.idaho.gov/files/projects/espam/browse/ESPAM22_Reports/.

2. "Clear and convincing evidence refers to a degree of proof greater than a mere preponderance." *Idaho State Bar v. Topp*, 129 Idaho 414, 416, 925 P.2d 1113, 1115 (1996) (internal quotations removed). "Clear and convincing evidence is generally understood to be '[e]vidence indicating that the thing to be proved is highly probable or reasonably certain.'" *State v. Kimball*, 145 Idaho 542, 546, 181 P.3d 468, 472 (2008) (citing *In re Adoption of Doe*, 143 Idaho 188, 191, 141 P.3d 1057, 1060 (2006)); *see also Idaho Dep't of Health & Welfare v. Doe*, 150 Idaho 36, 41, 244 P.3d 180, 185 (2010).

3. The Director must utilize the best available technology for determining the impact of junior ground water diversions. *See Clear Springs Foods, Inc. v. Spackman*, 150 Idaho 790, 814, 252 P.3d 71, 95 (2011). ESPAM 1.1 and 2.1 are the model versions utilized previously in SWC delivery call proceedings. Previously, the Director determined that ESPAM 2.1 was the best available scientific tool for predicting the effects of ground water pumping. *See Idaho Ground Water Assoc. v. Idaho Dep't of Water Res.*, 160 Idaho 119, 124, 369 P.3d 897, 902 (2016). ESPAM 2.2 is the latest version of the ESPAM model. The improvements incorporated into ESPAM 2.2, as discussed in Finding of Fact 15, make it the best available scientific tool for predicting the effects of ground water pumping in this proceeding.

4. In 2024, the Director will have sufficient information to quantify the irrigated areas for each of the SWC members as required by Step 1.

5. The USBR-USACE April Joint Forecast predicts an unregulated inflow of 3,370,000 acre-feet at the Snake River near Heise gage from April to July. The forecasted volume equates to 102% of the average.

6. The predicted April IDS is 74,100 acre-feet. Junior ground water users holding consumptive water rights bearing priority dates junior to March 31, 1954, within the Eastern Snake Plain Aquifer area of common ground water supply[7] must mitigate for their proportionate share of the predicted April IDS in accordance with an approved mitigation plan.[8] Junior ground

[7] During the 2024 legislative session, the Idaho Legislature passed Senate Bill 1341 – ESPA Area of Common Groundwater Supply Expansion Act. This bill modifies the definition of the ESPA area of common ground water supply. Because the legislation does not become effective until July 1, 2024, the Department will continue to use the definition set forth in Rule 50 of the Department's Rules for Conjunctive Management of Surface and Ground Water Resources until July 1, 2024.

[8] There are seven approved mitigation plans responding to the SWC delivery call. The plans were filed by: 1) A&B Irrigation District, 2) Southwest Irrigation District and Goose Creek Irrigation District (collectively, "SWID"), 3) the Idaho Ground Water Appropriators, Inc. ("IGWA"), 4) certain cities commonly referred to as the "Coalition of Cities", and 5) certain entities commonly referred to as the "Water Mitigation Coalition." Recently, seven new mitigation plans were filed with the Department, but they have not been approved. Given the nature of certain plans, the Department must calculate the proportionate share of the predicted IDS. With regard to A&B Irrigation District's mitigation plan, A&B Irrigation District's proportionate share of the predicted April IDS of 74,100 acre-feet is 455 acre-feet. Due to the nature of the mitigation plans for SWID, the Coalition of Cities, and the Water Mitigation Coalition, these entities do not need to establish that they can mitigate for their proportionate share of the predicted IDS. IGWA has two approved mitigation plans. While uncertainty exists regarding the status of the plans, the Department will address the proportionate share obligated under each plan. Regarding IGWA's mitigation plan CM-MP-2016-001 (the 2016 SWC/IGWA settlement agreement mitigation plan), IGWA does not need to establish that

water users mitigating for their proportionate share of the predicted April IDS with a secured volume of water pursuant to an approved mitigation plan must, to the satisfaction of the Director, secure their proportionate share for delivery to the injured members of the SWC on or before May 2, 2024. Because there was no carryover shortfall in the fall of 2023, junior ground water users have not previously secured mitigation water for a carryover shortfall. Accordingly, there is no adjustment to the mitigation obligation.

7. If, on or before May 2, 2024, ground water users holding consumptive water rights bearing priority dates junior to March 31, 1954, within the Eastern Snake Plain Aquifer area of common ground water supply fail to establish, to the satisfaction of the Director, that they can mitigate for their proportionate share of the predicted April IDS of 74,100 acre-feet in accordance with an approved mitigation plan, the Director will issue an order curtailing the junior-priority ground water user. Junior ground water users who are mitigating with a secured volume of water are not required to assign the secured volume of water until after the Director issues a subsequent order requiring the assignment of the water.

8. If, at any time prior to the Director's final determination of the April Forecast Supply, the Director can determine with certainty that any member of the SWC has diverted more natural flow than predicted, or has accrued more storage than predicted, the Director will revise his initial, predicted IDS determination.

ORDER

Based upon and consistent with the foregoing, IT IS HEREBY ORDERED as follows:

The Director predicts an April IDS of 74,100 acre-feet. On or before May 2, 2024, ground water users holding consumptive water rights bearing priority dates junior to March 31, 1954, within the Eastern Snake Plain Aquifer area of common ground water supply shall establish, to the satisfaction of the Director, that they can mitigate for their proportionate share of the predicted April IDS of 74,100 acre-feet in accordance with an approved mitigation plan. If a junior ground water user cannot establish, to the satisfaction of the Director, that they can mitigate for their proportionate share of the predicted April IDS in accordance with an approved mitigation plan, the Director will issue an order curtailing the junior-priority ground water user.

Dated this 18th day of April 2024.

MATHEW WEAVER
Director

it can mitigate its proportionate share of the predicted IDS. Regarding IGWA's 2009 storage water delivery mitigation plan CM-MP-2009-007, IGWA's obligation is 74,100 acre-feet, consistent with the rationale identified in the May 23, 2023 *Order Determining Deficiency in IGWA's Notice of Secured Water*. *See Order Determining Deficiency* at 4 ("[T]he plan clearly states that IGWA will mitigate for all ground water users, not just its members and non-member participants . . . ."). Issues regarding the status of the plans will not be addressed here.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 18th day of April 2024, the above and foregoing, was served by the method indicated below, and addressed to the following:

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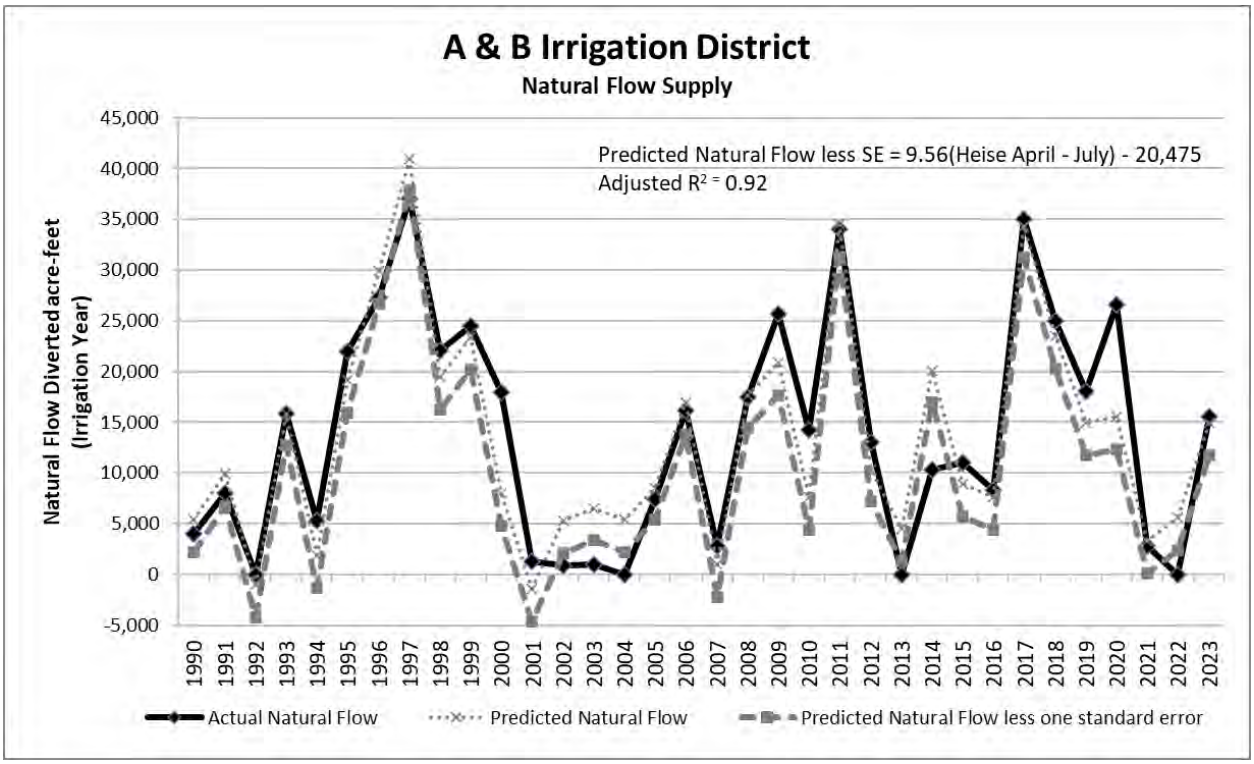
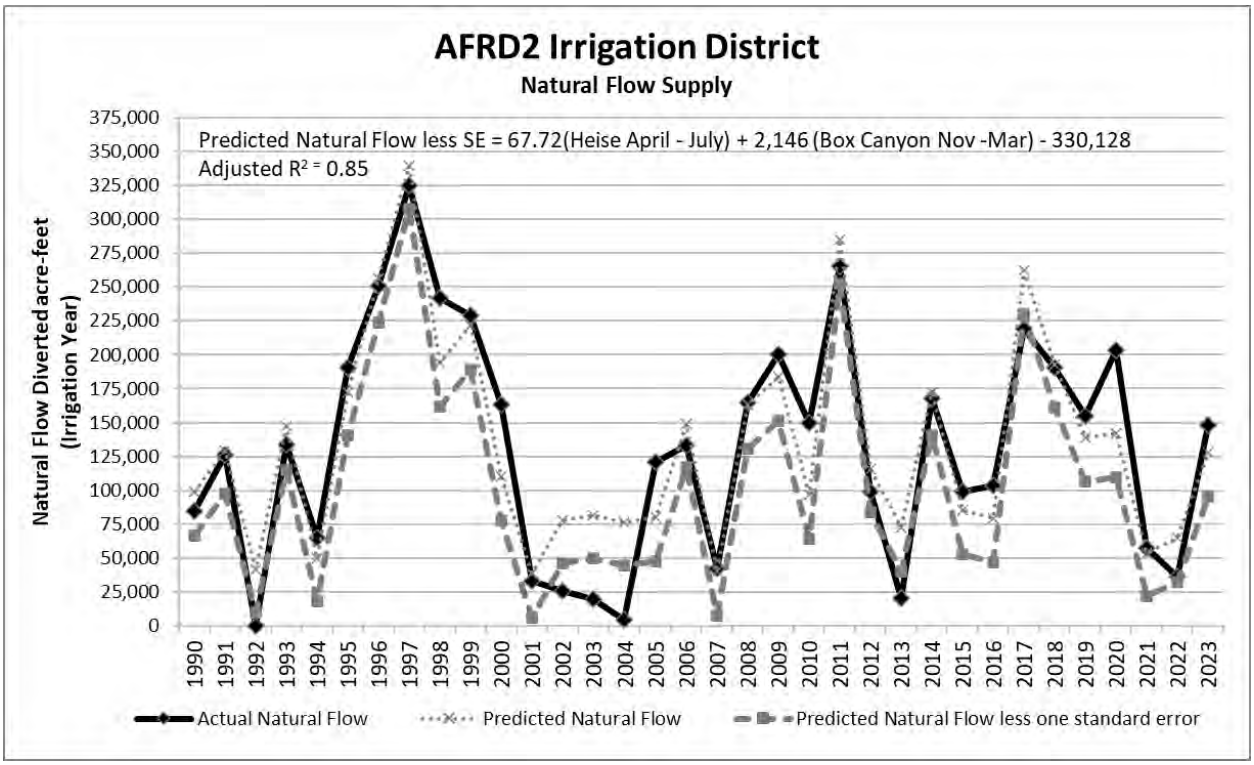
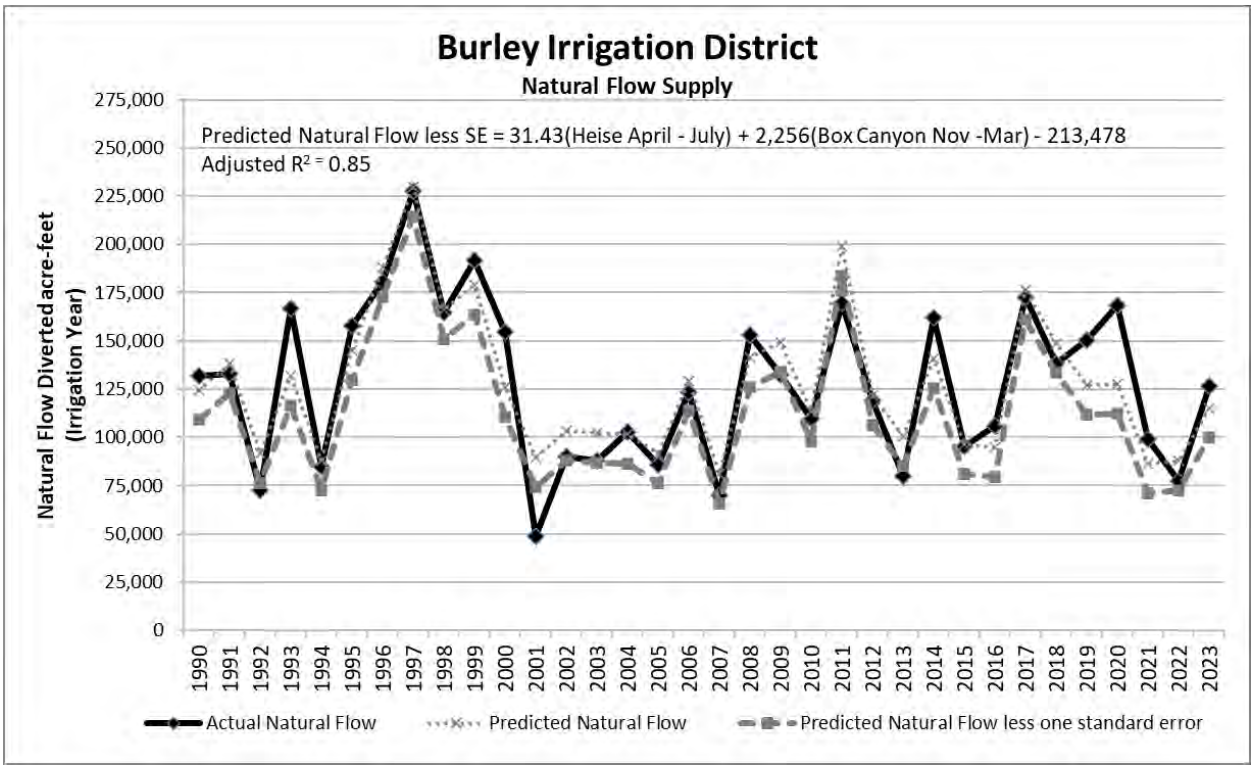
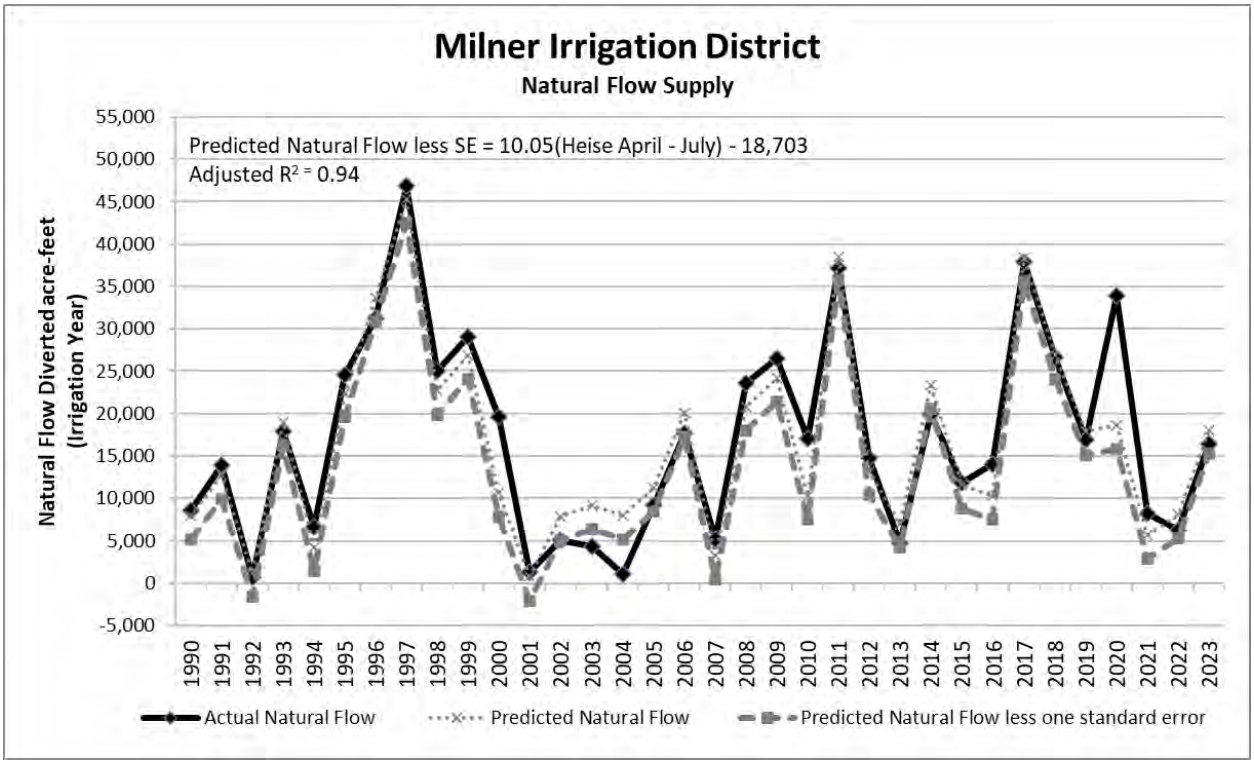
Sarah Tschohl
Paralegal

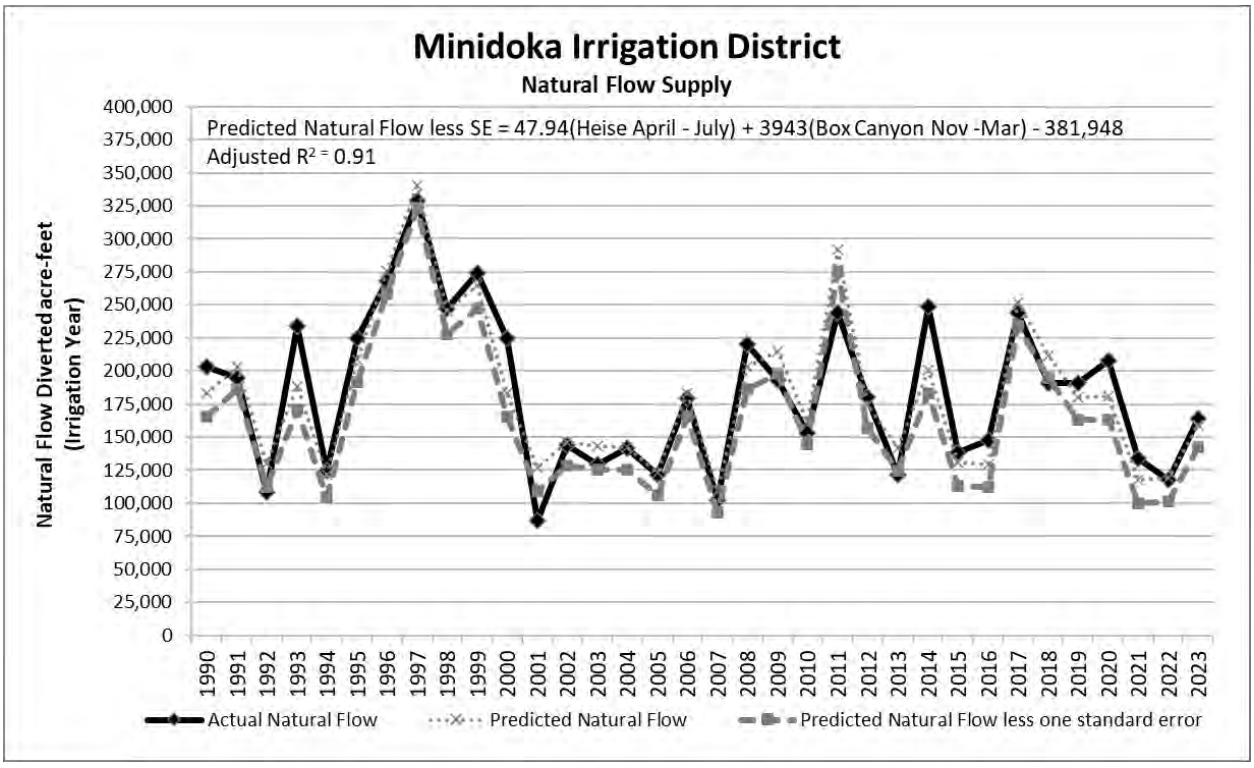
ATTACHMENT A

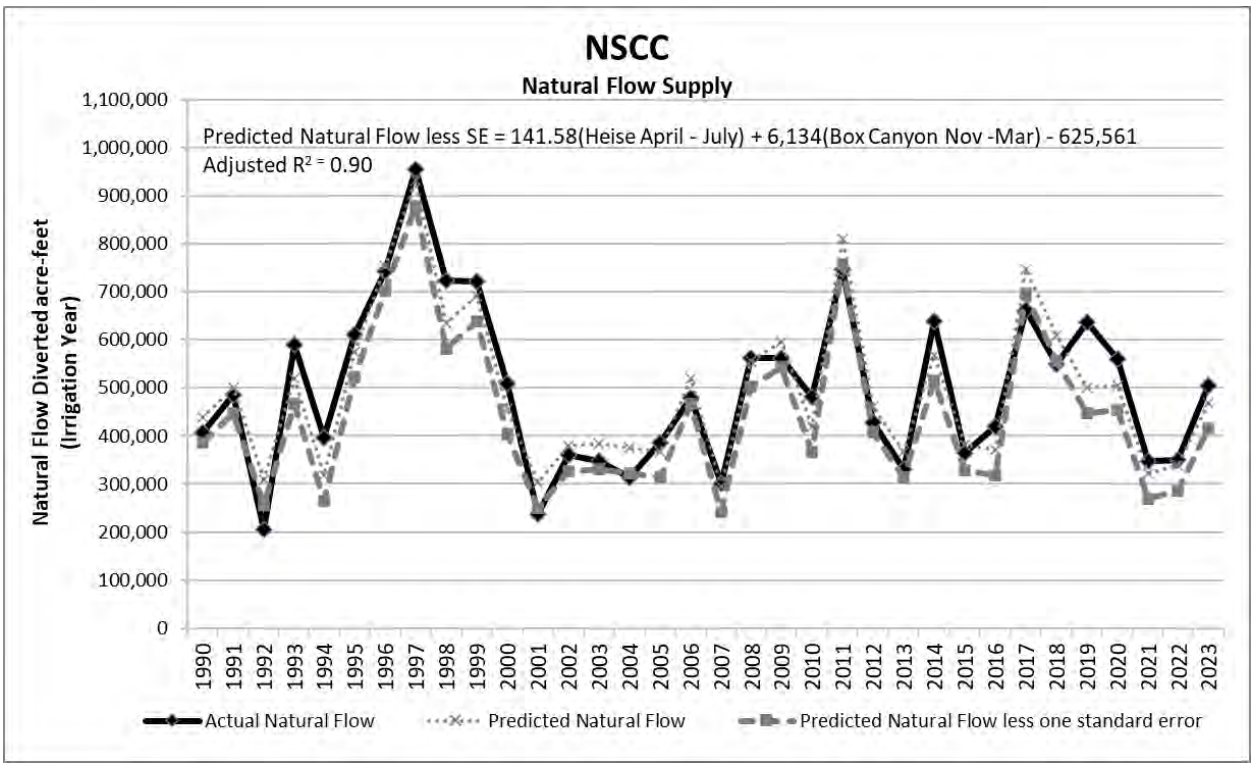


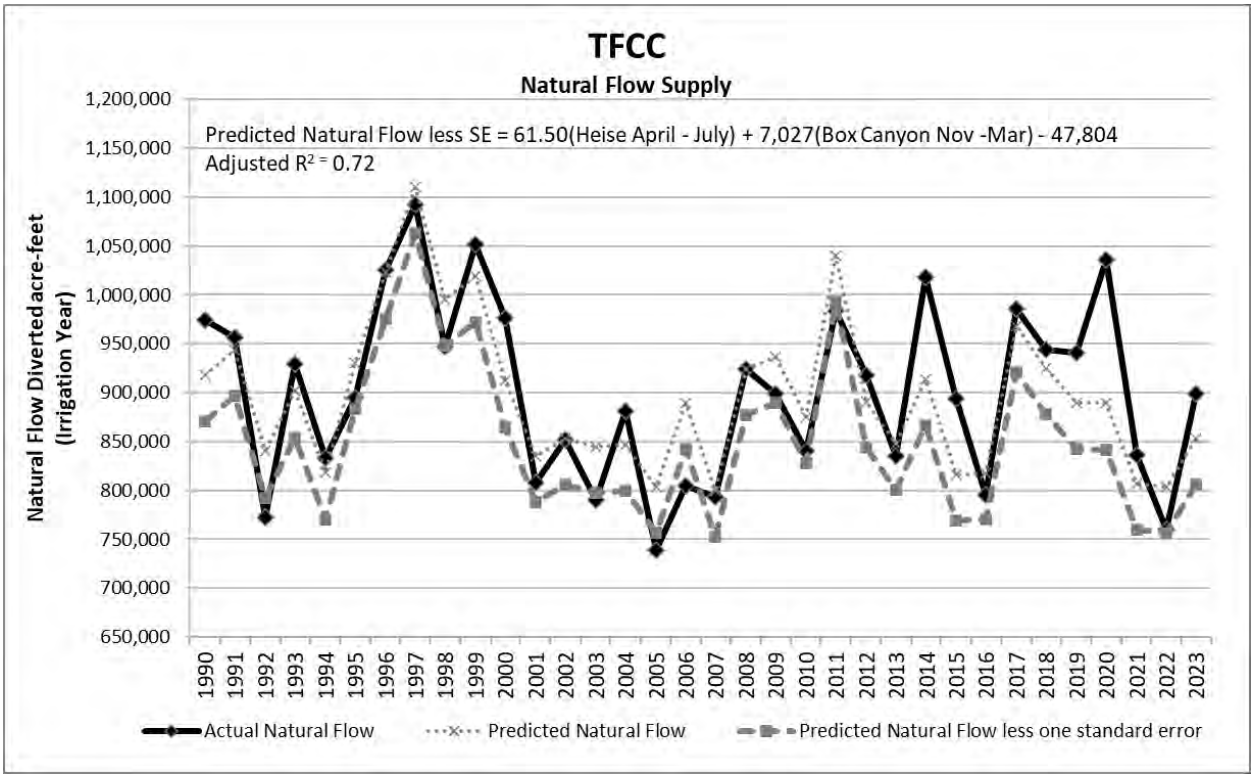



Burley Irrigation District
Natural Flow Supply
Predicted Natural Flow less SE = 31.43(Heise April - July) + 2,256(Box Canyon Nov -Mar) - 213,478
Adjusted R² = 0.85
Natural Flow Diverted acre-feet (Irrigation Year)
275,000
250,000
225,000
200,000
175,000
150,000
125,000
100,000
75,000
50,000
25,000
0
1990 1991 1992 1993 1994 1995 1996 1997 1998 1999 2000 2001 2002 2003 2004 2005 2006 2007 2008 2009 2010 2011 2012 2013 2014 2015 2016 2017 2018 2019 2020 2021 2022 2023
Actual Natural Flow
Predicted Natural Flow
Predicted Natural Flow less one standard error


Milner Irrigation District
Natural Flow Supply
Predicted Natural Flow less SE = 10.05(Heise April - July) - 18,703
Adjusted R² = 0.94
Natural Flow Diverted acre-feet (Irrigation Year)
55,000
50,000
45,000
40,000
35,000
30,000
25,000
20,000
15,000
10,000
5,000
0
-5,000
1990 1991 1992 1993 1994 1995 1996 1997 1998 1999 2000 2001 2002 2003 2004 2005 2006 2007 2008 2009 2010 2011 2012 2013 2014 2015 2016 2017 2018 2019 2020 2021 2022 2023
Actual Natural Flow
Predicted Natural Flow
Predicted Natural Flow less one standard error


Minidoka Irrigation District
Natural Flow Supply
Predicted Natural Flow less SE = 47.94(Heise April - July) + 3943(Box Canyon Nov -Mar) - 381,948
Adjusted R² = 0.91
Natural Flow Diverted acre-feet (Irrigation Year)
400,000
375,000
350,000
325,000
300,000
275,000
250,000
225,000
200,000
175,000
150,000
125,000
100,000
75,000
50,000
25,000
0
1990 1991 1992 1993 1994 1995 1996 1997 1998 1999 2000 2001 2002 2003 2004 2005 2006 2007 2008 2009 2010 2011 2012 2013 2014 2015 2016 2017 2018 2019 2020 2021 2022 2023
Actual Natural Flow
Predicted Natural Flow
Predicted Natural Flow less one standard error


NSCC
Natural Flow Supply
Predicted Natural Flow less SE = 141.58(Heise April - July) + 6,134(Box Canyon Nov -Mar) - 625,561
Adjusted R² = 0.90
Natural Flow Diverted acre-feet (Irrigation Year)
1,100,000
1,000,000
900,000
800,000
700,000
600,000
500,000
400,000
300,000
200,000
100,000
0
1990 1991 1992 1993 1994 1995 1996 1997 1998 1999 2000 2001 2002 2003 2004 2005 2006 2007 2008 2009 2010 2011 2012 2013 2014 2015 2016 2017 2018 2019 2020 2021 2022 2023
Actual Natural Flow
Predicted Natural Flow
Predicted Natural Flow less one standard error


TFCC
Natural Flow Supply
Predicted Natural Flow less SE = 61.50(Heise April - July) + 7,027(Box Canyon Nov -Mar) - 47,804
Adjusted R2 = 0.72
Natural Flow Diverted acre-feet (Irrigation Year)
1,200,000
1,150,000
1,100,000
1,050,000
1,000,000
950,000
900,000
850,000
800,000
750,000
700,000
650,000
1990 1991 1992 1993 1994 1995 1996 1997 1998 1999 2000 2001 2002 2003 2004 2005 2006 2007 2008 2009 2010 2011 2012 2013 2014 2015 2016 2017 2018 2019 2020 2021 2022 2023
Actual Natural Flow
Predicted Natural Flow
Predicted Natural Flow less one standard error

EXPLANATORY INFORMATION TO ACCOMPANY A FINAL ORDER

(To be used in connection with actions when a hearing was **not** held)

(Required by Rule of Procedure 740.02)

The accompanying order is a "**Final Order**" issued by the department pursuant to section 67-5246, 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 67-5246(4), Idaho Code.

REQUEST FOR HEARING

Unless the right to a hearing before the director or the water resource board is otherwise provided by statute, any person who is aggrieved by the action of the director, and who has not previously been afforded an opportunity for a hearing on the matter shall be entitled to a hearing before the director to contest the action. The person shall file with the director, within fifteen (15) days after receipt of written notice of the action issued by the director, or receipt of actual notice, a written petition stating the grounds for contesting the action by the director and requesting a hearing. See section 42-1701A(3), Idaho Code. **Note: The request must be received by the Department within this fifteen (15) day period.**

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 of: a) the service date of the final order, b) the service date 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.

RECEIVED
May 01, 2024
DEPARTMENT OF
WATER RESOURCES

MARTEN LAW

May 1, 2024

Via Email Only

Director Mat Weaver
Idaho Dept. of Water Resources
P.O. Box 83720
Boise, Idaho 83720-0098
mat.weaver@idwr.idaho.gov
file@idwr.idaho.gov

RE: SWC Delivery Call / Notice of Mitigation Water (*Final Order Regarding April 2024 Forecast Supply (Steps 1-3)*

Dear Director Weaver:

I am writing on behalf of our client the A&B Irrigation District ("A&B" or "District") in response to the *Final Order Regarding April 2024 Forecast Supply* ("*Order*") (April 18, 2024). This letter responds to the request for junior ground water right holders to establish how they will mitigate for their proportionate share of the predicted demand shortfall. *See Order* at 6, ¶ 7.

A&B has an approved mitigation plan regarding the above delivery call and order. The plan was stipulated to by the SWC last year and it was the District's belief with that stipulation it would not have to send this annual letter. The District requests confirmation of this going forward.

I have conferred with manager Justin Temple and it is the District's intent to continue to curtail the enlargement water rights (2,063 acres) for the 2024 irrigation season. The District will also deliver surface water to an additional 1,510.6 acres that could have been irrigated with some of the District's ground water rights with an April 1, 1962 priority (water right nos. 36-15127A et al.). The District intends to continue to deliver surface water to lands formerly irrigated with groundwater, approximately 3,573.6 in total, with groundwater supplied to certain areas as needed for pipeline operations.

Based upon similar prior correspondence on this issue with IDWR it is my understanding that this notice will satisfy the request stated in the *Order*. However, to the extent that A&B needs to also show that it has 455 acre-feet of storage to deliver to TFCC, that water is expected to be available in its final storage allocation for the 2024 irrigation (American Falls and Palisades storage space). If necessary, that amount of storage can be assigned from A&B to TFCC through Water District 01. Please advise if you have any questions.

As to IDWR's calculation of the District's proportionate share it is unclear if the Department is assuming full groundwater delivery to those acres covered by water rights junior to 1954. As noted, the District is delivering surface water to 3,573.6 acres, so if that proportionate share is revised based upon that fact please advise as to any changes.

Finally, although the District disagrees with and reserves all rights concerning the *Order* initially allowing IGWA to choose to mitigate under its 2009 Storage Water Mitigation Plan, if IGWA does establish that it has 74,100 acre-feet, then A&B will no longer have any obligation for the 2024 irrigation season. *See Order* at 5-6, n. 8. It is the District's understanding this issue will be addressed at the May 3, 2024 status conference scheduled by the Director.

If you have any questions or need additional information, please contact me at (208) 733-0700.

Sincerely,

Travis Thompson
Partner

Direct: (208) 735-2227
Email: tthompson@martenlaw.com

cc: Justin Temple
Craig Chandler, Water District 01
Garrick Baxter

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY OR FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY	Docket No. CM-MP-2016-001 **ORDER DENYING IGWA'S MOTION TO VACATE OR AMEND 2022 COMPLIANCE ORDER**
IN THE MATTER OF IGWA'S SETTLEMENT AGREEMENT MITIGATION PLAN	

BACKGROUND

On April 24, 2023, the Director of the Idaho Department of Water Resources ("Department") issued the *Amended Final Order Regarding Compliance with Approved Mitigation Plan* ("*Amended 2021 Compliance Order*"). In the *Amended 2021 Compliance Order*, the Director found that certain members of the Idaho Ground Water Appropriators, Inc. ("IGWA"), breached IGWA's 2016 Mitigation Plan in 2021 but that IGWA could remedy noncompliance by supplying "to the [Surface Water Coalition] an additional 30,000 [ac-ft] of storage water in 2023 and an additional 15,000 [ac-ft] of storage water in 2024 within 10 days after the Data of Allocation of such year." *Amended 2021 Compliance Order*, at 20.

On May 15, 2023, IGWA filed a *Petition for Judicial Review* on the *Amended 2021 Compliance Order*. *See IGWA v. Idaho Dep't of Water Res.*, No. CV01-23-07893 (Ada Cnty. Dist. Ct. Idaho).

On August 2, 2023, the Director issued the *Final Order Regarding IGWA's 2022 Mitigation Plan Compliance* ("*2022 Compliance Order*"). In the *2022 Compliance Order*, the Director held that certain IGWA members failed to satisfy their proportionate share of IGWA's mitigation obligation in 2022 and were not in compliance with IGWA's 2016 Mitigation Plan. *2022 Compliance Order*, at 1. However, the Director declined to issue a curtailment order because the mid-season as-applied order predicted that the SWC members would not suffer a demand shortfall during the 2023 irrigation season. *Id*.

On August 16, 2023, the Surface Water Coalition ("SWC") filed its *Surface Water Coalition's Petition for Reconsideration & Request for Hearing* ("*Request for Hearing*"), pursuant to Idaho Code § 42-1701A(3). In its *Request for Hearing*, the SWC requested the Director hold a hearing to issue an order requiring IGWA to cure the 2022 breach and order curtailment if compliance did not take place. *Request for Hearing*, at 6.

On August 22, 2023, IGWA filed *IGWA's Response to SWC's Petition for Reconsideration and Request for Hearing* ("*Response to Request for Hearing*"), requesting the Department deny SWC's *Request for Hearing*. *Response to Request for Hearing*, at 1.

On September 6, 2023, the Department issued an *Order Granting Request for Hearing; Notice of Scheduling Conference* ("*Hearing Order*"). The *Hearing Order* was granted on the legal basis that the SWC was not previously afforded an opportunity for a hearing on the *2022 Compliance Order*. *Hearing Order*, at 2.

On November 16, 2023, the Snake River Basin Adjudication District Court of the Fifth Judicial District ("District Court") affirmed the Department's *Amended 2021 Compliance Order*. *Mem. Decision & Order*, at 10, *IGWA v. Idaho Dep't of Water Res.*, No. CV01-23-7893 (Ada Cnty. Dist. Ct. Nov. 16, 2023) [hereinafter *Memorandum Decision & Order*].

On November 29, 2023, IGWA filed a *Petition for Rehearing* with the District Court in the *Amended 2021 Compliance Order* case.

On December 12, 2023, the Department issued an *Order Appointing Hearing Officer* for SWC's *Request for Hearing* regarding the *2022 Compliance Order*. The order appointed former Idaho Supreme Court Justice Roger S. Burdick as the hearing officer.

On December 29, 2023, Hearing Officer Burdick issued an *Order Authorizing Discovery; Scheduling Order; Order Suspending IDAPA 37.01.01.354; Notice of Prehearing Conference and Hearing* ("*Notice of Hearing*"). The *Notice of Hearing* identified four issues for hearing regarding the *2022 Compliance Order*. *Notice of Hearing*, at 4.

On February 12, 2024, the *Surface Water Coalition's Motion for Summary Judgment / Supporting Points & Authorities* ("*SWC's Motion for Summary Judgment*") was filed, requesting the Hearing Officer find (1) the Director erred in failing to order specific actions for IGWA to cure its 2022 breach or to issue an order curtailing certain ground water districts not in compliance; and (2) IGWA must comply with the 2016 Mitigation Plan to cure the 2022 breach. *SWC's Motion for Summary Judgment*, at 19.

On February 12, 2024, IGWA filed a *Motion for Summary Judgment* and *Memorandum in Support of IGWA's Motion for Summary Judgment* (collectively, "*IGWA's Motion for Summary Judgment*").

On March 5, 2024, the District Court issued an *Order Denying Petition for Rehearing* in the *Amended 2021 Compliance Order* case.

On March 12, 2024, Hearing Officer Burdick issued an *Order on Motions for Partial Summary Judgment* granting the *SWC's Motion for Summary Judgment* and resolving issues one through three identified in the *Notice of Hearing*. *See Order on Mots. for Partial Summ. J.*, at 10–11.

On March 14–15, 2024, Hearing Officer Burdick held a hearing on the fourth issue identified in the *Notice of Hearing* which discussed what actions must be taken by the ground water districts to cure their 2022 breach. *Notice of Hearing*, at 4. The Department is awaiting a recommended order based on that hearing.

On April 5, 2024, IGWA filed a notice of appeal of the District Court's *Memorandum Decision and Order* and *Denial of Petition for Rehearing* in the *Amended 2021 Compliance Order* case with the Idaho Supreme Court.

On April 8, 2024, IGWA filed *IGWA's Motion to Vacate or Amend 2022 Compliance Order* ("*Motion to Vacate*"). In its *Motion to Vacate*, IGWA claims that the ground water districts may use a novel 3-year baseline calculation to measure compliance, so the *2022 Compliance Order* is moot. *Motion to Vacate*, at 4. On April 8, 2024, IGWA also filed *Declaration of Elisheva M. Patterson in Support of Motion to Vacate Order* ("*Patterson Declaration*").

On April 16, 2024, the SWC filed *Surface Water Coalition's Motion to Strike or Deny IGWA's Motion to Vacate or Amend 2022 Compliance Order* ("*Motion to Strike*"). In its *Motion to Strike*, the SWC claims IGWA is not authorized to change the baseline on its own after the Director issued a final order finding IGWA's noncompliance and that IGWA failed to timely request a review of the Director's determination. *Motion to Strike*, at 4.

On April 25, 2024, IGWA filed *IGWA's Reply Brief in Support of Motion to Vacate or Amend 2022 Compliance Order* ("*Reply Brief*") stating that IGWA's *Motion to Vacate* is not barred by the doctrine of res judicata. *Reply Brief*, at 1.

The Director considered the arguments of counsel and the record presently before him and for the reasons stated below, the Director will deny IGWA's *Motion to Vacate*.

ANALYSIS

The first issue that must be addressed is who has authority to rule on IGWA's *Motion to Vacate*. When IGWA filed its motion, it did not serve the motion upon the Director but served it upon Hearing Officer Burdick. However, throughout the *Motion to Vacate*, IGWA addresses the Director's authority to vacate or amend orders. *See, e.g.*, *Motion to Vacate*, at 6. The scope of Hearing Officer Burdick's authority was limited to holding the contested case hearing requested by the SWC regarding the *2022 Compliance Order*. *Order Appointing Hr'g Officer*, at 2. The Director concludes the request to vacate an order of the Director is outside the scope of Hearing Officer Burdick's authority. Furthermore, time is of the essence as the Department has predicted that the SWC will suffer an in-season demand shortfall this year and a curtailment order is pending in the related delivery call matter. *See Final Order Regarding April 2024 Forecast Supply*, at 6, No. CM-DC-2010-001 (Apr. 18, 2024). Questions regarding the status of IGWA's 2016 Mitigation Plan must be addressed promptly by the Director. Accordingly, the Director will address the *Motion to Vacate*.

In its *Motion to Vacate*, IGWA claims it can retroactively change the baseline used to measure its compliance with the 2016 Mitigation Plan. IGWA states it has unilaterally "elected to change from the 5-year baseline to a 3-year baseline . . . ." *Motion to Vacate* at 4. IGWA claims it can make this change now because the 2016 Mitigation Plan "does not specify how diversion reductions will be measured." *Id.* at 2. IGWA argues that neither the Director's nor the District Court's earlier rulings "mandate the use of a 5-year baseline to measure compliance . . . ." *Id*. at 4. IGWA claims that because of its retroactive change in the baseline calculation, it did not breach the 2016 Mitigation Plan in 2022 and thus the Director's earlier determination of breach in the *2022 Compliance Order* is now "moot." *Id*. at 4. IGWA suggests the Director has "inherent authority to vacate orders that are moot or that otherwise should not be applied prospectively." *Id*. IGWA suggests the Director's authority "is akin to the authority of courts to set aside judgments under rule 60(b) of the Idaho Rules of Civil Procedure." *Id*. at 6.

The *2022 Compliance Order* is not a final order because the SWC requested a hearing on the order. *See* IDAPA 37.01.01.740.02.c.. However, to the extent IGWA is asking the Director to exercise his discretionary authority to modify an earlier order either using "inherent authority" or under some authority "akin to IRCP 60(b)," the Director will not do so.[1] As described in the background section above, there has been extensive litigation involving IGWA's compliance with the 2016 Mitigation Plan. The Director held a hearing related to IGWA's 2021 compliance with the plan, after which the Director concluded that certain IGWA members breached the 2016 Mitigation Plan. IGWA's compliance in that case was based on the 5-year baseline that it developed, implemented, and complied with from 2016 to 2023. IGWA sought judicial review of that order, and the District Court affirmed the Director's *Amended 2021 Compliance Order*. The case is now pending before the Idaho Supreme Court.

Regarding IGWA's compliance in 2022, the Department issued an order determining that IGWA breached its 2016 Mitigation Plan in 2022. IGWA's compliance in 2022 was also based on its 5-year baseline. The SWC requested a hearing on that order to address issues with the 2016 Mitigation Plan that were not ripe when the Director held the hearing on IGWA's 2021 compliance. The hearing requested was assigned to Hearing Officer Burdick and he has issued an order on partial summary judgement and has already held the hearing in the matter. A decision is expected on that matter shortly.

It is absurd for IGWA to argue that it can, at this point in all these proceedings, unilaterally decide to change the method used for determining compliance.[2] IGWA admits it has used the 5-year baseline to measure compliance since the start of the 2016 Mitigation Plan. *Motion to Vacate*, at 2. IGWA created the 5-year baseline, and it has been used by IGWA, the SWC, and the Department for the past 7 years to measure actions taken by the ground water districts pursuant to the 2016 Mitigation Plan.[3] IGWA cannot now unilaterally change the baseline after-the-fact just so it can try to argue it did not breach the 2016 Mitigation Plan and so it can avoid the consequences of its lack of compliance with the plain language of the 2016 Mitigation Plan. Issuing an order finding the *2022 Compliance Order* moot amid active proceedings would be detrimental to the administrative process and wasteful of resources.

The Director also finds that IGWA's *Motion to Vacate* has been filed in bad faith as a further attempt to avoid undertaking aquifer conservation activities that it agreed to and for which it received safe harbor from past curtailments. In its 2016 Mitigation Plan, IGWA agreed to take certain annual actions including reducing ground water use and conducting recharge to recover aquifer levels as measured in a series of sentinel wells, by approximately 5.10 feet from

[1] The decision to grant or deny a motion under I.R.C.P. 60(b) is committed to the discretion of the hearing officer. *See Eby v. State*, 148 Idaho 731, 734, 228 P.3d 998, 1001 (2010).

[2] While IGWA only asks the Director to vacate the *2022 Compliance Order* and does not ask the Director to vacate the *Amended 2021 Compliance Order* (at least at this time), if IGWA can retroactively change the baseline in the 2022 Compliance Order, it could do so for the *Amended 2021 Compliance Order*, thereby unsettling the litigation before the Idaho Supreme Court.

[3] Further, if IGWA was permitted to unilaterally change the universally relied-upon compliance calculation and recalculate its performance retroactively to perpetually avoid a determination of noncompliance, the agreement underlying the 2016 Mitigation Plan could be considered illusory.

2016 to 2023, and by an additional 4.83 feet from 2023 to 2026.[4] In the Spring of 2023, sentinel well levels were approximately equal to 2016 levels. In other words, IGWA missed its 2023 aquifer level benchmark by approximately 5.10 feet or the full amount. If the aquifer level benchmarks were not achieved, the 2016 Mitigation Plan calls for adaptive water management measures to be implemented by IGWA. The settlement agreement between IGWA and the SWC states in relevant part:

> If any of the benchmarks or the ground water level goal is not met, additional recharge, consumptive use reductions, or other measures as recommended by the Steering Committee shall be implemented by the participating ground water parties to meet the benchmarks or ground water level goal.

Settlement Agreement Entered Into June 30, 2015 Between Participating Members of the Surface Water Coalition and Participating Members of the Idaho Ground Water Appropriators, Inc. § 4.a.

IGWA's aquifer conservation activities have not resulted in the desired increases in aquifer levels as measured in the sentinel wells. As a result, as previously agreed, IGWA should now be working through the Steering Committee to implement adaptive water management measures including further decreasing its ground water consumptive use or conducting more recharge. Instead, IGWA now chooses to rejigger the math in such a way that its historical actions, those actions that failed to have the agreed-upon positive effect on the aquifer, can now be viewed as compliant with the 2016 Mitigation Plan. The Director finds IGWA's attempt to decrease its obligations under the 2016 Mitigation Plan at the exact time it previously agreed to increase its obligations to be a disingenuous act that will allow it to further injure senior surface water users.

The Director also denies IGWA's request because it is untimely. Idaho Code § 42-1701A(3) provides in relevant part:

> Unless the right to a hearing before the director . . . is otherwise provided by statute, any person aggrieved by any action of the director, including any decision, determination, order or other action . . . who is aggrieved by the action of the director, and who has not previously been afforded an opportunity for a hearing on the matter shall be entitled to a hearing before the director to contest the action. The person shall file with the director, within fifteen (15) days after receipt of written notice of the action issued by the director, or receipt of actual notice, a written

[4] In its 2016 Mitigation Plan, IGWA agreed to "increase ground water levels at identified wells by April 2026 to [levels equal to the average aquifer levels from 1991-2001]" and to "[i]ncrease [] ground water levels by April 2023 to a point half way between 2015 ground water levels and [levels equal to the average aquifer levels from 1991-2001]. . . ." The parties agreed to use an index value of agreed-to "sentinel well" as the measure of aquifer levels contemplated in the 2016 Mitigation Plan and as the basis to evaluate the effectiveness of IGWA's mitigation activities. Sentinel well index values for the 2016 Mitigation Plan's 2020, 2023, and 2026 benchmark years are negative 8.72, negative 3.90, and positive 0.93 feet respectively. Sentinel well index values were measured at negative 5.57 feet in 2020 and negative 8.97 feet in 2023.

petition stating the grounds for contesting the action by the director and requesting a hearing.

After the Director issued the *2022 Compliance Order*, the SWC timely filed its *Request for Hearing* asking the Director to "issue an order setting forth a remedy to cure the 2022 breach as required by the Agreement and order curtailment if compliance does not take place." *Request for Hearing*, at 6. The Department granted the SWC's *Request for Hearing* pursuant to Idaho Code § 42-1701A(3) because it did not hold a hearing before issuing the *2022 Compliance Order*. *Hearing Order*, at 2.

Initially, IGWA opposed SWC's *Request for Hearing* on the *2022 Compliance Order* because "[t]he Director's decision was appropriate and wise and should not be changed." *Response to Request for Hearing*, at 1. If IGWA had grievances with the *2022 Compliance Order*, it should have timely requested a hearing within 15 days after the order was issued pursuant to Idaho Code § 42-1701A(3). IGWA did not ask for a hearing on the baseline or any other issue. In addition to failing to timely request a hearing, IGWA failed to raise the baseline issue at other critical times. IGWA did not raise the baseline issue in its *Response to Request for Hearing*. IGWA failed to raise the baseline issue when Hearing Officer Burdick provided the parties an opportunity to identify the issues they wanted to address at hearing. *See IGWA's Statement of Proposed Issues*. IGWA failed to raise the issue in *IGWA's Motion for Summary Judgment*.[5] Instead, IGWA waited eight months to request to vacate the *2022 Compliance Order* amid administrative proceedings held by Hearing Officer Burdick and Idaho Supreme Court proceedings regarding the *Amended 2021 Compliance Order*. Because IGWA failed to timely raise the baseline calculation issue, IGWA cannot now unilaterally change the baseline methodology used in the *2022 Compliance Order*.

ORDER

Based upon and consistent with the foregoing, IT IS HEREBY ORDERED that *Idaho Ground Water Appropriators, Inc's Motion to Vacate or Amend the 2022 Compliance Order* is DENIED.

DATED this 2nd day of May 2024.

MATHEW WEAVER
Director

[5] Similarly, the District Court in the petition for judicial review regarding the *Amended 2021 Compliance Order* recognized that IGWA failed to raise the baseline issue there. *Memorandum Decision & Order*, at 11 n.8 ("How IGWA calculates the pre-2015 baseline year was not raised as a disputed issue before the Director below and is not at issue on judicial review.").

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 2nd day of May 2024, the above and foregoing, was served by the method indicated below, and addressed to the following:

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Sarah Tschohl
Paralegal

EXPLANATORY INFORMATION TO ACCOMPANY A FINAL ORDER

(To be used in connection with actions when a hearing was **not** held)

(Required by Rule of Procedure 740.02)

The accompanying order is a "**Final Order**" issued by the department pursuant to section 67-5246, 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 67-5246(4), Idaho Code.

REQUEST FOR HEARING

Unless the right to a hearing before the director or the water resource board is otherwise provided by statute, any person who is aggrieved by the action of the director, and who has not previously been afforded an opportunity for a hearing on the matter shall be entitled to a hearing before the director to contest the action. The person shall file with the director, within fifteen (15) days after receipt of written notice of the action issued by the director, or receipt of actual notice, a written petition stating the grounds for contesting the action by the director and requesting a hearing. See section 42-1701A(3), Idaho Code. **Note: The request must be received by the Department within this fifteen (15) day period.**

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 of: a) the service date of the final order, b) the service date 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.

RECEIVED
May 02, 2024
DEPARTMENT OF
WATER RESOURCES

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BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY OR FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY	Docket Nos. CM-DC-2010-001 CM-MP-2016-001 CM-MP-2009-007 **JOINT NOTICE OF COMPLIANCE—MAGIC VALLEY GROUND WATER DISTRICT & NORTH SNAKE GROUND WATER DISTRICT'S 2024 IRRIGATION SEASON MITIGATION COMMITMENTS**

Magic Valley Ground Water District ("MV") and North Snake Ground Water District ("NS"), through undersigned counsel, submit this *Joint Notice of Compliance* ("Joint Notice") in response to the Director's: (a) *Final Order Regarding April 2024 Forecast Supply* (Apr. 18, 2024) ("April 2024 As-Applied Order"); and (b) combined *Order Shortening Notice Period; Notice of Status Conference* (Apr. 30, 2024) ("Notice").

I.
BACKGROUND

The April 2024 As-Applied Order requires groundwater users (including members of MV and NS) "establish, to the satisfaction of the Director, that they can mitigate for their proportionate

share of the predicted April IDS of 74,100 acre-feet in accordance with an approved mitigation plan." April 2024 As-Applied Order, p. 6. Similarly, the Notice requires that the parties "come prepared to discuss the status of IGWA's mitigation plans and IGWA's mitigation efforts for this [2024] irrigation season." Notice, p. 1.

This Joint Notice is submitted by MV and NS through undersigned counsel because of a current lack of consensus within IGWA's membership frustrating IGWA's ability to submit an entity-wide responsive notice. This Joint Notice is also submitted by MV and NS in recognition that some substantive response to the April 2024 As-Applied Order and the Notice—albeit on an individual district level—is better than no response at all.

In that vein (i.e., that some substantive response is better than no response), and acknowledging as the Director has that "uncertainty exists regarding the status of [IGWA's approved mitigation] plans" (*see* April 2024 As-Applied Order at p.5, note 8), MV and NS submit the following 2024 irrigation season mitigation commitments in this matter recognizing that their own mitigation plans (Docket Nos. CM-MP-2023-005 and CM-MP-2023-004, respectively) are currently on-hold by Hearing Officer Schroeder pending the outcome of Hearing Officer Burdick's proceedings in Docket No. CM-MP-2016-001.

II.
2024 IRRIGATION SEASON MITIGATION

Under the 2009 Storage Water Plan (CM-MP-2009-007), MV and NS agree to collectively provide up to 15,590 acre-feet of storage water to the Surface Water Coalition ("SWC") based on the 74,100 acre-feet of 2024 IDS predicted in the April 2024 As-Applied Order. By district, the 15,590 acre-feet of storage water breaks down as:

> **MV:** 11,925 acre-feet (representing a 16.1% proportionate share of the steady state allocation predicted under ESPAM 2.2 for the 74,100 acre-foot IDS); and

NS: 3,665 acre-feet (representing a 4.9% proportionate share of the steady state allocation predicted under ESPAM 2.2 for the 74,100 acre-foot IDS).[1]

The districts' steady state-based commitments above shall not be construed as an admission or concession that steady state application of ESPAM 2.2 is the appropriate application of the model. Clearly, the Director has determined that transient model simulation/application is the appropriate method of ESPAM 2.2 deployment. *Sixth Final Order Regarding Methodology for Determining Material Injury to Reasonable In-Season Demand and Reasonable Carryover ("Methodology Order")* (Jul. 19, 2023) ("Sixth Methodology Order"), pp. 38 (Conclusion of Law No. 24) and 42 (Order re "Step 2"). Under transient application of the model, MV's proportionate share of the April-predicted IDS would be 25 acre-feet, and NS's proportionate share would be negligible (0.1 acre-feet). Be that as it may, MV and NS are willing to collectively provide 15,590 acre-feet (as opposed to merely 25 acre-feet under transient modelling) for the 2024 irrigation season in a good faith effort to do what they can, the fairest they can in recognition of the lingering effects of legacy pumping.

In addition to mitigating their proportionate share of the SWC April 2024-predicted IDS through the provision of storage water outlined above, MV and NS further agree/commit to ongoing pumping reductions and conservation efforts of at least 32,462 acre-feet (MV) and 25,474 acre-feet (NS), respectively, during the 2024 irrigation season as has historically been the case

[1] These proportionate shares of the 74,100 acre-foot IDS are based largely upon the analysis, modeling, and extrapolation of IGWA consultant Sophia Sigstedt as explained in her Declaration filed by IGWA (filed May 2, 2024). The shares differ, however, because MV and NS commit to contribute up to their proportionate share of the 74,100 IDS based on an assumption of IGWA bearing 100% of the total IDS, rather than 89.2% (or 66,102 acre-feet) of the IDS unless and until the Director approves of the 89.2%-based shares. It is MV and NS's understanding that this IGWA member "share" issue is the subject of a pending motion for reconsideration (i.e., the issue of whether IGWA member districts bear 100% of the IDS, or only 89.2% of the IDS).

under the IGWA 2016 Mitigation Plan (Docket No. CM-MP-2016-001). The districts acknowledge that this collective quantity of water (57,936 acre-feet) is based on the former IGWA-wide conservation target of 205,937 acre-feet, and not the full 240,000 acre-foot target affirmed by the Director in his *Amended Final Order Regarding Compliance With Approved Mitigation Plan* (Apr. 24, 2023) (Docket No. CM-MP-2016-001) (compare Table Nos. 1 and 2). However, the districts submit that their commitment to supply the SWC with upwards of 15,590 acre-feet of storage water alone mitigates their proportionate share of the April 2024-predicted IDS. This reaffirmed commitment to ongoing pumping reductions/conservation efforts (collectively 57,936 acre-feet) is an additional effort beyond addressing the 2024 IDS—an additional effort to further attempt to proportionately share in the longer term stabilization of the aquifer.

The districts' collective access to the 2024 storage water quantity of 15,590 acre-feet is secured by existing contract (*Multi-Year Tribal Lease Agreement*) executed between the Shoshone-Bannock Tribes of the Fort Hall Reservation and IGWA, effective October 27, 2020. The contract provides annual access to no less than 25,000 acre-feet of tribal storage water for the benefit of IGWA members MV, NS, Southwest Irrigation District, American Falls-Aberdeen Ground Water District, and Carey Valley Ground Water District between April 1, 2021 and October 31, 2025. The contract then automatically renews annually thereafter unless terminated by the parties with requisite advance notice. While MV and NS have yet to make a 2024 payment under the contract, that is because the contract provides a payment schedule that has yet to come due this year (first half payment is due July 1, and second half payment is due November 1).

III.
PRIOR PRECEDENTIAL SUPPORT FOR MV AND NS'S 2024- MITIGATION EFFORTS

As a threshold matter, and as asserted in Section 2.1 of IGWA's *Memorandum in Support of Summary Judgment* (Feb. 12, 2024) (Docket No. CM-MP-2016-001) ("Memo"), the Conjunctive Management Rules authorize junior priority water users to submit and mitigate under multiple, approved mitigation plans. *See* Memo, pp. 9-11 (incorporated by reference herein). For his part, Hearing Officer Burdick agreed as a general matter, though he concluded that the multiple mitigation plan legal principle did not squarely address the issues pending before him in Docket No. CM-MP-2016-001. *Order on Motions for Partial Summary Judgment* (Mar. 12, 2024) (Docket No. CM-MP-2016-001), p. 9, Note 12. To this point, the Director has yet to address the question and, in the meantime, has acknowledged the ongoing validity of the 2009 storage water-based mitigation plan in the interim. *See, e.g.*, April 2024 As-Applied Order, pp. 5-6, Note 8.

Given the ongoing validity of the 2009 storage water-based mitigation plan, at least in the interim, there is no question that the Director has historically held that the provision of storage water supplies sourced from the Basin 01 rental pool or otherwise constitutes a valid method of mitigation. For example, in his *Order Approving Mitigation Plan* (Jun. 3, 2010) (Docket No. CM-MP-2009-007) ("2009 Plan Order"), the Director plainly held—after hearing and over the protest and objection of the SWC—that:

- "Rental or acquisition of an option to rent storage water prior to or at the beginning of the irrigation season will assure the SWC of an adequate quantity of water for the upcoming irrigation season";
- the "rental of storage water by IGWA will not diminish the supply of water available to the SWC";
- the "rental of storage water and delivery of the storage water [to the SWC] . . . is in compliance with Idaho law";

- the "[storage water-based] mitigation plan will provide replacement water at the time and place required by the senior-priority water right. During many years, there will be sufficient storage water to offset the depletive effect of ground water withdrawal on the water available in the Snake River at such time and place as necessary to satisfy the rights of diversion from the Snake River";

- "Storage water in the Snake River reservoirs is a reliable source of replacement water";

- the "[storage water-based] mitigation plan will maximize the beneficial use of water in the State of Idaho and promote the conservation of water resources"; and

- "Use of storage water for mitigation is in the public interest and will not injure other water rights."

2009 Plan Order, pp. 9-10. The Director subsequently, and consistently, upheld the same storage water-based mitigation method in the context of A&B Irrigation District's approved 2015 mitigation plan. *See Final Order Approving Mitigation Plan* (Dec. 16, 2015) (Docket No. CM-MP-2015-003), pp. 2-3 (wherein the Director noted A&B's proposed mitigation use of its "storage water in American Falls Reservoir and Palisades Reservoir, or to rent storage water through Water District 01's Rental Pool," and ultimately held that that mitigation method, among others contained in the plan, comprise "the type of activities that can provide replacement water at the time and place required by the senior-priority water rights.").

MV and NS acknowledge and understand that this submission (*i.e.*, their 2024 irrigation season mitigation proposal) is, arguably, a form of mitigation plan hybridization that the Director has rejected in the past. However, it is equally true that the Director has moved more and more to recognizing and affirming the concept of ground water district "proportionate shares" of the total obligations owed under any particular mitigation plan. The Director's move to transient modeling further underscores the notion that "one-size-does-not-fit-all"—that pumping location and effect

correlate such that compliance obligations, evaluation, and determination should likely track accordingly.

By this submission, MV and NS seek to be part of a more global solution—to do their fair share, and then some, in 2024. Hopefully, the Director agrees with this approach.

IV.
PROCEDURAL POST-SCRIPT

Undersigned counsel is aware of the status conference noticed in this matter. However, given the shortened notice of the conference, counsel is not able to avoid previously-scheduled travel putting him in areas of likely spotty-to-no cell phone service along the Highway 20 corridor in eastern Oregon at the time of the conference. While counsel will attempt to call in with the number and code provided in the Notice, whether successful connection can be made is currently unknown. Consequently, the districts will continue to rely on Mr. Budge to appear and speak on their behalf at least for purposes of the status conference should undersigned counsel be unable to successfully connect by phone.

DATED this 2nd day of May, 2024.

SAWTOOTH LAW OFFICES, PLLC

By _____
Andrew J. Waldera
Attorneys for Magic Valley Ground Water District and North Snake Ground Water District

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 2nd day of May, 2024, I caused a true and correct copy of the foregoing **JOINT NOTICE OF COMPLIANCE—MAGIC VALLEY GROUND WATER DISTRICT & NORTH SNAKE GROUND WATER DISTRICT'S 2024 IRRIGATION SEASON MITIGATION COMMITMENTS** to be served by the method indicated below, and addressed to the following:

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Andrew J. Waldera

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY OR FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY	Docket No. CM-DC-2010-001 **AMENDED ORDER DETERMINING DEFICIENCY IN NOTICES OF SECURED WATER**

BACKGROUND

On July 19, 2023, the Idaho Department of Water Resources ("Department") issued its *Sixth Final Order Regarding Methodology for Determining Material Injury to Reasonable In-Season Demand and Reasonable Carryover* ("*Methodology Order*"). The *Methodology Order* established nine steps for determining material injury to members of the Surface Water Coalition ("SWC").

Step 3 of the Methodology Order states that by May 1, or within 14 days from issuance of the final order predicting a shortfall, "whichever is later in time, junior ground water users with approved mitigation plans for delivery of water must secure, to the satisfaction of the Director, a volume of water equal to their proportionate share" of any predicted shortfall unless the forecast is revised. *Methodology Order* ¶ 4 at 42. Step 3 further states that "[t]he secured water will not be required to be delivered to the injured members of the SWC until the Time of Need." *Id*.

On April 18, 2024, the Director issued the *Final Order Regarding April 2024 Forecast Supply (Methodology Steps 1–3)* ("*April As-Applied Order*"), in which the Director determined the predicted shortfall obligation for junior ground water users for 2024. The Director concluded that Twin Falls Canal Company ("TFCC") is the only entity with a predicted in-season demand shortfall ("IDS") for 2024 and the IDS is 74,100 acre-feet. *April As-Applied Order*, at 4. The Director ordered that:

> On or before May 2, 2024, ground water users holding consumptive water rights bearing priority dates junior to March 31, 1954, within the Eastern Snake Plain Aquifer area of common ground water supply shall establish, to the satisfaction of the Director, that they can mitigate for their proportionate share of the predicted April IDS of 74,100 acre-feet in accordance with an approved mitigation plan.

Id. at 6. The Director also ordered that, if such a junior ground water user cannot establish "they can mitigate for their proportionate share of the predicted April IDS in accordance with an approved mitigation plan, the Director will issue an order curtailing the junior-priority ground water user." *Id*.

Historically, the Idaho Ground Water Appropriators, Inc. ("IGWA"), acting on behalf of its member ground water districts, filed a notice of mitigation with the Department to establish that the ground water districts can mitigate for their proportionate share of the predicted IDS in accordance with an approved mitigation plan. However, this year, individual ground water districts submitted their own mitigation notices.[1]

On May 2, 2024, Bonneville-Jefferson Ground Water District ("Bonneville-Jefferson") and Jefferson-Clark Ground Water District ("Jefferson-Clark") each individually filed mitigation notices. *BJGWD's Notice of Mitigation in Resp. to April 2024 As-Applied Order (Methodology Steps 1-3)* [hereinafter *BJGWD's Notice*]; Letter from Jerry Rigby, attorney for Jefferson-Clark, to Mathew Weaver, Department Director (Regarding mitigation water obligations of Jefferson-Clark).

Also on May 2, Magic Valley Ground Water District ("Magic Valley") and North Snake Ground Water District ("North Snake") jointly filed a mitigation notice and Henry's Fork Ground Water District ("Henry's Fork") and Madison Ground Water District ("Madison") jointly filed a mitigation notice. *Joint Notice of Compliance—Magic Valley Ground Water Dist.& North Snake Ground Water Dist.'s 2024 Irrigation Season Mitigation Commitments* [hereinafter *MVNS's Notice*]; Letter from Jerry Rigby, attorney for Henry's Fork and Madison, to Mathew Weaver, Department Director (Regarding mitigation water obligations of Henry's Fork and Madison).

On May 3, 2024, Bingham Ground Water District ("Bingham") filed a mitigation notice. *Notice of Bingham Ground Water District 2024 Mitigation*. On the same day, Carey Valley Ground Water District ("Carey Valley") submitted a letter proposing a "mitigation plan for 2024 . . . ." Letter from Leta Hansen, Chairman of Carey Valley, to Mathew Weaver, Department Director. While the letter was framed as a "mitigation plan," the Director will consider it a mitigation notice.

Also on May 3, the Director held a status conference to discuss the status of IGWA's mitigation plans and IGWA's mitigation efforts for this irrigation season. *Am. Notice of Status Conf.*, at 1.

On May 6, 2024, American Falls-Aberdeen Ground Water District ("American Falls-Aberdeen") filed a mitigation notice. Letter from Sarah Klahn, attorney for American Falls-Aberdeen, to Mathew Weaver, Department Director [hereinafter AFA Mitigation Notice] (Regarding Case Nos.CM-DC-2010-001 and CM-MP-2016-001).

On May 8, 2024, the Department received a letter from IGWA regarding ground water district compliance with IGWA's *2016 Settlement Mitigation Plan* (CM-MP- 2016-001). In the letter, IGWA clarifies its intent to comply with certain elements of the plan regarding its 2021 performance. Letter from T.J. Budge, attorney for IGWA, to Mathew Weaver, Department

[1] The Department received *IGWA's Request for Mitigation Credit for Aquifer Enhancement Activities (2024)* on May 2, 2024. This request will be addressed by the Director is a separate order.

Director (Regarding Case Nos. CM-DC-2010-001, CM-MP-2016-001, and Sept. 7, 2022 Settlement Agreement between IGWA and SWC).

On May 10, 2024, the Director issued the *Order Determining Deficiency in Notices of Secured Water* ("*Order Determining Deficiency*").

On May 14, 2024, IGWA submitted *IGWA's Conditional Notice of Mitigation Compliance; Petition for Reconsideration; and Request for Expedited Decision* ("*IGWA Second Petition for Reconsideration*") in which IGWA asked the Director to reconsider the Director's conclusion in the *Order Determining Deficiency* that under the *2009 Storage Water Mitigation Plan* IGWA must mitigate for all ground water users. *IGWA Second Petition for Reconsideration*, at 2–3. On the same day, Bingham filed a *Brief in Support of IGWA's Conditional Notice of Mitigation Compliance; Petition for Reconsideration; and Request for Expedited Decision* ("*Bingham's Brief*"), in which Bingham took issue with the Director's use of the term "free rider" in the *Order Determining Deficiency*. *Bingham's Brief*, at 1–2.

On May 17, 2024, American Falls-Aberdeen filed a *Motion for Reconsideration of Order Determining Deficiency in Notices of Secured Water* ("*AFA's Motion for Reconsideration*") in which it also sought reconsideration of the *Order Determining Deficiency*. American Falls-Aberdeen argued that the Director requiring "evidence [that] it has secured storage water to satisfy the entire 50,000 acre-feet ("50kaf") delivery obligation . . . . is inconsistent with the plain language of the underlying settlement that was adopted as the *2016 Plan* and with the Department's prior interpretations of the ground water districts' obligations under the *2016 Plan*." *AFA's Motion for Reconsideration*, at 1. American Falls-Aberdeen argued that the *2016 Settlement Mitigation Plan* does not require the ground water districts to deliver the 50,000 acre-feet until 21 days after the day of allocation and that "[t]he Director has no legal basis to impose this proof-of-secured-water requirement on AFA or any district complying with, and seek safe harbor under, the 2016 Plan." *Id*. at 3, 5. American Falls-Aberdeen also argued that the parties to the 2016 plan must resolve disputes through the steering committee before bringing issues of breach to the Director. *Id*. at 4. American Falls-Aberdeen requested the Director reconsider the *Order Determining Deficiency* to remove any obligation on behalf of the ground water districts to provide proof that 50,000 acre-feet of storage water has been secured under the *2016 Settlement Mitigation Plan*. *AFA's Motion for Reconsideration*, at 5–7.

On May 28, 2024, the Director issued an order denying *IGWA's Second Petition for Reconsideration*. *Order Denying IGWA's Second Petition for Reconsideration; Order Determining Deficiency in IGWA's May 17, 2024 Notice of Storage Water Leases,* at 8. On the same day, the Director issued an *Order Granting Upper Valley Districts Limited Intervention and AFA's Motion for Reconsideration*, in which the Director agreed with the arguments in *AFA's Motion for Reconsideration* and agreed to issue this *Amended Order Determining Deficiency in Notices of Secure Water* with changes shown in strikeout/underline.

ANALYSIS

At the status conference, the Director started by asking each participating ground water district to identify whether, in 2024, they plan to mitigate under IGWA's *2009 Storage Water*

Mitigation Plan (CM-MP-2009-007) or IGWA's *2016 Settlement Mitigation Plan*. The Director asked this because many of the mitigation notices submitted by the ground water districts included vague, confusing, or contradictory statements regarding compliance with the approved mitigation plans. Bonneville-Jefferson, Magic Valley, and North Snake indicated that they had secured water for 2024 and would dedicate their secured water towards the mitigation requirements under the *2009 Storage Water Mitigation Plan*. Jefferson-Clark, Henry's Fork, and Madison indicated that they also had secured storage water and would dedicate their secured storage water towards required mitigation activities set forth in either the *2009 Storage Water Mitigation Plan* or the *2016 Settlement Mitigation Plan*. American Falls-Aberdeen indicated that it planned to mitigate under the *2016 Settlement Mitigation Plan* only. Bingham indicated it will not mitigate under any approved mitigation plan. Carey Valley did not participate in the status conference.

At the status conference, questions arose regarding whether the ground water districts storage water obligations were additive between the 2009 and 2016 plans, and if and how the ground water district's secured storage water could count towards compliance with either plan. In response, the Director indicated that the ground water districts obligations were not additive between the 2009 and 2016 plans. However, the Director clarified that the ground water districts can apply their secured storage water to either plan, but not both.

This order evaluates whether the ground water districts that seek protection under the *2009 Storage Water Mitigation Plan* and the *2016 Settlement Mitigation Plan* are entitled to protection under their chosen mitigation plan, evaluates the mitigation notices submitted by the ground water districts, and evaluates whether each ground water district has shown, to the satisfaction of the Director, that they have secured the required storage water. The order also discusses Bingham and Carey Valley's decisions not to mitigate under either plan.

1. Mitigation Pursuant to IGWA's *2009 Storage Water Mitigation Plan*

a. The May 3, 2024 Status Conference

At the status conference, Jefferson-Clark, Henry's Fork, Madison, Magic Valley, North Snake, and Bonneville-Jefferson indicated that in 2024, they plan to mitigate using IGWA's *2009 Storage Water Mitigation Plan*. In response to a question about the status of the *2009 Storage Water Mitigation Plan*, the Director recognized that a recent decision by Hearing Officer Roger Burdick in another matter created a question of whether the ground water districts can still use the *2009 Storage Water Mitigation Plan*. The Director concluded that the Hearing Officer's decision was still pending, and the issue had not yet been presented to him for consideration so he would consider the *2009 Storage Water Mitigation Plan* available for use at this time. The Director also stated that he reviewed former Director Spackman's 2023 *Order Determining Deficiency in IGWA's Notice of Secured Water* and agreed with two key conclusions reached in that order related to the *2009 Storage Water Mitigation Plan*. First, that the plain language of the *2009 Storage Water Mitigation Plan* "clearly states" that IGWA will mitigate for all ground water users, not just its members and non-member participants. *Order Determining Deficiency in IGWA's Notice of Secured Water*, at 4. Second, that "IGWA cannot pick and choose who gets the benefit of storage water if IGWA is not providing storage water amounts equal to the

shortfall obligation." *Id*. at 5. The Director reiterated that regarding the *2009 Storage Water Mitigation Plan*, if ground water districts submit adequate contracts to establish that they have secured storage water and the amount secured is less than the shortfall obligation, the Director will credit the contracted volume against the overall obligation, thus reducing the overall obligation for all ground water users.

At the status conference, the ground water districts seeking to use the *2009 Storage Water Mitigation Plan* claimed that they secured the following volumes of water for use in 2024:

Ground Water Districts (GWD)	**GWD Volume of Secured Water (acre-feet)**
Aberdeen-American Falls GWD	0
Bingham GWD	0
Bonneville-Jefferson GWD	8,928
Carey Valley GWD	0
Jefferson-Clark GWD	6,858
Henry's Fork GWD	1,500
Madison GWD	
Magic Valley GWD	11,925
North Snake GWD	3,665
Total	32,876
2009 Mitigation Plan Secured Storage Water Obligation	74,100
Deficiency in the Amount of Secured Storage Water	41,224

The above table shows that the ground water districts have indicated that they have secured 32,876 acre-feet, which is less than the full shortfall obligation of 74,100 acre-feet. Because the amount secured is less than the shortfall obligation, the Director will credit the volume against the overall obligation, thus reducing the overall obligation for all ground water users, if the ground water districts are able to show, to the satisfaction of the Director, that they have secured 32,876 acre-feet of water. The Department has calculated what the revised curtailment date would be if these ground water districts can show, to the satisfaction of the Director, that they have secured 32,876 acre-feet of water. The revised curtailment date for all ground water users would be February 16, 1970. However, to reemphasize the point, this is contingent upon the Director concluding in subsection 1.b. below that the ground water districts provide sufficient evidence that they have secured 32,876 acre-feet of storage water.

b. Sufficency of Mitigation Notices

Mitigation notices must show that the water user has secured, to the satisfaction of the Director, the storage water needed to mitigate. The ground water districts are required to provide the Director with legally enforceable contracts, options, or similar documentation to establish

that they have secured the water necessary to meet the mitigation obligation. *See Order on Pet. for Judicial Review*, at 19, *A&B Irrigation Dist. v. Tuthill*, No. CV-2008-551 (Gooding Cnty. Dist. Ct. Idaho July 24, 2009). Below, the Director reviews the mitigation notices submitted by the ground water districts and determines whether they have complied with these requirements.

i) Bonneville-Jefferson's Mitigation Notice

In its May 2 mitigation notice, Bonneville-Jefferson states that it "will mitigate this season by providing its proportionate share of the IDS from the leases attached hereafter as Exhibit 'A'." *BJGWD's Notice*, at 2. Unfortunately, the leases included as Exhibit A are all leases entered into by IGWA, not Bonneville-Jefferson. It is unclear whether Bonneville-Jefferson has the authority to submit IGWA's leases to the Director for the benefit of Bonneville-Jefferson. Furthermore, even if Bonneville-Jefferson is authorized to lease water under IGWA's leases, Department records do not show that Bonneville-Jefferson has sought or received approval from Water District 01 for any lease. Without approval by Water District 01 and payment of the required fees, Bonneville-Jefferson has not demonstrated to the satisfaction of the director that it has secured the volume of water reported in its May 2 mitigation notice. As indicated in Subsection 1.c. below, Bonneville-Jefferson will have until May 17, 2024, to resolve these issues.

ii) Jefferson-Clark's Mitigation Notice

At the status conference and in its May 2 mitigation notice, Jefferson-Clark indicated that it would mitigate under the *2009 Storage Water Mitigation Plan* for 2024 and that it has secured 6,858 acre-feet of storage water. Unfortunately, Jefferson-Clark did not include contracts, leases, options, or similar documentation to establish that it had secured the water necessary to meet or offset the obligation. Furthermore, the Department records do not show that Jefferson-Clark sought or received approval from Water District 01 for any lease. Without approval by Water District 01 and payment of the required fees, Jefferson-Clark has not demonstrated to the satisfaction of the Director that it has secured the volume of water reported in its May 2 mitigation notice. As indicated in Subsection 1.c. below, Jefferson-Clark will have until May 17, 2024, to resolve these issues.

iii) Henry's Fork and Madison's Mitigation Notice

At the status conference and in its May 2 mitigation notice, Henry's Fork and Madison indicate that they will mitigate under the *2009 Storage Water Mitigation Plan* for 2024 and that they have secured 1,500 acre-feet of storage water. Unfortunately, Henry's Fork and Madison did not include contracts, leases, options, or similar documentation to establish that they have secured the water necessary to meet the obligation. Furthermore, the Department records do not show that Henry's Fork and Madison sought or received approval from Water District 01 for any lease. Without approval by Water District 01 and payment of the required fees, Henry's Fork and Madison have not demonstrated to the satisfaction of the Director that they have secured the water reported in their May 2 mitigation notice. As indicated in Subsection 1.c. below, Henry's Fork and Madison will have until May 17, 2024, to resolve these issues.

iv) Magic Valley and North Snake's Mitigation Notice

Magic Valley and North Snake's May 2 mitigation notice indicates that they will collectively provide 15,590 acre-feet of storage water to the SWC pursuant to the *2009 Storage Water Mitigation Plan*. *MVNS's Notice*, at 2. Unfortunately, Magic Valley and North Snake did not include contracts, leases, options, or similar documentation to establish that they had secured the water necessary to meet the obligation. Furthermore, the Department records do not show that Magic Valley and North Snake sought or received approval from Water District 01 for any lease. Without approval by Water District 01 and payment of the required fees, Magic Valley and North Snake have not demonstrated to the satisfaction of the Director that they have secured the water reported in their May 2 notice. As indicated in Subsection 1.c. below, Magic Valley and North Snake will have until May 17, 2024, to resolve these issues.

c. Conclusion Regarding *2009 Storage Water Mitigation Plan*

While certain ground water districts indicate their intent to mitigate under the *2009 Storage Water Mitigation Plan*, they have failed to show, to the satisfaction of the Director, that they have secured the storage water needed to mitigate in full or in part. The Director will extend the deadline for the ground water districts to submit information to establish, to his satisfaction, that they can mitigate for all or part of the predicted April IDS of 74,100 acre-feet. The ground water districts have until May 17, 2024, to submit the appropriate documentation and to pay any fees required by Water District 01. If appropriate documentation is submitted and fees paid by this deadline, the Director will adjust the curtailment date accordingly.

2. Mitigation Using IGWA's *2016 Settlement Mitigation Plan*

At the status conference and in its mitigation notice, American Falls-Aberdeen indicates that it intends to mitigate under the *2016 Settlement Mitigation Plan*. At the status conference, Jefferson-Clark, Henry's Fork, and Madison also indicated that they would dedicate their secured storage water towards the *2016 Settlement Mitigation Plan* if that would result in their compliance with the plan. The *2016 Settlement Mitigation Plan* allows individual ground water districts to mitigate for their proportionate share of the 240,000-acre-foot reduction obligation set forth in the plan. It also requires that the ground water districts annually provide 50,000 acre-feet of storage water though private leases to the SWC 21 days after the day of allocation. ~~While the *2016 Settlement Mitigation Plan* allows for determining the proportionate share of the reduction obligation of the parties, it does not authorize the proportionate sharing of the 50,000-acre-foot storage volume by the parties. As a result of the plain language of the plan, for any ground water district to be in compliance with the plan, the entire 50,000 acre-feet must be provided.~~

a. The 2021 Breach

Ground water districts were found to have breached the *2016 Settlement Mitigation Plan* in 2021. *Am. Final Order Regarding Compliance with Approved Mitigation Plan*, at 16–17, *In re IGWA's Settlement Agreement Mitigation Plan*, No. CM-MP-2016-001 (Idaho Dept. of Water Res. Apr. 24, 2023) [hereinafter *Compliance Order*]. In his April 24, 2023 *Compliance Order*, the Director approved a one-year settlement agreement to remedy the 2021 breach. *Id*. at 20. In

the settlement agreement, the parties agreed that "IGWA will collectively provide to the SWC an additional 30,000 acre-feet of storage water in 2023 and an additional 15,000 acre-feet of storage water in 2024 within 10 days after the Date of Allocation of such year. Such amounts will be in addition to the long-term obligations set forth in section 3 of the Settlement Agreement and approved Mitigation Plan." *Settlement Agreement*, at 2, No. CM-MP-2016-001 (Sept. 7, 2022).

The first question that arises in evaluating whether any ground water district is complying with the *2016 Settlement Mitigation Plan* is addressing compliance with the agreed upon cure of IGWA's 2021 breach. It is the Director's understanding that the ground water districts provided the required 30,000 acre-feet of storage in 2023. In its May 6 mitigation notice, American Falls-Aberdeen states that it "has entered into a lease with the Shoshone-Bannock Tribe for approximately 11,000 acre feet of water." AFA Mitigation Notice, at 1. American Falls-Aberdeen states it plans to provide its share of the 15,000-acre-foot obligation under the 2021 Breach Order, approximately 2,900 acre-feet, to the SWC using this lease. *Id*. In its May 8 letter to the Director, IGWA confirms that it will "deliver the balance of the 15,000 acre-feet." The obligation to supply the water does not accrue until ten days after the day of allocation. *Settlement Agreement*, at 2.

So long as the entire 15,000-acre-foot obligation is provided to the SWC within ten days following the forthcoming day of allocation, the 2021 breach has been remedied.

b. <u>The 2022 Breach</u>

American Falls-Aberdeen and certain other ground water districts were found to have breached the *2016 Settlement Mitigation Plan* in 2022. *Final Order Regarding IGWA's 2022 Mitigation Plan Compliance*, at 9, No. CM-MP-2016-001 (Aug. 2, 2023). The following table summarizes the volume of the individual ground water district's breaches.

Ground Water Districts (GWD)	**2022 Deficiency in GWD Compliance with 2016 Mitigation Plan (acre-feet)**
Aberdeen-American Falls GWD	1,352
Bingham GWD	32,476
Bonneville-Jefferson GWD	5,204
Carey Valley GWD	0
Jefferson-Clark GWD	18,605
Henry's Fork GWD	0
Madison GWD	0
Magic Valley GWD	0
North Snake GWD	0

Id at 8.

American Falls-Aberdeen subsequently entered into an agreement with the SWC and mitigated for their breach. *Notice of Satisfaction of American Falls-Aberdeen Ground Water District 2022 Mitigation Obligation*, No. CM-MP-2016-001 (Nov. 7, 2023). American Falls-Aberdeen has remedied their 2022 breach.

c. The Sentinel Well Benchmark

The ground water districts also failed to achieve the 2023 sentinel well benchmark established by the *2016 Settlement Mitigation Plan*. On May 3, 2024, the Director issued an order determining the additional actions that ground water districts that are signatories to the 2016 settlement agreement must take as part of ongoing adaptive management requirements to ensure they comply with the plan. The Director ordered ground water districts to:

> increase their proportionate share of the total annual ground water use reduction of 240,000 acre-feet by an additional 5% (12,000 acre-feet) during the 2024 irrigation season. The [ground water districts] will increase their proportionate share of the total annual ground water use reduction of 240,000 acre-feet by an additional 12,000 acre-feet each year thereafter until the 2023 benchmark is achieved

Final Order Specifying Additional Actions, at 5, No. CM-MP-2016-001 (May 3, 2024).

In its May 6 mitigation notice, American Falls-Aberdeen confirmed that it intends to "satisfy all its obligations under the *2016 Settlement Mitigation Plan*," including the "adaptive management" obligations prescribed by the Director in his *Final Order Specifying Additional Actions* in CM-MP-2016-001. AFA Mitigation Notice, at 1.

d. 50,000 Acre-Feet of Storage Water

As discussed above, the *2016 Settlement Mitigation Plan* requires the ground water districts to provide the SWC with 50,000 acre-feet of storage water annually. Under the plain language of the *2016 Settlement Mitigation Plan*, the 50,000-acre-foot obligation does not come due until 21 days after the day of allocation. *Settlement Agreement* at 2, ¶ 3.b.i. Furthermore, the *2016 Settlement Mitigation Plan* does not require documentation of securing the water. Therefore, American Falls-Aberdeen's safe harbor from curtailment is not contingent on American Falls-Aberdeen providing proof it has secure 50,000 acre-feet of storage water at this time. In addition, the *2016 Settlement Mitigation Plan* specifically spells out a dispute resolution process if the Districts breach the 50,000-acre-foot obligation. *Id*. at ¶ 2c. Only if that dispute resolution process fails does the Director get involved. *Id.* Since there is no requirement for American Falls-Aberdeen to provide proof that it has secured water at this time and because the steering committee has not referred an allegation of breach of the 50,000-acre-foot obligation to the Director, the Director concludes that American Fals-Aberdeen is in compliance with the requirements of the *2016 Settlement Mitigation Plan's* requirements related to the 50,000 acre-feet of storage water. ~~At the status conference, the Director reiterated that he would adopt former Director Spackman's reasoning regarding the *2016 Settlement Mitigation Plan* and that to comply with the plan, the entire 50,000-acre-foot obligation must be provided (not just a proportionate share). In other words, were American Falls-Aberdeen the only ground water~~

district seeking protection under the *2016 Settlement Mitigation Plan*, it would have to secure and deliver the full 50,000 acre-feet to remain in compliance. In its May 6 mitigation notice, American Falls-Aberdeen does not explicitly state how much water it has secured towards this obligation. However, it reports having secured 11,000 acre-feet of storage water, of which it will credit approximately 2,900 acre-feet towards its 2021 breach obligations. The director interprets American Falls-Aberdeen's notices and statements to imply it has secured 8,100 acre-feet towards the 50,000-acre-foot storage water obligation.

In addition to American Falls-Aberdeen, at the status conference, Jefferson Clark, Henry's Fork, and Madison also indicated they would count their secured storage water towards the *2016 Settlement Mitigation Plan* if that would result in their compliance with the plan.

Based on the ground water district's mitigation notices and comments at the status conference, the following table summarizes the potential volumes of water secured to comply with the *2016 Settlement Mitigation Plan*:

Ground Water Districts (GWD)	**GWD Volume of Secured Water (acre-feet)**
Aberdeen-American Falls GWD	8,100
Bingham GWD	0
Bonneville-Jefferson GWD	0
Carey Valley GWD	0
Jefferson-Clark GWD	6,858
Henry's Fork GWD	1,500
Madison GWD	
Magic Valley GWD	0
North Snake GWD	0
Total	16,458
2016 Mitigation Plan Secured Storage Water Obligation	50,000
Deficiency in the Amount of Secured Storage Water	33,542

e. Conclusion Regarding *2016 Settlement Mitigation Plan*

Based on the above discussion previous summary table, the Director concludes that ground water districts that (1) did not breach the *2016 Settlement Mitigation Plan* in 2022 or who did breach and have remedied their breach, and (2) agree to the "additional actions" required in the *Final Order Specifying Additional Actions* in CM-MP-2016-001, are in compliance with the 2016 plan and entitled to protection under the plan. At this time, American Falls-Aberdeen is the only ground water district that has told the Director that it continues to uphold and seek protection under the *2016 Settlement Mitigation Plan* and has demonstrated that it continues to

comply with all elements of the plan. ~~the ground water districts are short of the 50,000-acre-foot obligation by approximately 33,542 acre-feet. Because the ground water districts have not met the full 50,000-acre-foot obligation, no ground water district can be protected by the *2016 Settlement Mitigation Plan*. As a result of this determination, the Director will give the ground water districts until May 17, 2024, to demonstrate to his satisfaction that they have contracted for the total required storage of 50,000 acre-feet to qualify for protection. The Director will also require confirmation from the Tribes that the water has been paid for and is available for use as mitigation.~~

3. Ground Water Districts Planning to Use Neither the *2009 Storage Water Mitigation Plan* nor the *2016 Settlement Mitigation Plan*.[2]

At the status conference, Bingham indicated that it had secured 8,590 acre-feet of water for the coming irrigation season but that it did not intend to mitigate under either the *2009 Storage Water Mitigation Plan* or the *2016 Settlement Mitigation Plan*. While Bingham stated in its mitigation notice that there "does not appear to be an option for mitigation" under the *2009 Storage Water Mitigation Plan* for this year, *Notice of Bingham Ground Water District 2024 Mitigation*, at 3, the Director made clear at the status conference he would consider mitigation proposals under the *2009 Storage Water Mitigation Plan* for 2024. Still, when pressed at the status conference, counsel for Bingham indicated that Bingham would not apply its storage water towards its mitigation obligations under either of the approved mitigation plans. It is surprising that ~~Why~~ a ground water district would secure storage water but then refuse to claim protection from curtailment under an approved mitigation plan ~~is surprising~~. While the 8,590 acre-feet of water the district has already secured would not make up the current shortfalls under either approved mitigation plan, under the 2009 Storage Delivery Plan, it would nonetheless advance the priority date and reduce the number of its ground water users subject to curtailment. Furthermore, if the other ground water districts contribute storage under the *2009 Storage Water Mitigation Plan* but Bingham does not, ~~this makes Bingham a free rider in this year's delivery call proceedings because~~ some of its members will nonetheless benefit, by avoiding curtailment through the actions of other ground water districts contributing storage water while Bingham undertakes no commensurate actions. Regardless, if the Bingham Ground Water District Board Members do not want to contribute the water they have already secured, ~~would rather free ride under the *2009 Storage Water Delivery Plan* and not~~ to increase the number of its members protected from curtailment, that is its choice. The Director cannot force the district to obligate its secured storage water to maximize the protection of its users.

In its mitigation notice, Bingham expresses frustration about its inability to seek protection under a new mitigation plan that it filed in January of 2024. The new mitigation plan was only for the benefit of Bingham Ground Water District. *Pet. for Approval of Bingham Ground Water District's Mitigation Plan for the Surface Water Coalition*, No. CM-MP-2024-001 (Jan. 2, 2024). Several other ground water districts also submitted individual mitigation plans at about the same time. The plans were advertised, and they were protested by numerous entities. The Director appointed an independent hearing officer, Gerald F. Schroeder, to hear the contested cases on behalf of the Department. It is the Director's understanding that some of the

[2] The changes in this section are made in response to *Bingham's Brief* in which Bingham took issue with the use of the term "free rider."

parties to those contested cases sought to stay the new mitigation plan proceedings until an order was issued by the Director related to the proceeding before Hearing Officer Burdick. Others, including Bingham, did not want to stay the proceedings. It is the Director's understanding that Hearing Officer Schroeder heard arguments on both sides and concluded that it was best to wait for Hearing Officer Burdick's order before scheduling a hearing. While the Director understands Bingham's desire to move forward to hearing, Hearing Officer Schroeder considered the arguments raised by those who wanted to move forward and concluded that it was most appropriate to wait. The Director will not second guess the hearing officer's approach.

Carey Valley did not participate in the May 3, 2024 status conference. Its mitigation notice does not mention securing storage under the *2009 Storage Water Mitigation Plan* or the *2016 Settlement Mitigation Plan*. The Director concludes that Carey Valley has not secured any storage water and as a result does not seek protection under either mitigation plan in 2024.

ORDER

Based on and consistent with the foregoing, IT IS HEREBY ORDERED that the mitigation notices filed by Bonneville-Jefferson, Jefferson-Clark, Magic Valley, North Snake, Henry's Fork, Madison, Bingham, and Carey Valley~~, and American Falls-Aberdeen~~ ground water districts are deficient and fail to demonstrate that they are operating in accordance with an approved mitigation plan. American Falls-Aberdeen Ground Water District has demonstrated that it is operating in accordance with an approved mitigation plan. ~~The Director will give the ground water districts until May 17, 2024, to submit additional notice that demonstrates to the satisfaction of the director that they have secured storage water in compliance with either the *2009 Storage Water Delivery Plan* or the *2016 Settlement Mitigation Plan*.~~

Dated this 28th day of May 2024.

MATHEW WEAVER
Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 28th day of May 2024, the above and foregoing, was served by the method indicated below, and addressed to the following:

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Sarah Tschohl
Paralegal

EXPLANATORY INFORMATION TO ACCOMPANY A FINAL ORDER

(To be used in connection with actions when a hearing was **not** held)

(Required by Rule of Procedure 740.02)

The accompanying order is a "**Final Order**" issued by the department pursuant to section 67-5246, 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 67-5246(4), Idaho Code.

REQUEST FOR HEARING

Unless the right to a hearing before the director or the water resource board is otherwise provided by statute, any person who is aggrieved by the action of the director, and who has not previously been afforded an opportunity for a hearing on the matter shall be entitled to a hearing before the director to contest the action. The person shall file with the director, within fifteen (15) days after receipt of written notice of the action issued by the director, or receipt of actual notice, a written petition stating the grounds for contesting the action by the director and requesting a hearing. See section 42-1701A(3), Idaho Code. **Note: The request must be received by the Department within this fifteen (15) day period.**

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 of: a) the service date of the final order, b) the service date 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.

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY OR FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY	Docket No. CM-MP-2016-001 **ORDER DENYING IGWA'S REQUEST FOR CLARIFICATION OF ORDER DENYING IGWA'S MOTION TO VACATE OR AMEND 2022 COMPLIANCE ORDER**
IN THE MATTER OF IGWA'S SETTLEMENT AGREEMENT MITIGATION PLAN	

BACKGROUND

On April 24, 2023, the Director of the Idaho Department of Water Resources ("Department") issued the *Amended Final Order Regarding Compliance with Approved Mitigation Plan* ("*Amended 2021 Compliance Order*"). In the *Amended 2021 Compliance Order*, the Director found that certain members of the Idaho Ground Water Appropriators, Inc. ("IGWA") breached the *2016 Settlement Mitigation Plan* in 2021. *Amended 2021 Compliance Order*, at 14.

On August 2, 2023, the Director issued the *Final Order Regarding IGWA's 2022 Mitigation Plan Compliance* ("*2022 Compliance Order*"). In the *2022 Compliance Order*, the Director held that certain IGWA members failed to satisfy their proportionate share of IGWA's mitigation obligation in 2022 and were not in compliance with the *2016 Settlement Mitigation Plan*. *2022 Compliance Order*, at 1.

On April 8, 2024, IGWA filed *IGWA's Motion to Vacate or Amend 2022 Compliance Order* ("*Motion to Vacate*"). In its *Motion to Vacate*, IGWA claimed that the ground water districts had decided to adopt a new 3-year baseline calculation to measure compliance. IGWA argued that as a result of this change, the *2022 Compliance Order*, which had relied on IGWA's 5-year baseline, is now moot. *Motion to Vacate*, at 4.

On May 2, 2024, the Director issued an *Order Denying IGWA's Motion to Vacate or Amend 2022 Compliance Order* ("*Order Denying Motion to Vacate*"). After a long recitation of all the current legal proceedings that implicate the 5-year baseline, the Director concluded that IGWA cannot "at this point in all these proceedings, unilaterally decide to change the method used for determining compliance." *Order Denying Motion to Vacate*, at 4. The Director also denied the request because it was untimely, stating that IGWA had an opportunity to request a hearing on the *2022 Compliance Order* but failed to timely do so and that IGWA failed to raise the issue at other critical times. *Order Denying Motion to Vacate*, at 6.

On May 16, 2024, IGWA filed *IGWA's Request for Clarification of Order Denying IGWA's Motion to Vacate or Amend 2022 Compliance Order* ("*Request for Clarification*"). IGWA seeks three points of clarification: 1) whether "IGWA must use a five-year baseline to measure reductions in groundwater use" and if "that determination applies to the 2022 Performance Report only or if it includes subsequent performance reports"; 2) whether IGWA can "change the baseline used in future performance reports"; and 3) whether "the Director has deemed the 2016 Plan ambiguous." *Request for Clarification*, at 1–2.

ANALYSIS

The *2022 Compliance Order* found that four ground water districts breached the *2016 Settlement Mitigation Plan* in 2022. *2022 Compliance Order*, at 8. IGWA's *Motion to Vacate* asked the Director to vacate the *2022 Compliance Order*. In its *Motion to Vacate*, IGWA also discussed in detail the earlier issued *2021 Amended Compliance Order*, which is currently on appeal to the Idaho Supreme Court. IGWA's first two points of clarification ask the Director about future performance reports, not about the 2021 or 2022 performance reports relied upon in the *2021 Amended Compliance Order* and *2022 Compliance Order.*

The *Motion to Vacate* and *Order Denying Motion to Vacate* only discuss previous performance reports. They do not discuss future performance reports. The Director should only decide those issues presented. Because the Director did not decide its applicability to future performance reports, there is no need to clarify the order regarding future performance reports.

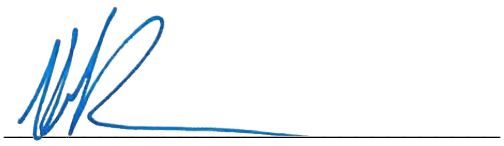
Regarding IGWA's last point of clarification, IGWA asks whether the Director "has deemed the 2016 Plan ambiguous." *Request for Clarification*, at 2. Because the Director repeatedly stated in the *2021 Amended Compliance Order* and *2022 Compliance Order* that the 2016 plan is not ambiguous, and because nothing in the *Order Denying Motion to Vacate* suggests otherwise, the Director does not interpret IGWA's question as a genuine request for clarification.

In conclusion, the Director denies IGWA's request because the issues IGWA seeks "clarification" on are not really questions that are unclear in the order but are questions outside the scope of the order.

ORDER

Based upon and consistent with the foregoing, IT IS HEREBY ORDERED that *IGWA's Request for Clarification of Order Denying IGWA's Motion to Vacate or Amend 2022 Compliance Order* is DENIED.

DATED this 28th day of May 2024.



MATHEW WEAVER
Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 28th day of May 2024, the above and foregoing, was served by the method indicated below, and addressed to the following:

John K. Simpson MARTEN LAW LLP PO Box 2139 Boise, ID 83701-2139 jsimpson@martenlaw.com	☒ U.S. Mail, postage prepaid ☒ Email
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COURTESY COPY TO: Corey Skinner IDWR—Southern Region 1341 Fillmore St., Ste. 200 Twin Falls, ID 83301-3033 corey.skinner@idwr.idaho.gov	☒ Email
COURTESY COPY TO: William A. Parsons PARSONS, LOVELAND, SHIRLEY & LINDSTROM, LLP PO Box 910 Burley, ID 83318 wparsons@pmt.org wparsons@magicvalley.law	☒ Email
COURTESY COPY TO: Jerry R. Rigby RIGBY, ANDRUS & RIGBY LAW, PLLC PO Box 250 Rexburg, ID 83440 jrigby@rex-law.com	☒ Email
COURTESY COPY TO: Andrew J. Waldera SAWTOOTH LAW OFFICES, PLLC 1101 W. River Street, Suite 110 Boise, Idaho 83702 andy@sawtoothlaw.com	☒ Email

Sarah Tschohl
Paralegal

EXPLANATORY INFORMATION TO ACCOMPANY A FINAL ORDER

(To be used in connection with actions when a hearing was **not** held)

(Required by Rule of Procedure 740.02)

The accompanying order is a "**Final Order**" issued by the department pursuant to section 67-5246, Idaho Code.

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APPEAL OF FINAL ORDER TO DISTRICT COURT

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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 of: a) the service date of the final order, b) the service date 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.

RECEIVED
May 30, 2024
DEPARTMENT OF
WATER RESOURCES

MARTEN LAW

May 30, 2024

Via Email Only

Director Mat Weaver
Idaho Dept. of Water Resources
P.O. Box 83720
Boise, Idaho 83720-0098
mat.weaver@idwr.idaho.gov
file@idwr.idaho.gov

RE: SWC Delivery Call / Follow Up Notice of Mitigation Water in Response to Garrick Baxter Request

Dear Director Weaver:

I am writing on behalf of our client the A&B Irrigation District ("A&B" or "District") in response to Garrick Baxter's request (phone conversation and email) concerning A&B's ability to provide storage water to any injured Coalition member during the 2024 irrigation season.

First, A&B has been provided no notice that its May 1, 2024 *Notice of Mitigation Water* was deficient until yesterday when Mr. Baxter called me. Although the notice was in front of IDWR for over three weeks, it was apparently deemed insufficient as of yesterday afternoon, a day before the curtailment notice will be issued. Apparently A&B's water rights will be included in a curtailment list if it does not comply with Mr. Baxter's request.

A&B has previously provided notice of its ability to deliver storage water without any issues with the Department. Apparently now IDWR is requesting A&B to submit a lease form and associated unrefundable fees to Water District 01 to confirm its prior notice. Please see the attached lease form and check that is being transmitted to WD1 today. *See* Ex. A. The District could have sent this to Water District 1 earlier had IDWR provided A&B with a formal order or proper notice.

I have conferred with manager Justin Temple and the District is delivering surface water to 3,573.6 acres that are covered by various junior priority ground water rights (36-15192 through 36-15127B), as well as a portion of water right 36-15127A (1,378.1 acres). This leaves 508.3 acres under water right 36-15127A and 26 acres under 36-16749 that may need to be covered by a storage water delivery to TFCC for mitigation purposes. A&B has submitted the attached lease for 62 acre-feet to cover the proportionate share

of the April 2024 in-season demand shortfall as calculated in the table sent to me by Garrick Baxter (0.115 acre-feet per acre).

Finally, although the District disagrees with and reserves all rights concerning the *April Steps 1-3 Order* initially allowing IGWA to choose to mitigate under its 2009 Storage Water Mitigation Plan, if IGWA does establish that it has 74,100 acre-feet, then A&B will no longer have any obligation for the 2024 irrigation season. *See Order* at 5-6, n. 8. Moreover, even if the Director allows the Districts to partially mitigate under the 2009 Plan, A&B is relying upon the Director's representation that the potential curtailment date has changed to February 16, 1970. *See Amended Order Determining Deficiency in Notices of Secured Water* (May 28, 2024) (original order identifying the changed curtailment date was issued on May 10, 2024).

Finally, A&B reserves all rights concerning the Department's changed position on A&B's notice of mitigation as well as any potential curtailment notice, including the right to request a hearing pursuant to Idaho Code § 42-1701A(3).

If you have any questions or need additional information, please contact me at (208) 733-0700.

Sincerely,

Travis Thompson
Partner

Direct: (208) 735-2227
Email: tthompson@martenlaw.com

Enc.

cc: Justin Temple
Craig Chandler, Water District 01
Garrick Baxter

Exhibit
A

WATER DISTRICT #1 RENTAL POOL - PRIVATE LEASE AGREEMENT

A&B Irrigation District (lessor) agrees to lease 62 acre-feet of storage to Twin Falls Canal Company (lessee) for the 2024 irrigation season at a price of $ 0 according to the rules and regulations contained in the Water District #1 Rental Pool Procedures.

Description of Lease:

Name of River or Stream from which lease is diverted: Twin Falls South Side Division

Canal or Pump Name and location: _____

Place of Use description: _____

Water Right Appurtenant to Lands: _____

An Idaho Water Resources Board surcharge (10% of the purchase price) plus a $1.30 per acre-foot administrative fee must be received by Water District #1 prior to the approval of the storage lease).

If the reservoir storage system fails to fill in the season following the year leased, the lessor's storage allocation shall be reduced by the amount leased to offset any impacts to other spaceholders' storage accruals according to the approved Water District #1 Rental Pool Procedures pursuant to Idaho Code Section 42-1765. The lessor understands the net effect of this rule is to make an amount of the lessor's space (equal to the amount leased) last-to-fill in the reservoir system for the irrigation season following the lease.

☒ If the lease is for irrigation purposes, the Applicant, by checking this box, certifies that the use of this leased storage water complies with the moratorium on new consumptive uses as outlined in Rental Pool Procedure 3.4. Failure to meet the conditions contained in Rental Pool Procedure 3.4 may be grounds for denying the application.

If the leased storage is diverted by a diversion outside the area regulated by Water District #1, the applicant, by signing this agreement agrees to report to the Watermaster of the water district containing the diversion, the daily amounts of leased storage diverted during the year. The Watermaster of that district, according to Rental Pool Procedure 4.3.107, must then report to the Water District #1 Watermaster the daily rental diverted by November 30th. Failure to report the daily rental diversion may result in the rental not being delivered in Water District #1's final rental delivery records.

Lessor Signature 5/30/24 Date Manager A+B Irrigation Title, Canal Company

Lessee Signature 5/30/24 Date Manager Twin Falls Canal Co. Canal Company or Diversion Name

= = = =

A&B IRRIGATION DISTRICT
GENERAL FUND
P.O. BOX 675
Rupert, ID 83350
208-436-3152

D.L. EVANS BANK
318 S Oneida
Rupert, ID 83350
92-358/1241

12473

5/30/2024

PAY TO THE ORDER OF WATER DISTRICT 01 $ **80.60

Eighty and 60/100********** DOLLAI

WATER DISTRICT 01
900 N SKYLINE DR. SUITE A
IDAHO FALLS ID 83402

MEMO

AUTHORIZED SIGNATURE

⑈012473⑈ ⑆124103582⑆ 94 00645 7⑈

A&B IRRIGATION DISTRICT GENERAL FUND 12473

WATER DISTRICT 01 5/30/2024

Date	Type	Reference	Original Amt.	Balance Due	Discount	Payment
5/30/2024	Bill		80.60	80.60		80.60
					Check Amount	80.60

DL Evans-General Fu 80.60

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY OR FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY	Docket No. CM-DC-2010-001 **FINAL ORDER CURTAILING GROUND WATER RIGHTS JUNIOR TO MARCH 31, 1954**

The Director of the Idaho Department of Water Resources ("Department") finds, concludes, and orders as follows:

FINDINGS OF FACT

1. On July 19, 2023, the Idaho Department of Water Resources ("Department") issued its *Sixth Final Order Regarding Methodology for Determining Material Injury to Reasonable In-Season Demand and Reasonable Carryover* ("*Methodology Order*"). The *Methodology Order* established nine steps for determining material injury to members of the Surface Water Coalition ("SWC").[1]

2. On April 18, 2024, the Director issued the *Final Order Regarding April 2024 Forecast Supply (Methodology Steps 1-3)* ("*As-Applied Order*"), which applied steps 1, 2, and 3 of the *Methodology Order*. The Director predicted an April in-season demand shortfall ("IDS") of 74,100 acre-feet. *As-Applied Order*, at 3. The Director ordered that, by May 2, 2024, ground water users with consumptive water rights "bearing priority dates junior to March 31, 1954, within the Eastern Snake Plain Aquifer area of common ground water supply [("ESPA ACGWS")] shall establish, to the satisfaction of the Director, that they can mitigate for their proportionate share of the predicted April IDS of 74,100 acre-feet in accordance with an approved mitigation plan." *Id.* at 6. The Director also ordered that, if such a junior ground water user cannot establish that they can mitigate for their proportionate share of the predicted IDS "in accordance with an approved mitigation plan, the Director will issue an order curtailing the junior-priority ground water user." *Id.*

[1] The SWC is comprised of A&B Irrigation District, American Falls Reservoir District #2, Burley Irrigation District, Milner Irrigation District, Minidoka Irrigation District, North Side Canal Company, and Twin Falls Canal Company.

3. There are currently seven approved mitigation plans in place responding to the SWC delivery call[2]:

(1) Docket No. CM-MP-2009-007 for the benefit of the Idaho Ground Water Appropriators, Inc. ("IGWA") (delivery of stored water);

(2) Docket No. CM-MP-2009-006 for the benefit of IGWA (conversions, dry-ups, and recharge);

(3) Docket No. CM-MP-2016-001 for the benefit of IGWA (the IGWA and SWC stipulated mitigation plan);

(4) Docket No. CM-MP-2010-001 for the benefit of the Southwest Irrigation District and Goose Creek Irrigation District (collectively, "SWID");

(5) Docket No. CM-MP-2019-001 for the benefit of certain cities commonly referred to as the "Coalition of Cities";

(6) Docket No. CM-MP-2015-003 for the benefit of the A&B Irrigation District ("A&B"); and

(7) Docket No. CM-MP-2007-001 for the benefit of certain entities commonly referred to as the "Water Mitigation Coalition."

4. In the 2024 *As-Applied Order*, the Director found that due to the nature of the approved mitigation plans for SWID, the Coalition of Cities, and the Water Mitigation Coalition, these entities do not need to establish they can mitigate for their proportionate share of the predicted April IDS. *See As-Applied Order*, at 5 n.8. However, the Director found that A&B must mitigate for its proportionate share of the predicted IDS of 74,100 acre-feet and determined that A&B's proportionate share is 455 acre-feet. *Id*. Regarding IGWA's mitigation plan CM-MP-2016-001, the Director found that IGWA does not need to establish it can mitigate for its proportionate share of the predicted IDS. *Id*. at 5–6 n.8. Regarding IGWA's mitigation plan CM-MP-2009-007, the Director found that IGWA's obligation is 74,100 acre-feet, and consistent with the plan IGWA must mitigate for all ground water users. *Id*. at 6 n.8.

5. In response to the 2024 *As-Applied Order*'s requirement for junior ground water right holders to establish how they will mitigate their proportionate share of the predicted demand shortfall, A&B sent a letter to the Director stating:

> [I]t is the District's intent to continue to curtail the enlargement water rights (2,063) acres for the 2024 irrigation season. The District will also deliver surface water to an additional 1,510.6 acres that could have been irrigated with some of the District's ground water rights with an April 1, 1962 priority (water right nos. 36-15127A et al.). The District intends to continue to deliver surface water to lands formerly

[2] In December 2023 and January 2024, a number of ground water districts and A&B Irrigation District submitted new individual mitigation plans. The plans were advertised, and they were protested by various entities. The Director has appointed an independent hearing officer, Gerald F. Schroeder, to hear the contested cases on behalf of the Department. Those proceeding are ongoing and no final orders have been issued related to the new mitigation plans.

> irrigated with groundwater, approximately 3,573.6 in total, with groundwater supplied to certain areas as needed for pipeline operations.

Letter from Travis Thompson, attorney for A&B, to Mat Weaver, Department Director (May 1, 2024).

6. On May 2, 2024, IGWA filed IGWA's *Petition for Reconsideration of Final Order Regarding April 2024 Forecast Supply* ("*Petition for Reconsideration*") with the Department. In the *Petition for Reconsideration*, IGWA asked the Director to reconsider requiring IGWA to mitigate ground water diversions by non-IGWA members. *Petition for Reconsideration*, at 2. IGWA disputed the Director's conclusion that under IGWA's *2009 Storage Water Mitigation Plan*, IGWA must provide the full 74,100-acre-foot obligation. *Id*. The Director issued a *Final Order Denying IGWA's Petition for Reconsideration of April As-Applied Order* ("*Order Denying Reconsideration*") on May 10, 2024.

7. Historically, IGWA, acting on behalf of its member ground water districts, filed a notice of mitigation with the Department to establish that the ground water districts can mitigate the predicted IDS in accordance with an approved mitigation plan. However, this year, individual ground water districts submitted their own mitigation notices. Between May 2 and May 6, 2024, Bonneville-Jefferson, Jefferson-Clark, Magic Valley together with North Snake, Henry's Fork together with Madison, Bingham, Carey Valley, and American Falls-Aberdeen ground water districts (collectively, the "Districts") all filed mitigation notices with the Department.

8. On May 10, 2024, the Director issued an *Order Determining Deficiency in Notices of Secured Water* ("*Order Determining Deficiency*"). In the *Order Determining Deficiency*, the Director found that the mitigation notices filed by the Districts "are deficient and fail to demonstrate that they are operating in accordance with an approved mitigation plan." *Order Determining Deficiency*, at 11. The Director concluded:

> The *2016 Settlement Mitigation Plan* allows individual ground water districts to mitigate for their proportionate share of the 240,000-acre-foot reduction obligation set forth in the plan. It also requires that the ground water districts annually provide 50,000 acre-feet of storage water though private leases to the SWC 21 days after the day of allocation. While the *2016 Settlement Mitigation Plan* allows for determining the proportionate share of the reduction obligation of the parties, it does not authorize the proportionate sharing of the 50,000-acre-foot storage volume by the parties. As a result of the plain language of the plan, for any ground water district to comply with the plan, the entire 50,000 acre-feet must be provided.

Id. at 6. Additionally, the Director noted,

> that regarding the *2009 Storage Water Mitigation Plan*, if ground water districts submit adequate contracts to establish that they have secured storage water and the amount secured is less than the shortfall obligation, the Director will credit the contracted volume against the overall obligation, thus reducing the overall obligation for all ground water users.

Id. at 4. The Director gave the Districts until May 17, 2024, "to submit additional notice that demonstrates to the satisfaction of the [D]irector that they have secured storage water in compliance with either the *2009 Storage Water [Mitigation] Plan* or the *2016 Settlement Mitigation Plan*." *Id*.

9. On May 14, 2024, the Department received *IGWA's Conditional Notice of Mitigation Compliance; Petition for Reconsideration; and Request for Expedited Decision* ("*Second Petition for Reconsideration*"). IGWA's *Second Petition for Reconsideration* requested that the *Order Determining Deficiency* and *Order Denying Reconsideration* be "amend[ed] or vacate[d] and replace[d]" on an expedited basis. *Id*. at 3–4. The Director denied the *Second Petition for Reconsideration* on May 28, 2024.

10. On May 17, 2024, American Falls-Aberdeen filed a *Motion for Reconsideration of Order Determining Deficiency in Notices of Secured Water* ("*AFA's Motion for Reconsideration*"). American Falls-Aberdeen argued that requiring "evidence [that] it has secured storage water to satisfy the entire 50,000 acre-feet ("50kaf") delivery obligation . . . . is inconsistent with the plain language of the underlying settlement that was adopted as the *2016 Plan* and with the Department's prior interpretations of the ground water districts' obligations under the *2016 Plan*." *AFA's Motion for Reconsideration*, at 1. American Falls-Aberdeen requested the Director reconsider the *Order Determining Deficiency* to remove any obligation on behalf of the ground water districts to provide proof that 50,000 acre-feet of storage water has been secured under the *2016 Settlement Mitigation Plan*. *Id*. at 5–7.

11. Also on May 17, 2024, IGWA submitted *IGWA's Notice of Storage Water Leases* ("*IGWA's Notice*") for the purpose of demonstrating that adequate storage water leases were secured to mitigate material injury caused by ground water use within Bonneville-Jefferson, Jefferson-Clark, Magic Valley, North Snake, Henry's Fork, Madison, Bingham, and Carey Valley ground water districts, in compliance with the *2009 Storage Water Mitigation Plan*. *IGWA's Notice*, at 1. IGWA produced copies of storage water leases evidencing "44,509 acre-feet available to meet the proportionate mitigation of the" Districts, excluding American Falls-Aberdeen Ground Water District. *Id*. at 2 (emphasis added). Further, IGWA stated:

> These leases are submitted on condition that they are utilized by IDWR strictly to mitigate for material injury caused by groundwater use within the districts listed above [the Districts, excluding American Falls-Aberdeen Ground Water District] in accordance with Idaho Code § 42-5224(11). These leases cannot be used to roll back the curtailment date for all groundwater users or to otherwise mitigate for groundwater users that do not belong to the districts listed above.

Id. at 3.

12. On May 28, 2024, the Director issued an *Order Granting Upper Valley Districts Limited Intervention and AFA's Motion for Reconsideration* ("*Order Granting AFA Reconsideration*") and *Amended Order Determining Deficiency in Notices of Secure Water* ("*Amended Order Determining Deficiency*"). In the *Order Granting AFA Reconsideration,* the Director concluded:

> Under the plain language of the *2016 Settlement Mitigation Plan*, the 50,000-acre-foot obligation does not come due until 21 days after the day of allocation. *Settlement Agreement* at 2, ¶ 3.b.i. . . . . The Director agrees that those portions of the *Order Determining Deficiency* that condition AFA's safe harbor from curtailment on providing proof it has secure 50,000 acre-feet of storage water should be withdrawn and replaced.

Order Granting AFA Reconsideration, at 5. In accordance with the *Order Granting AFA Reconsideration*, the concurrently issued *Amended Order Determining Deficiency* included: "At this time, American Falls-Aberdeen is the only ground water district that has told the Director that it continues to uphold and seek protection under the *2016 Settlement Mitigation Plan* and has demonstrated that it continues to comply with all elements of the plan." *Amended Order Determining Deficiency*, at 10–11.

13. Also on May 28, 2024, the Director issued an *Order Denying IGWA's Second Petition for Reconsideration; Order Determining Deficiency in IGWA's May 17, 2024 Notice of Storage Water Leases* ("*Second Order Denying Reconsideration and Determining Deficiency*"). In the order, the Director concluded, "IGWA's *2009 Storage Water Mitigation Plan* requires IGWA to mitigate for all junior groundwater users," therefore, the Director could not consider the conditioned leases IGWA produced on May 17, 2024. *Second Order Denying Reconsideration and Determining Deficiency*, at 7. Consequently, the Director found *IGWA's Notice* to be deficient "because it fail[ed] to demonstrate that Bonneville-Jefferson, Jefferson-Clark, Magic Valley, North Snake, Henry's Fork, Madison, Bingham, and Carey Valley ground water districts are operating in accordance with an approved mitigation plan." *Id*. at 8. The Director ordered:

> Any ground water district that previously sought protection under the *2009 Storage Water Mitigation Plan* that now wishes to seek protection under the *2016 Settlement Mitigation Plan* has until Wednesday, May 29, 2024, at 5:00 p.m. (MT) to inform the Director of their intention to do so and to demonstrate they are incompliance with the *2016 Settlement Mitigation Plan*.

Id. (emphasis added).

14. On May 29, 2024, Henry's Fork and Madison ground water districts jointly filed a timely *Notice of Intended Compliance With 2016 Mitigation Plan by Henry's Fork Ground Water District and Madison Ground Water District* ("*HFMGWD Compliance Notice*"). The two districts gave notice,

> that for the year 2024, they will comply with the 2016 mitigation plan as to their proportionate share, which by agreement with IGWA to date has been 1,500 acre feet of storage and 3,000 acre feet of recharge as well as any adaptive management which the Director imposes on said [d]istricts should the various [Districts] fail to agree to any proportionality.

HFMGWD Compliance Notice, at 4.[3] Attached to the *HFMGWD Compliance Notice*, for the benefit of the two districts, is an assignable storage water lease for 1,500 acre-feet of storage water. *Id.* at 5, Attach.

15. On May 29, 2024, North Snake and Magic Valley ground water districts jointly filed a timely *Notice of Compliance; Request for Clarification* ("*NSMVGWD Compliance Notice*"). However, the *NSMVGWD Compliance Notice* does not inform the Director of an intention to seek protection under the *2016 Settlement Mitigation Plan*; instead, North Snake and Magic Valley request the Director grant them safe harbor under the *2009 Storage Water Mitigation Plan*. *NSMVGWD Compliance Notice*, at 9. The two districts commit to supply "their proportionate share of the full 74,100 April 2024-predicted IDS." *Id*. at 5. Further, North Snake and Magic Valley request the Director provide clarification and an explanation if he "believes the 2009 Plan is unavailable to the Districts for some reason, or unavailable to the Districts on a proportionate share basis . . . ." *Id*. at 9.

16. Additionally, on May 29, 2024, at 5:23 p.m., Bingham, Bonneville-Jefferson, and Jefferson-Clark ground water district jointly submitted *Bingham Ground Water District, Bonneville Jefferson Ground Water District, and Jefferson Clark Ground Water District Amended Notice of Mitigation Compliance* ("*BGWD Compliance Notice*").[4] Like North Snake and Magic Valley's notice, the *BGWD Compliance Notice* does not inform the Director of an intention to seek protection under the *2016 Settlement Mitigation Plan*; instead, the ground water districts continue to seek protection under the *2009 Storage Water Mitigation Plan*. *BGWD Compliance Notice*, at 3–4.

CONCLUSIONS OF LAW

1. Idaho Code § 42-602 authorizes the Director to supervise water distribution within water districts:

> The director of the department of water resources shall have direction and control of the distribution of water from all natural water sources within a water district to the canals, ditches, pumps and other facilities diverting therefrom. Distribution of water within water districts created pursuant to section 42-604, Idaho Code, shall be accomplished by watermasters as provided in this chapter and supervised by the director. The director of the department of water resources shall distribute water in water districts in accordance with the prior appropriation doctrine. The provisions of chapter 6, title 42, Idaho Code, shall apply only to distribution of water within a water district.

[3] Henry's Fork and Madison also state that they plan to mitigate "not only under the [*2016 Settlement Mitigation Plan*], but also under any version of the 2009 mitigation plan, which is being proposed by other ground water districts." *HFMGWD Compliance Notice*, at 4–5. In a previous order, the Director made it clear that ground water districts cannot apply their secured storage water to multiple plans. *Order Determining Deficiency*, at 3 ("ground water districts can apply their secured storage water to either plan, but not both."). Because Henry's Fork and Madison cannot mitigate under both plans, the Director will treat their submission solely as a request to mitigate under the *2016 Settlement Mitigation Plan*.

[4] While the filing is untimely, the Director will address the filing in this order.

2. As explained above, by May 2, 2024, ground water users with consumptive water rights "junior to March 31, 1954, within the [ESPA ACGWS]" had to "establish, to the satisfaction of the Director, that they can mitigate for their proportionate share of the predicted April IDS of 74,100 acre-feet in accordance with an approved mitigation plan." *As-Applied Order*, at 6. If a junior ground water user does not establish that they can mitigate for their proportionate share of the predicted April IDS "in accordance with an approved mitigation plan" the ground water user will be subject to this "order curtailing the junior-priority ground water user." *Id.*

3. Due to the nature of the approved mitigation plans for SWID, the Coalition of Cities, and the Water Mitigation Coalition, these entities do not need to establish that they can mitigate for their proportionate share of the predicted April IDS. Junior ground water users entitled to the protection of SWID, the Coalition of Cities, and the Water Mitigation Coalition mitigation plans will not be subject to curtailment during the 2024 irrigation season.

4. American Falls-Aberdeen, Henry's Fork, and Madison ground water districts have demonstrated that they are operating in accordance with the *2016 Settlement Mitigation Plan*. Junior ground water users who are members of American Falls-Aberdeen, Henry's Fork, or Madison ground water district will not be subject to curtailment during the 2024 irrigation season.

5. The *Second Order Denying Reconsideration and Determining Deficiency* gave ground water districts that "wish[ed] to seek protection under the *2016 Settlement Mitigation Plan* [ ] until Wednesday, May 29, 2024, at 5:00 p.m. (MT) to inform the Director of their intention to do so. . . ." *Second Order Denying Reconsideration and Determining Deficiency*, at 8 (emphasis added). The *NSMVGWD Compliance Notice* does not inform the Director of an intention to seek protection under the *2016 Settlement Mitigation Plan*. Accordingly, Magic Valley and North Snake have failed to show that they can mitigate in accordance with the *2016 Settlement Mitigation Plan*. Their notice does, however, express an intention to seek "safe harbor" under the *2009 Storage Water Mitigation Plan* and inquires as to the status of the mitigation plan. *NSMVGWD Compliance Notice*, at 9. As stated in the *Amended Order Determining Deficiency*, the Director considers the *2009 Settlement Mitigation Plan* "available for use at this time." *Amended Order Determining Deficiency*, at 4. But as was also made clear in that order, and again in the *Second Order Denying Reconsideration and Determining Deficiency*, the plain language of the plan requires that IGWA will mitigate for all ground water users, not just member participants. This is not an arbitrary requirement imposed by this Director. This is the plain language of the approved mitigation plan. IGWA has affirmed that this was IGWA's intent: "IGWA offered to provide storage water to mitigate all material injury, whether caused by IGWA members or others." *Second Petition for Reconsideration*, at 2. As was also stated in the *Amended Order Determining Deficiency*, previous decisions of the agency have held if IGWA fails to provide the full volume of secured water, the Director will subtract the amount of secured water from the overall obligation and not allow ground water districts to mitigate only for their water users' proportional share:

> IGWA cannot pick and choose who gets the benefit of storage water if IGWA is not providing storage water amounts equal to the shortfall obligation. The Director reiterated that regarding the *2009 Storage Water Mitigation Plan*, if ground water

> districts submit adequate contracts to establish that they have secured storage water and the amount secured is less than the shortfall obligation, the Director will credit the contracted volume against the overall obligation, thus reducing the overall obligation for all ground water users.

Amended Order Determining Deficiency at 4–5 (quotations and citations omitted). IGWA's obligation under the *2009 Storage Water Mitigation Plan* is 74,100 acre-feet. Magic Valley and North Snake state that they have secured what they claim is their proportionate share of the 74,100-acre-foot IDS—15,590 acre-feet of storage water. *NSMVGWD Compliance Notice*, at 6. Since they have secured less than the full shortfall obligation, if the Director were to accept their lease, it would not provide Magic Valley and North Snake "safe harbor under the *2009 Storage Water Mitigation Plan*" but would only reduce the overall obligation for all ground water users. It is clear from the *NSMVGWD Compliance Notice* that they only seek protection for their members, not for ground water users outside their district. While Magic Valley and North Snake did not expressly condition the Director's acceptance of their notice like IGWA did with *IGWA's Notice of Storage Water Leases*, it has the same effect. Magic Valley and North Snake seek an outcome that is inconsistent with the plan. Accordingly, the Director deems the notice deficient. If the Director has interpreted Magic Valley and North Snake's notice incorrectly and it was their intent to have the Director credit the contracted volume against the overall obligation, they simply need to submit a filing clarifying their intent. As a result of their deficient notice of secured storage water filings, Magic Valley and North Snake will be subject to curtailment during the 2024 irrigation season.

6. In the *BGWD Compliance Notice*, the Bingham, Bonneville-Jefferson, and Jefferson-Clark ground water districts take a position similar to Magic Valley and North Snake. They state that they have "secured storage water leases to fully cover their proportionate shares of the 74,100 acre-feet IDS . . . ." *BGWD Compliance Notice*, at 3. Like Magic Valley and North Snake, these ground water districts seek an outcome that is inconsistent with the *2009 Storage Water Mitigation Plan*. Accordingly, the Director deems the notice deficient. If the Director has interpreted their notice incorrectly and it was their intent to have the Director credit the contracted volume against the overall obligation, they simply need to submit a filing clarifying their intent. As a result of their deficient notice of secured storage water filings, Bingham, Bonneville-Jefferson, and Jefferson-Clark ground water districts will be subject to curtailment during the 2024 irrigation season.

7. A&B has failed to provide timely documentation that it has adequately secured the storage water necessary to mitigate for all its obligation under its approved mitigation plan.[5] Accordingly, A&B will be subject to curtailment during the 2024 irrigation season.

[5] On May 30, 2024, A&B submitted a lease for 62 acre-feet. The required fee had not yet been received by the Water District 01 watermaster. In the event the required fee is received, and the lease is approved, the Director will consider how to apply the mitigation benefit associated with the leased water.

8. Carey Valley Ground Water District has not demonstrated that it is operating in accordance with an approved mitigation plan. Accordingly, Carey Valley will be subject to curtailment during the 2024 irrigation season.

9. Consistent with the *As-Applied Orde*r, Idaho Code § 42-602, and decisions of the courts, the Director must order curtailment of junior-priority ground water users that have not established they can mitigate in accordance with an approved mitigation plan. Junior-priority ground water users subject to curtailment are listed in Attachments A and B[6] to this order.

ORDER

Based upon and consistent with the foregoing, IT IS HEREBY ORDERED that effective May 30, 2024, ground water users holding water rights bearing priority dates junior to March 31, 1954, within the ESPA ACGWS, and listed in Attachment A to this order, shall immediately curtail/refrain from diversion and use of ground water pursuant to those water rights unless notified by the Department that the order of curtailment has been modified or rescinded as to their water rights.

IT IS FURTHER ORDERED that effective May 30, 2024, ground water users holding water rights bearing priority dates junior to March 31, 1954, within the ESPA ACGWS, and listed in Attachment B to this order, shall curtail/refrain from diversion and use of ground water pursuant to those water rights unless notified by the Department that the order of curtailment has been modified or rescinded as to their water rights.

IT IS FURTHER ORDERED that holders of ground water rights listed in Attachment B to this order may seek to participate in an approved mitigation plan through a ground water district and shall have fifteen days from the date of this order to join, solely for mitigation purposes, the ground water district situated nearest the lands to which the water rights are appurtenant. *See* H.B. 737a, 58th Leg., 2d Reg. Sess. (Idaho 2006) (*Act Relating to the Administration of Ground Water Rights Within the Eastern Snake River Plain*); *see also* I.C. § 42-5259.

IT IS FURTHER ORDERED that watermasters for the water districts within the ESPA ACGWS who regulate ground water are directed to review the water rights listed in Attachment A and B to this order and begin the curtailment process.

IT IS FURTHER ORDERED that this order shall apply to consumptive ground water rights, including but not limited to, agricultural, commercial, industrial, and municipal uses. This order excludes ground water rights used for *de minimis* domestic purposes where such domestic use is within the limits of the definition set forth in Idaho Code § 42-111 and ground water rights

[6] The *Act Relating to the Administration of Ground Water Rights Within the Eastern Snake River Plain*, H.B. 737a, 58th Leg., 2d Reg. Sess. (Idaho 2006), allows for ground water users that are not members of a ground water district to join or participate in an approved mitigation plan of a ground water district. Attachment B identifies those junior ground water users who, according to Department records, are not currently members of a ground water district and are subject to curtailment by this order.

used for *de minimis* stock watering where such stock watering use is within the limits of the definitions set forth in Idaho Code § 42-1401A(11), pursuant to IDAPA 37.03.11.020.11.

Dated this 30th day of May 2024.

MATHEW WEAVER
Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 30th day of May 2024, the above and foregoing, was served by the method indicated below, and addressed to the following:

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Sarah Tschohl
Paralegal

Attachment A
List of Ground Water Rights Junior to March 31, 1954
Sorted by Owner

Owner	Water Right No.	Basis	Priority Date	Water Use List	Diversion Rate (cfs)	Total Acres	Enlargement
#785 PIONEER EXCHANGE ACCOMMODATION TITLEHOLDER LLC	37-22871	Decreed	11/25/1962	IRRIGATION	0.05	2.3	
2 W LANDS LLC	35-8925	License	02/14/1991	DOMESTIC, STOCKWATER	0.23	0.0	
2+ RANCH LLC	36-2412C	Decreed	01/22/1960	IRRIGATION	5.14	322.0	
2+ RANCH LLC	36-16158	Decreed	01/24/1972	IRRIGATION, MITIGATION	3.95	395.5	
2+ RANCH LLC	36-16160	Decreed	01/24/1972	MITIGATION	0.04	0.0	
2+ RANCH LLC	36-16161	Decreed	08/09/1975	IRRIGATION, MITIGATION	2.97	395.5	
2+ RANCH LLC	36-16163	Decreed	08/09/1975	MITIGATION	0.02	0.0	
2DT LLC	36-16638	Decreed	04/29/1958	COMMERCIAL, STOCKWATER	0.31	0.0	
2DT LLC	36-16634	Decreed	04/08/1975	COMMERCIAL	0.09	0.0	
3 PUTT PARNTERS LLC	35-7743	Decreed	08/19/1977	IRRIGATION	0.32	18.0	
3 STRING CATTLE OF IDAHO LLC	36-2270	Decreed	10/07/1954	IRRIGATION	1.86	200.0	
3 STRING CATTLE OF IDAHO LLC	36-13530	Decreed	07/22/1960	DOMESTIC, STOCKWATER	0.07	0.0	
3 STRING CATTLE OF IDAHO LLC	36-2565A	Decreed	02/11/1963	IRRIGATION	3.67	279.0	
3 STRING CATTLE OF IDAHO LLC	36-17134	Decreed	03/15/1968	IRRIGATION	0.04	280.0	Yes
3 STRING CATTLE OF IDAHO LLC	36-7356C	Decreed	07/24/1973	IRRIGATION	0.16	20.3	
3 STRING CATTLE OF IDAHO LLC	36-8290	License	06/24/1985	IRRIGATION	1.88	200.0	
3 T MARTINS FARM LLC	36-8408	License	01/19/1989	COMMERCIAL, DOMESTIC	0.31	0.0	
3D WATER ASSOCIATION INC	25-13984	License	04/06/2003	DOMESTIC	0.55	0.0	
3D WATER ASSOCIATION INC	25-14198	License	02/26/2007	DOMESTIC	0.85	0.0	
3D WATER ASSOCIATION INC	25-14071	License	08/12/2015	DOMESTIC	0.76	0.0	
3D WATER ASSOCIATION INC	25-14194	License	08/12/2015	DOMESTIC	0.70	0.0	
4 ACE FARMS LLC	36-2515	Decreed	09/01/1961	IRRIGATION	1.40	133.0	
4 BROS DAIRY INC	37-8911	Decreed	06/01/1956	COMMERCIAL, STOCKWATER	0.13	0.0	
4 BROS DAIRY INC	37-22650	Decreed	11/11/1959	COMMERCIAL, STOCKWATER	0.05	0.0	
4 BROS DAIRY INC	37-22574	Decreed	01/12/1961	IRRIGATION	1.93	211.0	
4 BROS DAIRY INC	37-22575	Decreed	01/12/1961	COMMERCIAL, STOCKWATER	0.13	0.0	
4 BROS DAIRY INC	37-22644	Decreed	12/03/1966	COMMERCIAL, STOCKWATER	0.02	0.0	
4 BROS DAIRY INC	37-22646	Decreed	12/03/1966	COMMERCIAL, STOCKWATER	0.05	0.0	
4 BROS DAIRY INC	37-22647	Decreed	12/03/1966	COMMERCIAL, STOCKWATER	0.03	0.0	
4 BROS DAIRY INC	37-22641	Decreed	10/18/1968	COMMERCIAL, STOCKWATER	0.06	0.0	
4 BROS DAIRY INC	37-22642	Decreed	10/18/1968	COMMERCIAL, STOCKWATER	0.04	0.0	
4 BROS DAIRY INC	37-22645	Decreed	10/18/1968	COMMERCIAL, STOCKWATER	0.03	0.0	
4 BROS DAIRY INC	37-22652	Decreed	11/15/1970	COMMERCIAL, STOCKWATER	0.08	0.0	
4 BROS DAIRY INC	37-22643	Decreed	02/18/1971	COMMERCIAL, STOCKWATER	0.01	0.0	
4 BROS DAIRY INC	37-22648	Decreed	02/18/1971	COMMERCIAL, STOCKWATER	0.03	0.0	
4 BROS DAIRY INC	37-22649	Decreed	02/18/1971	COMMERCIAL, STOCKWATER	0.02	0.0	
4 BROS DAIRY INC	37-22654	Decreed	05/26/1971	COMMERCIAL, STOCKWATER	0.01	0.0	
4 BROS DAIRY INC	37-7278	Decreed	09/10/1973	IRRIGATION	6.00	390.9	

Attachment A
List of Ground Water Rights Junior to March 31, 1954
Sorted by Owner

Owner	Water Right No.	Basis	Priority Date	Water Use List	Diversion Rate (cfs)	Total Acres	Enlargement
4 BROS DAIRY INC	37-20613	Decreed	12/19/1974	COMMERCIAL, STOCKWATER	1.12	0.0	
4 BROS DAIRY INC	37-20614	Decreed	12/19/1974	COMMERCIAL, STOCKWATER	0.58	0.0	
4 BROS DAIRY INC	37-7575	Decreed	03/28/1977	IRRIGATION	2.21	349.0	
4 BROS DAIRY INC	37-22653	Decreed	05/16/1980	COMMERCIAL, STOCKWATER	0.02	0.0	
4 BROS DAIRY INC	37-8814	License	07/10/1983	COMMERCIAL, STOCKWATER	0.10	0.0	
4 BROS DAIRY INC	37-8813	License	10/14/1983	COMMERCIAL, STOCKWATER	0.13	0.0	
4 BROS DAIRY INC	37-7033	License	07/05/1988	IRRIGATION	2.16	211.0	
5-L LLC	25-2169	Decreed	01/15/1955	IRRIGATION	2.00	111.0	
5-L LLC	25-2170	Decreed	05/26/1967	IRRIGATION	0.62	111.0	
72 POTATO ROAD LLC	31-12446	License	11/06/1987	COMMERCIAL	0.20	0.0	
93 GOLF RANCH	36-7573	Decreed	10/31/1975	IRRIGATION	2.92	188.0	
AARDEMA, DONALD J	36-8548	License	05/11/1990	STOCKWATER	0.06	0.0	
AARON BALL FARMS INC	36-8183	License	05/12/1983	COMMERCIAL, STOCKWATER	0.04	0.0	
ABC AGRA LLC	36-8484	License	12/11/1989	COMMERCIAL, DOMESTIC	0.08	0.0	
ADAMS, JOTIEN; ADAMS, MICHAEL	27-7546	License	08/15/1991	IRRIGATION	0.06	3.0	
ADKINS, GINA; ADKINS, RICK	36-8525	License	03/02/1990	DOMESTIC, IRRIGATION	0.06	1.0	
AGRI SERVICE LLC	35-14348	Decreed	02/10/1976	IRRIGATION	0.60	30.0	
AGRI-SERVICE LLC	36-8453	License	09/21/1989	COMMERCIAL	0.04	0.0	
AGUEDA, JOE E; AGUEDA, SANDRA	36-4157D	Decreed	06/01/1956	COMMERCIAL, STOCKWATER	0.30	0.0	
AIRGAS INTERMOUNTAIN INC	25-7515	License	08/24/1989	INDUSTRIAL	0.05	0.0	
ALAN HENNEBOLD REVOCABLE TRUST	35-14531	Decreed	03/10/1967	IRRIGATION	0.02	1.0	
ALAN HENNEBOLD REVOCABLE TRUST	35-14530	License	06/10/1983	IRRIGATION	0.01	1.0	
ALBERTSON, KAREN; ALBERTSON, KORTNY L	35-14532	Decreed	02/15/1983	IRRIGATION	0.07	7.5	
ALBERTSON, KAREN; ALBERTSON, KORTNY L	35-14533	License	06/03/1991	IRRIGATION	0.09	7.5	
ALBERTSON, KORTNY L	35-2389	Decreed	12/02/1954	IRRIGATION	4.44	358.0	
ALLEN, BETTY; ALLEN, BUD	37-21225	Decreed	01/29/1974	IRRIGATION	0.02	1.0	
ALLEN, BURTON; ALLEN, MARY K	31-11238	Decreed	09/04/1980	IRRIGATION	0.27	462.0	Yes
ALLEN, HERB; ALLEN, MARY CHUGG	36-8523	License	04/25/1990	IRRIGATION	1.89	115.0	
ALLEN, JOHN	32-7015	Decreed	03/24/1973	IRRIGATION	4.02	378.0	
ALLEN, MICHAEL D; ANDERSON, DANNY L; ANDERSON, MARY ELLEN; BENEFIEL, BRADLEY C; HEILESON, W MAHLON	25-7640	License	04/25/1995	DOMESTIC	0.10	0.0	
ALLEN, PATRICIA; ALLEN, STEPHEN B	37-21226	Decreed	01/29/1974	IRRIGATION	2.72	154.0	
ALLEN, REX	36-7649	Decreed	10/19/1976	DOMESTIC, IRRIGATION	0.26	12.0	
ALLEY, DOROTHY E JULSON; ALLEY, FRANK T	36-16730	Decreed	12/16/1958	IRRIGATION	0.38	19.0	
ALLMON, CHRISTA A; ALLMON, JOHNNY R	35-13768	Decreed	03/20/1956	IRRIGATION	0.01	1.4	
AMALGAMATED SUGAR CO LLC	36-8364	License	06/10/1988	INDUSTRIAL	0.22	0.0	
AMALGAMATED SUGAR COMPANY	36-2271	Decreed	11/15/1954	COMMERCIAL	3.77	0.0	
AMALGAMATED SUGAR COMPANY	36-2272	Decreed	11/15/1954	COMMERCIAL	4.00	0.0	

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AMALGAMATED SUGAR COMPANY	36-4145	Decreed	03/03/1956	COMMERCIAL	0.69	0.0	
AMALGAMATED SUGAR COMPANY	36-4255	Decreed	11/15/1956	INDUSTRIAL	0.20	0.0	
AMALGAMATED SUGAR COMPANY	36-4178	Decreed	06/01/1959	COMMERCIAL	0.01	0.0	
AMALGAMATED SUGAR COMPANY	36-4254	Decreed	03/20/1961	INDUSTRIAL	0.09	0.0	
AMERICAN FALLS ABERDEEN GROUND WATER DISTRICT; BINGHAM GROUND WATER DISTRICT; BONNEVILLE JEFFERSON GROUND WATER DISTRICT; CAREY VALLEY GROUND WATER DISTRICT; HENRYS FORK GROUND WATER DISTRICT; JEFFERSON CLARK GROUND WATER DISTRICT; MADISON GROUND WATER D	36-8048	Decreed	12/21/1981	IRRIGATION	0.41	20.2	
ANDCO LEASING LC	35-13315	Decreed	03/17/1961	COMMERCIAL, IRRIGATION	0.62	1.0	
ANDERLAND LLC	45-14070	Decreed	02/06/1979	IRRIGATION	0.01	8.4	
ANDERSEN, ALAN H; ANDERSEN, NORMA	45-7107	Decreed	08/17/1972	IRRIGATION	2.79	264.0	
ANDERSEN, SANDRA	31-2392	Decreed	11/16/1961	IRRIGATION, STOCKWATER	2.27	152.0	
ANDERSEN, SANDRA	31-11456	Decreed	05/01/1967	IRRIGATION	0.15	7.7	Yes
ANDERSON THOMPSON SUBDIVISION NO 1	35-8730	License	05/04/1989	DOMESTIC, IRRIGATION, STOCKWATER	0.14	9.0	
ANDERSON, CHARLYN; ANDERSON, WINFIELD	35-7602A	Decreed	04/09/1976	IRRIGATION	0.06	3.0	
ANDERSON, CURTIS W; RILEY, LINETTE R	35-8717	License	04/05/1989	DOMESTIC, IRRIGATION	0.10	4.0	
ANDERSON, DONALD M; ANDERSON, JOAN	36-8285	License	06/14/1985	IRRIGATION	0.04	2.0	
ANDERSON, DONALD; ANDERSON, LORETTE	27-2125C	Decreed	12/27/1961	IRRIGATION, STOCKWATER	0.66	33.0	
ANDERSON, GREGORY M; ANDERSON, KENNETH C	36-7214	Decreed	01/03/1972	IRRIGATION	2.45	144.0	
ANDERSON, H HOMER	35-8830	License	11/01/1989	IRRIGATION	1.27	80.0	
ANDERSON, H HOMER	35-8936	License	02/27/1991	IRRIGATION	0.63	40.0	
ANDERSON, JENNIFER; ANDERSON, JUSTIN	36-7777	Decreed	02/07/1978	IRRIGATION	1.33	75.0	
ANDERSON, LA DELL; ANDERSON, SHERRY HARRIS	36-7272	Decreed	11/07/1972	IRRIGATION	1.42	71.0	
ANDERSON, SHERRY HARRIS	36-2632	Decreed	01/08/1966	IRRIGATION	1.94	417.1	
ANDERSON, SHERRY HARRIS	36-7022	Decreed	04/12/1968	IRRIGATION	4.64	417.1	
ANDREWS, GERALD CLINTON; ANDREWS, MARIAN J	36-2350	Decreed	04/14/1958	IRRIGATION	1.82	163.0	
ANDREWS, GERALD CLINTON; ANDREWS, MARIAN J	36-15227	Decreed	08/27/1973	IRRIGATION	0.70	163.0	Yes
ANDRUS JR, DOUGLAS; CHUMLEY, ORVILLE; HARRIELL, LA DON; MATHERN, GRETCHEN; MATHERN, RUTH; TOWLER, MARY; TOWLER, MICHAEL	35-8854	License	08/14/1989	DOMESTIC, IRRIGATION	0.12	4.0	
ARKOOSH, KAREN A; ARKOOSH, WILLIAM	37-7570	Decreed	03/09/1977	IRRIGATION	4.29	277.0	
ASCENSION PRIORY; THE BENEDICTINE MONKS OF IDAHO INC	36-14649	Decreed	06/10/1957	IRRIGATION	6.17	425.0	
ASHBY, BRENT J	36-11523	Decreed	02/01/1961	DOMESTIC, IRRIGATION, STOCKWATER	0.03	1.0	
ASHCRAFT, JANA L; ASHCRAFT, SIDNEY G	31-2454A	Decreed	09/02/1961	IRRIGATION	0.73	347.0	
ASHCRAFT, JANA L; ASHCRAFT, SIDNEY G	31-2402	Decreed	09/13/1963	IRRIGATION	6.40	320.0	
ASHCRAFT, JANA L; ASHCRAFT, SIDNEY G	31-7262	Decreed	06/13/1977	IRRIGATION	2.05	141.0	
ASHCRAFT, JANA L; ASHCRAFT, SIDNEY G	31-11641	Decreed	04/01/1985	IRRIGATION	0.14	141.0	Yes

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ASHCRAFT, JANA L; ASHCRAFT, SIDNEY G	31-7441	License	06/11/1985	IRRIGATION	1.32	66.0	
ASHCRAFT, JANA L; ASHCRAFT, SIDNEY G	31-11462	Decreed	10/31/1987	IRRIGATION	0.73	149.0	Yes
ASHCRAFT, RYAN	31-7079	Decreed	02/22/1973	IRRIGATION	5.66	292.0	
ASHCRAFT, RYAN	31-11610	Decreed	07/22/1983	IRRIGATION	1.19	225.8	Yes
ASHMENT & TAYLOR INC	35-13977	Decreed	04/24/1959	IRRIGATION	0.40	940.0	
ASHMENT & TAYLOR INC	35-13985	Decreed	01/19/1962	IRRIGATION	3.20	940.0	
ASHMENT & TAYLOR INC	35-13983	Decreed	02/23/1962	IRRIGATION	1.02	940.0	
ASHMENT & TAYLOR INC	35-2777	Decreed	06/02/1965	IRRIGATION	6.16	318.0	
ASHMENT & TAYLOR INC	35-13981	Decreed	01/31/1967	IRRIGATION	0.99	940.0	
ASHMENT & TAYLOR INC	35-13979	Decreed	12/24/1973	IRRIGATION	2.10	940.0	
ASTLE, DOUGLAS D; ASTLE, JANIS L	37-8296	License	05/11/1987	IRRIGATION	4.01	357.2	
ASTLE, GERALDINE; ASTLE, SEM D	37-7538	Decreed	11/02/1976	IRRIGATION	4.18	285.0	
ASTLE, MICHELE	37-8125	License	06/23/1983	COMMERCIAL, DOMESTIC, STOCKWATER	0.04	0.0	
ASTLE, RICK J; ASTLE, TANYA R	37-2667	Decreed	06/14/1961	IRRIGATION	1.97	123.0	
ASTLE, RICK J; ASTLE, TANYA R	37-7264	Decreed	08/21/1973	IRRIGATION	3.42	192.0	
ASTORQUIA, FRANK	37-7475	Decreed	02/12/1976	IRRIGATION	0.70	35.0	
ASTORQUIA, FRANK	37-8338	License	05/19/1994	IRRIGATION	0.60	72.0	
ASTORQUIA, FRANK; ASTORQUIA, JOSEPHINE	37-7460	Decreed	07/03/2002	IRRIGATION	3.33	258.0	
ASTORQUIA, JUSTIN	37-7092	Decreed	04/15/1971	IRRIGATION	0.80	40.0	
ATKINSON, BLAINE; ATKINSON, BRENDA	35-7678	Decreed	03/07/1977	IRRIGATION	0.02	0.9	
AUTUMN COVE MOBILE HOME PARK LLC	25-7401	License	05/17/1985	DOMESTIC, IRRIGATION	0.33	3.0	
B & H LAND LLC	36-2322	Decreed	04/02/1957	IRRIGATION	4.04	658.0	
B & H LAND LLC	36-2323	Decreed	04/15/1957	IRRIGATION	3.37	658.0	
B & H LAND LLC	36-15186	Decreed	04/01/1962	IRRIGATION	1.05	448.0	
B & H LAND LLC	36-2570	Decreed	06/20/1963	IRRIGATION	0.80	658.0	
B & H LAND LLC	36-2587	Decreed	02/19/1964	IRRIGATION	5.79	455.0	
B & H LAND LLC	36-7296	Decreed	04/11/1973	IRRIGATION	3.81	238.0	
B & H LAND LLC	36-15226	Decreed	06/15/1973	IRRIGATION	0.36	658.0	Yes
B & H LAND LLC	36-4264	Decreed	04/01/1974	IRRIGATION	2.00	455.0	Yes
B & H LAND LLC	36-7529F	Decreed	03/28/1975	IRRIGATION	0.27	312.0	
B & H LAND LLC	36-11643	Decreed	04/01/1981	IRRIGATION	1.00	448.0	Yes
B & H LAND LLC	36-16206	License	04/14/1983	IRRIGATION	1.91	152.0	
B BAR K LLC	36-7408	Decreed	11/21/1973	IRRIGATION	1.03	434.0	
B BAR K LLC	36-7603	Decreed	01/29/1976	IRRIGATION	0.98	434.0	
B BAR K LLC	36-7560	Decreed	03/03/1976	IRRIGATION	3.04	434.0	
B V FURNISS FARM LLC	35-2630A	Decreed	04/20/1961	IRRIGATION	2.82	142.0	
B23 FARMS LLC	31-10964B	Decreed	02/25/1959	IRRIGATION	2.86	304.0	
B23 FARMS LLC	31-7267B	Decreed	09/07/1977	IRRIGATION	3.02	304.0	

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B23 FARMS LLC	31-7283	Decreed	12/27/1977	IRRIGATION	2.27	247.0	
B23 FARMS LLC	31-7312	Decreed	02/28/1979	IRRIGATION	2.65	247.0	
B-4 DAIRY LLC	36-2316	Decreed	01/21/1957	IRRIGATION	1.38	403.3	
B-4 DAIRY LLC	36-7123	Decreed	02/27/1970	IRRIGATION	2.25	403.3	
B-4 DAIRY LLC	36-8050	Decreed	12/11/1981	IRRIGATION	2.34	403.3	
BAILEY, CALVIN M; BAILEY, DE ANN W	36-7735	Decreed	07/25/1977	IRRIGATION	1.75	105.0	
BAILEY, CALVIN M; BAILEY, DE ANN W	36-7941	Decreed	09/17/1980	COMMERCIAL, STOCKWATER	0.13	0.0	
BAILEY, CARL W; BAILEY, STEPHANIE G	36-16820	Decreed	06/21/1960	IRRIGATION	5.41	284.9	
BAILEY, CARL W; BAILEY, STEPHANIE G	36-16981	Decreed	03/04/1976	IRRIGATION	1.00	50.0	
BAILEY, CARL W; BAILEY, STEPHANIE G	36-7615	Decreed	03/04/1976	IRRIGATION	1.60	203.0	
BAILEY, CARL W; BAILEY, STEPHANIE G	36-7616	Decreed	03/04/1976	IRRIGATION	0.22	11.0	
BAILEY, FRANCIS; DANIELSON, DEAN; DANIELSON, JOYCE; FISCHER, M RODDY; FISCHER, PAULINE	25-4198	Decreed	06/19/1956	DOMESTIC, IRRIGATION, STOCKWATER	0.05	1.5	
BAILEY, JULIE A; BAILEY, STEVEN E	35-8619	License	09/24/1985	IRRIGATION, STOCKWATER	0.04	0.5	
BAILEY, NYLE H	27-7588	Decreed	07/18/1957	IRRIGATION	0.20	8.2	
BAILEY, NYLE H	35-2904B	Decreed	07/18/1957	IRRIGATION	0.20	10.0	
BALL BROTHERS PRODUCE LC	25-7412	Decreed	09/30/1986	COMMERCIAL	0.45	0.0	
BALL FARMS LTD PARTNERSHIP	31-7155	Decreed	01/24/1975	IRRIGATION	2.48	140.0	
BALL FARMS LTD PARTNERSHIP	31-7160	Decreed	04/09/1975	IRRIGATION	2.23	125.5	
BALL FARMS LTD PARTNERSHIP	31-7040A	Decreed	06/05/1985	IRRIGATION	5.74	287.0	
BALL FARMS LTD PARTNERSHIP; CIRCLE B FARMS LTD PARTNERSHIP	31-11417	Decreed	09/17/1956	IRRIGATION	2.56	125.0	
BALL FARMS LTD PARTNERSHIP; CIRCLE B FARMS LTD PARTNERSHIP	31-11418	Decreed	09/17/1956	IRRIGATION	1.20	60.0	
BALL FARMS LTD PARTNERSHIP; CIRCLE B FARMS LTD PARTNERSHIP	31-7067	Decreed	12/06/1972	IRRIGATION	2.53	132.0	
BALL FARMS LTD PARTNERSHIP; CIRCLE B FARMS LTD PARTNERSHIP	31-7100B	Decreed	01/16/1974	IRRIGATION	2.54	140.0	
BALL FARMS LTD PARTNERSHIP; CIRCLE B FARMS LTD PARTNERSHIP	31-7602	Decreed	12/12/1975	IRRIGATION	2.51	136.0	
BALL FARMS LTD PARTNERSHIP; CIRCLE B FARMS LTD PARTNERSHIP	31-11419	Decreed	12/23/1975	IRRIGATION	2.22	125.0	Yes
BALL FARMS LTD PARTNERSHIP; CIRCLE B FARMS LTD PARTNERSHIP	31-7603	Decreed	04/01/1993	IRRIGATION	2.72	136.0	
BALL LAND LC	31-2356A	Decreed	09/26/1956	IRRIGATION	1.18	109.0	
BALL LAND LC	31-2356B	Decreed	09/26/1956	IRRIGATION	2.32	303.0	
BALL LAND LC	31-10970	Decreed	07/16/1958	IRRIGATION	1.55	303.0	
BALL LAND LC	31-2399	Decreed	04/03/1962	IRRIGATION	2.74	162.0	
BALL LAND LC	31-10969	Decreed	04/15/1962	IRRIGATION	1.00	109.0	
BALL LAND LC	31-2401	Decreed	05/16/1962	IRRIGATION	2.20	303.0	
BALL LAND LC	31-10968	Decreed	04/15/1968	IRRIGATION	1.54	303.0	Yes
BALL LAND LC	31-7036	Decreed	05/22/1970	IRRIGATION	1.68	84.0	
BALL LAND LC	31-12362	Decreed	04/05/1977	IRRIGATION	0.24	14.0	
BALL LAND LC	31-7219	Decreed	04/05/1977	IRRIGATION	4.58	262.0	
BALL, BARBARA ANN; BALL, STEPHEN L	31-11686	Decreed	04/01/1962	IRRIGATION	2.78	275.0	

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BALL, CARMA B; BALL, JERRY R	36-2563	Decreed	01/28/1963	IRRIGATION	2.20	146.0	
BALL, DAVID; BALL, KATIE	31-12331	Decreed	12/12/1955	IRRIGATION	6.23	400.0	
BALL, DAVID; BALL, KATIE	31-2352C	Decreed	12/12/1955	IRRIGATION	3.91	240.0	
BALL, DAVID; BALL, KATIE	31-2352D	Decreed	12/12/1955	IRRIGATION	2.45	157.0	
BALL, DAVID; BALL, KATIE	31-2396	Decreed	10/31/1961	IRRIGATION	1.36	68.0	
BALL, DAVID; BALL, KATIE	31-10444	Decreed	04/01/1975	IRRIGATION	0.11	157.0	Yes
BALL, DAVID; BALL, KATIE	31-12332	Decreed	04/01/1975	IRRIGATION	0.28	400.0	Yes
BANDY, BONNIE; BANDY, BRADLEY W	36-7473	Decreed	05/14/1974	IRRIGATION	0.02	1.0	
BANNOCK PAVING CO	36-7470	Decreed	04/26/1974	INDUSTRIAL	0.33	0.0	
BARKER, MALINDA S; BARKER, RANDY L	35-8808	License	09/14/1989	DOMESTIC, IRRIGATION	0.05	1.2	
BARNEY , SUSAN E; BARNEY , TERRY A	35-13769	Decreed	03/20/1956	IRRIGATION	0.01	1.4	
BARON, ROBERT M; BARON, SHIRLY E	35-4136	Decreed	09/15/1960	DOMESTIC, IRRIGATION, STOCKWATER	0.12	4.0	
BARRYMORE EST SUBDIVISION WATER USERS	36-8155	License	03/04/1983	DOMESTIC, STOCKWATER	0.07	0.0	
BARRYMORE, BLAKE; BARRYMORE, DEBORAH	37-8145	Decreed	07/07/1983	COMMERCIAL	0.17	0.0	
BARTAUSKY, ASHLEY; BARTAUSKY, EDWARD	35-8837	License	07/11/1989	IRRIGATION	1.54	77.0	
BARTAUSKY, CHERYL	27-7474	License	05/27/1989	IRRIGATION	0.06	7.0	
BARTAUSKY, CHERYL	27-7526	License	02/12/1991	IRRIGATION	0.04	7.0	
BARTAUSKY, GERALD	27-7456	License	03/28/2005	IRRIGATION	1.71	108.0	
BARTAUSKY, TOM	27-7404	License	04/08/1985	IRRIGATION	1.00	50.0	
BARTAUSKY, TOM	27-7432	License	07/10/1987	IRRIGATION	0.70	35.0	
BARTAUSKY, TOM; BLEAZARD, ELCY	27-12209	License	08/22/1991	IRRIGATION	0.11	5.3	
BARTHOLOMEW, DOROTHY G; BARTHOLOMEW, TIMOTHY D	37-7755	Decreed	12/04/1978	DOMESTIC, IRRIGATION	0.04	2.0	
BARTHOLOMEW, DOROTHY G; BARTHOLOMEW, TIMOTHY D	37-23002	Decreed	06/24/1980	IRRIGATION	0.05	2.5	
BARTHOLOMEW, KENT	36-8241	License	04/14/1984	DOMESTIC	0.06	0.0	
BARZEE, HEBER; BARZEE, JESSIE	31-7110	Decreed	02/13/1974	IRRIGATION	1.22	77.0	
BARZEE, LLOYD RAY	31-11406	Decreed	04/02/1962	IRRIGATION	0.28	129.4	
BARZEE, LLOYD RAY	31-12051	Decreed	04/02/1962	IRRIGATION	0.02	129.4	
BARZEE, LLOYD RAY	31-11398	Decreed	05/09/1962	IRRIGATION	0.89	129.4	
BARZEE, LLOYD RAY	31-12053	Decreed	05/09/1962	IRRIGATION	0.07	129.4	
BARZEE, LLOYD RAY	31-11404	Decreed	04/01/1969	IRRIGATION	0.25	129.4	Yes
BARZEE, LLOYD RAY	31-12055	Decreed	04/01/1969	IRRIGATION	0.02	129.4	Yes
BARZEE, LLOYD RAY	31-12044	Decreed	04/01/1972	IRRIGATION	0.52	136.0	Yes
BARZEE, LLOYD RAY	31-12045	Decreed	04/01/1972	IRRIGATION	0.21	129.4	Yes
BARZEE, LLOYD RAY	31-12046	Decreed	08/03/1972	IRRIGATION	1.91	136.0	
BARZEE, LLOYD RAY	31-12047	Decreed	08/03/1972	IRRIGATION	0.78	129.4	
BARZEE, LLOYD RAY	31-7175	Decreed	12/09/1975	IRRIGATION	2.27	128.0	
BARZEE, LLOYD RAY	31-12048	Decreed	07/31/1979	IRRIGATION	2.58	129.0	
BARZEE, LLOYD RAY	31-12049	Decreed	07/31/1979	IRRIGATION	0.28	129.4	

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BARZEE, LLOYD RAY	31-12360	Decreed	07/31/1979	IRRIGATION	1.02	51.0	
BARZEE, TIFFANY; SMITH BARZEE, VINCENT	31-11844	Decreed	03/12/1973	IRRIGATION	0.59	120.0	
BATEMAN, KIRK W; BYE, ANGELA L; CORBETT, AMANDA; CORBETT, JAMES; SAWYER, KENT H; TRUAX-BATEMAN, WENDY J	25-7639	License	04/25/1995	DOMESTIC	0.10	0.0	
BATT, ALAN C; BATT, MILLIE	25-7109	Decreed	05/02/1977	IRRIGATION	3.03	229.0	
BAXTER, CODY W; BAXTER, MYDONA N	36-7060	Decreed	05/12/1969	IRRIGATION	1.34	160.0	
BAXTER, CODY W; BAXTER, MYDONA N	36-7948	Decreed	11/21/1980	IRRIGATION	0.87	160.0	
BEAMES, JAN LYN; BEAMES, KIM BODILY	36-2299	Decreed	04/16/1956	IRRIGATION	2.20	320.0	
BEAMES, JAN LYN; BEAMES, KIM BODILY	36-2364	Decreed	11/17/1958	IRRIGATION	1.64	320.0	
BEAN, CONNIE; BEAN, THOMAS	27-7079	Decreed	03/14/1977	IRRIGATION	0.39	19.6	
BECKLEY, BONNIE B; BECKLEY, RON K	37-8138	Decreed	06/29/1983	COMMERCIAL, STOCKWATER	0.12	0.0	
BEEM, DONNA L; BEEM, KENNETH C	36-7695	Decreed	04/13/1977	IRRIGATION	1.00	50.0	
BELK, FLINT T; BELK, VAL	35-2680	Decreed	07/21/1961	IRRIGATION	0.64	32.0	
BELK, FLINT T; BELK, VAL	35-8749	License	04/07/1989	IRRIGATION	0.52	58.0	
BELNAP, DARRELL O; BELNAP, ELAINE	35-8217	License	06/20/1983	DOMESTIC, IRRIGATION	0.04	1.3	
BENDIXSEN, C LEE; BENDIXSEN, FLOYD N	35-7028	Decreed	05/27/1968	IRRIGATION	1.45	72.5	
BENNETT, CLARENE F; TATE, FRANCES N	35-8754	License	05/10/1989	DOMESTIC, IRRIGATION	0.09	2.5	
BENNETT, HAL; BENNETT, SARAH	25-14352	License	02/28/1992	IRRIGATION	0.01	0.2	
BENSON, BOYCE L	35-13238	Decreed	08/15/1961	IRRIGATION	0.14	7.0	Yes
BENSON, BOYCE L; BENSON, WILLIAM B	35-2684B	Decreed	08/15/1961	IRRIGATION	2.02	104.0	
BENSON, KERRY; BENSON, V BLAINE	35-7277	Decreed	04/05/1973	IRRIGATION	4.45	434.0	
BENSON, KERRY; BENSON, V BLAINE	35-7366	Decreed	01/10/1974	IRRIGATION	7.00	473.0	
BENSON, KERRY; BENSON, V BLAINE	35-7552	Decreed	12/02/1975	IRRIGATION	7.00	478.0	
BENSON, KERRY; BENSON, V BLAINE	35-13208	Decreed	07/21/1979	IRRIGATION	0.98	539.0	Yes
BENSON, KERRY; BENSON, VINCENT BLAINE	35-2449	Decreed	02/13/1956	IRRIGATION	5.50	396.0	
BENSON, NICHOLAS B; BENSON, SHERICE	35-2537	Decreed	05/29/1958	IRRIGATION	2.74	526.0	
BENSON, NICHOLAS B; BENSON, SHERICE	35-7033	Decreed	07/30/1968	IRRIGATION	3.56	526.0	
BENSON, NICHOLAS B; BENSON, SHERICE	35-7776	Decreed	01/24/1978	IRRIGATION	1.93	396.0	
BENSON, V BLAINE	35-13209	Decreed	07/25/1978	IRRIGATION	0.32	464.8	Yes
BENSON, WILLIAM B	35-7249	Decreed	09/20/1972	IRRIGATION	3.05	152.0	
BEORCHIA PROPERTIES & HOLDINGS LLC	36-8108	Decreed	08/16/1982	DOMESTIC, IRRIGATION, STOCKWATER	0.03	5.0	
BERGESON, ANGELA; BERGESON, KIM	35-14356	Decreed	06/21/1974	IRRIGATION	0.21	10.7	
BERGESON, CLEON D	35-7427	Decreed	06/21/1974	IRRIGATION	0.01	0.3	
BERGESON, CLEON D	35-7582	Decreed	02/10/1976	IRRIGATION	0.01	0.7	
BERGGREN, ANGELA; BERGGREN, DAVID; FINNIGAN, FRANK; FINNIGAN, MICHELLE	35-13472	Decreed	06/27/1983	DOMESTIC, IRRIGATION	0.04	1.0	
BEST CROP LLC	35-7450	Decreed	11/12/1974	IRRIGATION	3.55	203.0	
BHA INC; WAHOO INC	31-7408	License	06/16/1983	IRRIGATION	5.00	268.0	

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BIG SKY DAIRY	37-2679	Decreed	09/28/1962	IRRIGATION	4.78	310.0	
BIG SKY DAIRY	37-2687A	Decreed	03/08/1963	IRRIGATION	2.13	762.6	
BIG SKY DAIRY	36-2671C	Decreed	01/09/1967	COMMERCIAL, STOCKWATER	0.06	0.0	
BIG SKY DAIRY	36-2671G	Decreed	01/09/1967	COMMERCIAL, STOCKWATER	0.19	0.0	
BIG SKY DAIRY	36-2671K	Decreed	01/09/1967	IRRIGATION	0.70	451.3	
BIG SKY DAIRY	36-2671L	Decreed	01/09/1967	IRRIGATION	0.72	762.6	
BIG SKY DAIRY	37-7005	Decreed	11/22/1967	IRRIGATION	3.12	156.0	
BIG SKY DAIRY	36-7157D	Decreed	02/16/1971	COMMERCIAL, STOCKWATER	0.83	0.0	
BIG SKY DAIRY	37-20724	Decreed	02/16/1971	IRRIGATION	0.49	36.0	
BIG SKY DAIRY	37-20725	Decreed	02/16/1971	IRRIGATION	2.81	208.8	
BIG SKY DAIRY	37-20721	Decreed	01/10/1973	STOCKWATER	0.44	0.0	
BIG SKY DAIRY	37-22158	Decreed	01/10/1973	IRRIGATION	1.77	86.1	
BIG SKY DAIRY	37-22159	Decreed	01/10/1973	STOCKWATER	0.19	0.0	
BIG SKY DAIRY	37-7247	Decreed	07/10/1973	IRRIGATION	4.18	226.0	
BIG SKY DAIRY	36-7366A	Decreed	08/13/1973	IRRIGATION	2.83	141.5	
BIG SKY DAIRY	36-7366B	Decreed	08/13/1973	STOCKWATER	0.11	0.0	
BIG SKY DAIRY	36-7367C	Decreed	08/13/1973	COMMERCIAL, STOCKWATER	0.33	0.0	
BIG SKY DAIRY	36-7367G	Decreed	08/13/1973	COMMERCIAL, STOCKWATER	0.66	0.0	
BIG SKY DAIRY	36-7367K	Decreed	08/13/1973	IRRIGATION	2.62	451.3	
BIG SKY DAIRY	36-7367L	Decreed	08/13/1973	IRRIGATION	2.52	762.6	
BIG SKY DAIRY	37-7268	Decreed	08/23/1973	IRRIGATION	3.06	489.0	
BIG SKY DAIRY	36-7381C	Decreed	09/19/1973	COMMERCIAL, STOCKWATER	0.05	0.0	
BIG SKY DAIRY	36-7381G	Decreed	09/19/1973	COMMERCIAL, STOCKWATER	0.11	0.0	
BIG SKY DAIRY	36-7381K	Decreed	09/19/1973	IRRIGATION	0.43	451.3	
BIG SKY DAIRY	36-7381L	Decreed	09/19/1973	IRRIGATION	0.42	762.6	
BIG SKY DAIRY	36-7402	Decreed	11/08/1973	IRRIGATION	2.78	451.3	
BIG SKY DAIRY	36-7445C	Decreed	02/21/1974	COMMERCIAL, STOCKWATER	0.10	0.0	
BIG SKY DAIRY	36-7445G	Decreed	02/21/1974	COMMERCIAL, STOCKWATER	0.19	0.0	
BIG SKY DAIRY	36-7445K	Decreed	02/21/1974	IRRIGATION	0.77	451.3	
BIG SKY DAIRY	36-7445L	Decreed	02/21/1974	IRRIGATION	0.74	762.6	
BIG SKY DAIRY	37-8865	Decreed	03/25/1974	COMMERCIAL, STOCKWATER	0.24	0.0	
BIG SKY DAIRY	36-7480D	Decreed	05/31/1974	COMMERCIAL, STOCKWATER	0.21	0.0	
BIG SKY DAIRY	36-7480H	Decreed	05/31/1974	COMMERCIAL, STOCKWATER	0.43	0.0	
BIG SKY DAIRY	36-7480L	Decreed	05/31/1974	IRRIGATION	1.73	451.3	
BIG SKY DAIRY	36-7480M	Decreed	05/31/1974	IRRIGATION	1.66	762.6	
BIG SKY DAIRY	37-7440A	Decreed	05/31/1974	IRRIGATION	1.47	762.6	
BIG SKY DAIRY	37-7388	Decreed	09/30/1974	IRRIGATION	0.78	39.0	
BIG SKY DAIRY	37-7419B	Decreed	01/29/1975	IRRIGATION	0.14	7.0	

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BIG SKY DAIRY	37-7419C	Decreed	01/29/1975	IRRIGATION	2.02	762.6	
BIG SKY DAIRY	37-7805	Decreed	03/25/1975	IRRIGATION	0.78	39.0	
BIG SKY DAIRY	37-7435A	Decreed	04/22/1975	IRRIGATION	0.74	762.6	
BIG SKY DAIRY	37-7454	Decreed	09/08/1975	IRRIGATION	3.94	489.0	
BIG SKY DAIRY	37-7458A	Decreed	10/14/1975	IRRIGATION	1.25	145.0	
BIG SKY DAIRY	37-7488	Decreed	04/15/1976	IRRIGATION	1.98	99.0	
BIG SKY DAIRY	37-7602	Decreed	05/04/1977	IRRIGATION	2.62	489.0	
BIG SKY DAIRY	37-7639A	Decreed	07/08/1977	IRRIGATION	2.76	762.6	
BIG SKY DAIRY	37-20861	Decreed	01/01/1982	STOCKWATER	0.17	0.0	
BIG SKY DAIRY	37-8054	Decreed	07/01/1983	IRRIGATION	3.34	167.0	
BIG SKY DAIRY	37-8679	License	08/23/1990	IRRIGATION	0.16	489.0	
BIG SKY DAIRY	37-8751	License	06/11/1991	COMMERCIAL, DOMESTIC, STOCKWATER	0.11	0.0	
BIG SKY DAIRY	37-20862	Decreed	01/01/1992	STOCKWATER	0.07	0.0	
BIGLER, CARL E; BIGLER, CINDY M	37-8366	License	07/14/1988	DOMESTIC, IRRIGATION	0.06	0.8	
BINGHAM COUNTY	27-12304	Decreed	03/20/1959	IRRIGATION	0.12	12.0	
BINGHAM COUNTY	27-11978	Decreed	09/19/1977	IRRIGATION	2.98	149.0	
BINGHAM COUNTY	35-7814	Decreed	08/14/1978	DOMESTIC, IRRIGATION	0.16	4.5	
BINGHAM COUNTY	27-7572	License	09/21/1989	COMMERCIAL	0.13	0.0	
BINGHAM LAND & LIVESTOCK LLC	35-2645A	Decreed	04/23/1961	IRRIGATION	1.28	176.0	
BINGHAM LAND & LIVESTOCK LLC	35-2645B	Decreed	04/23/1961	IRRIGATION	1.48	116.0	
BINGHAM LAND & LIVESTOCK LLC	35-7181	Decreed	07/16/1971	IRRIGATION	4.53	232.0	
BINGHAM, CANDICE; BINGHAM, THOMAS H	37-7160	Decreed	09/14/1972	IRRIGATION	0.05	4.0	
BINGHAM, CHRISTINE; BINGHAM, DWIGHT R	37-2669	Decreed	07/06/1961	IRRIGATION	1.44	140.0	
BINGHAM, CONNIE	35-2494	Decreed	02/06/1957	IRRIGATION	4.16	277.0	
BINGHAM, JENNIFER; BINGHAM, JOSEPH	37-7221	Decreed	04/18/1973	COMMERCIAL, DOMESTIC	0.17	0.0	
BIRCH CREEK RANCHES LLC	32-10127	Decreed	12/26/1973	IRRIGATION	0.84	405.0	
BIRCH CREEK RANCHES LLC	32-7025	Decreed	12/26/1973	DOMESTIC, IRRIGATION, STOCKWATER	3.92	405.0	
BIRCH CREEK RANCHES LLC	32-7261	License	01/28/2000	IRRIGATION	1.40	405.0	
BIRCH FARMS REAL ESTATE LLC	32-13214	Decreed	06/22/1960	IRRIGATION	0.54	130.0	
BIRCH FARMS REAL ESTATE LLC	32-13208	Decreed	01/26/1966	IRRIGATION	0.64	130.0	
BIRCH FARMS REAL ESTATE LLC	32-13210	Decreed	01/26/1966	IRRIGATION	0.53	130.0	
BIRCH FARMS REAL ESTATE LLC	32-13241	Decreed	10/03/1988	IRRIGATION	0.83	501.6	
BIRCH FARMS REAL ESTATE LLC	32-13242	Decreed	10/03/1988	IRRIGATION	6.92	501.6	
BIRD, EILEEN	31-2334C	Decreed	09/04/1954	IRRIGATION	0.50	100.0	
BIRD, EILEEN	31-2355	Decreed	07/09/1956	IRRIGATION	0.80	100.0	
BIRD, EILEEN	31-10231	Decreed	04/01/1957	IRRIGATION	1.16	158.0	
BIRD, EILEEN	31-2393	Decreed	08/10/1961	IRRIGATION	0.70	100.0	
BISHOP, JEREMY KEITH; BISHOP, MICHELLE	35-14393	Decreed	01/27/1976	IRRIGATION	0.03	2.0	

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BISHOP, JEREMY KEITH; BISHOP, MICHELLE	35-14394	Decreed	10/31/1986	IRRIGATION	0.01	2.0	Yes
BITTER PROPERTIES LLC; BITTER, BETTY ANN; BITTER, DAREN O; BITTER, KATHLEEN ; BITTER, KENT O	31-2394	Decreed	10/02/1961	IRRIGATION	6.60	330.0	
BITTER PROPERTIES LLC; BITTER, BETTY ANN; BITTER, DAREN O; BITTER, KATHLEEN ; BITTER, KENT O	31-7090	Decreed	07/20/1973	IRRIGATION	3.04	152.0	
BITTER PROPERTIES LLC; BITTER, BETTY ANN; BITTER, DAREN O; BITTER, KATHLEEN ; BITTER, KENT O	31-7115	Decreed	03/13/1974	IRRIGATION	3.04	152.0	
BITTER, DAREN O; BITTER, HARVARD A; BITTER, KENT O	31-2375A	Decreed	10/10/1960	IRRIGATION	4.77	481.0	
BJAN INC	35-2627	Decreed	12/30/1960	IRRIGATION	10.78	643.0	
BL SQUARED LLC	35-2787	Decreed	07/21/1965	IRRIGATION	6.14	734.0	
BL SQUARED LLC	35-13803	Decreed	02/01/1967	IRRIGATION	6.84	754.0	
BL SQUARED LLC	35-13211	Decreed	04/23/1968	IRRIGATION	0.21	734.0	Yes
BL SQUARED LLC	35-7025	Decreed	05/14/1968	IRRIGATION	1.47	754.0	
BLACK BUTTE HILLS LLC	36-2304	Decreed	06/26/1956	IRRIGATION	1.60	180.0	
BLACK BUTTE HILLS LLC	36-15233	Decreed	04/06/1980	IRRIGATION	0.73	180.0	Yes
BLACKFOOT SCHOOL DISTRICT #55	35-4247	Decreed	04/01/1955	DOMESTIC, IRRIGATION	0.07	4.5	
BLACKFOOT SCHOOL DISTRICT #55	27-4148	Decreed	07/01/1961	IRRIGATION	0.67	33.4	
BLACKFOOT SCHOOL DISTRICT #55	27-7047	Decreed	11/06/1974	IRRIGATION	0.42	21.0	
BLACKFOOT SCHOOL DISTRICT #55	27-11964	License	09/19/2003	IRRIGATION	0.12	4.1	
BLAINE COUNTY SCHOOL DISTRICT #61	37-21742	License	04/17/2006	IRRIGATION	0.70	8.7	
BLAINE COUNTY SCHOOL DISTRICT #61	37-23102		02/20/2018	IRRIGATION	0.38	4.8	
BLAKE, AMANDA	35-14013	License	02/19/2010	RECREATION STORAGE	0.00	0.0	
BLALACK, JOANN K; SCHMIDT, CHESTER A	36-8208	Decreed	05/20/1985	DOMESTIC, IRRIGATION	0.10	2.0	
BLF LAND LLC	31-2426E	Decreed	08/11/1966	IRRIGATION	0.79	47.1	
BLF LAND LLC	31-11780	Decreed	01/08/1973	IRRIGATION	4.35	343.1	
BLF LAND LLC	31-12056	Decreed	01/08/1973	IRRIGATION	5.72	305.0	
BLF LAND LLC	31-12058	Decreed	01/08/1973	IRRIGATION	3.52	280.7	
BLF LAND LLC	31-12110	Decreed	01/08/1973	IRRIGATION	5.46	291.0	
BLF LAND LLC	31-12112	Decreed	01/08/1973	IRRIGATION	2.78	139.0	
BLF LAND LLC	31-7233B	Decreed	03/11/1977	IRRIGATION	0.80	54.0	
BLF LAND LLC	31-11782	Decreed	12/22/1978	IRRIGATION	2.92	343.1	
BLICK, PHILIP J	36-7291A	License	03/13/1973	IRRIGATION	1.17	69.0	
BLIGHT, MARY; BLIGHT, MICHAEL	35-14304	Decreed	03/04/1974	IRRIGATION	0.12	3.6	
BLINCOE FARMS INC	36-7413	Decreed	11/30/1973	IRRIGATION	5.18	960.0	
BLINCOE FARMS INC	36-15362	Decreed	04/01/1981	IRRIGATION	2.80	960.0	Yes
BLISS LLC	37-7194	Decreed	01/12/1973	IRRIGATION	1.40	70.0	
BLISS LLC	37-7381	Decreed	09/11/1974	IRRIGATION	0.80	40.0	
BLISS LLC	37-7761A	Decreed	05/08/1980	DOMESTIC, STOCKWATER	0.07	0.0	

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BLISS LLC	37-7761B	Decreed	05/08/1980	IRRIGATION	1.21	146.0	
BLISS, GARY B	36-8459	License	09/22/1989	IRRIGATION	0.04	2.4	
BLUE SAGE PROPERTIES LLC	36-2612A	Decreed	05/06/1965	IRRIGATION	2.74	240.4	
BLUE SAGE PROPERTIES LLC	36-2612B	Decreed	05/06/1965	COMMERCIAL, STOCKWATER	0.90	0.0	
BLUE SAGE PROPERTIES LLC	36-8264	Decreed	06/30/1969	DOMESTIC, STOCKWATER	0.10	0.0	
BLUE SAGE PROPERTIES LLC	36-7109	Decreed	12/03/1969	IRRIGATION, STOCKWATER	0.27	14.0	
BLUE SAGE PROPERTIES LLC	36-7292	Decreed	01/23/1973	STOCKWATER	0.28	0.0	
BLUE SAGE PROPERTIES LLC	36-17170	Decreed	10/28/1977	IRRIGATION	0.03	5.3	
BLUE SAGE PROPERTIES LLC	36-16683	License	02/26/1980	IRRIGATION	17.61	1151.5	
BLUE SAGE PROPERTIES LLC	36-16684	License	02/26/1980	COMMERCIAL, STOCKWATER	0.37	0.0	
BLUE SAGE PROPERTIES LLC	36-17074	License	02/26/1980	COMMERCIAL, STOCKWATER	0.74	0.0	
BLUE SAGE PROPERTIES LLC	36-17075	License	02/26/1980	IRRIGATION	0.04	240.4	
BLUE SAGE PROPERTIES LLC	36-7894B	License	02/26/1980	COMMERCIAL, STOCKWATER	0.31	0.0	
BLUE SAGE PROPERTIES LLC	36-7906A	Decreed	03/26/1980	IRRIGATION	0.35	240.4	
BLUE SAGE PROPERTIES LLC	36-7906B	Decreed	03/26/1980	COMMERCIAL, STOCKWATER	0.11	0.0	
BLUE SAGE PROPERTIES LLC	36-8417	License	03/01/1989	DOMESTIC, STOCKWATER	0.76	0.0	
BLUE SAGE PROPERTIES LLC	36-8468	License	09/26/1989	COMMERCIAL	0.86	0.0	
BOARD OF REGENTS OF THE UNIVERSITY OF IDAHO; STATE OF IDAHO	36-7932	Decreed	08/14/1980	IRRIGATION	0.80	40.0	
BOARD OF REGENTS OF THE UNIVERSITY OF IDAHO; STATE OF IDAHO	36-16800	License	04/21/1989	IRRIGATION	1.23	126.7	
BODKIN, SHAUNA; BODKIN, STUART	35-14611	Decreed	11/21/1977	IRRIGATION	0.03	1.5	
BOEHM POTATO FARM LLC	35-14269	License	01/14/1983	IRRIGATION	1.43	130.0	
BOER DAIRY LLC	36-16906	Decreed	07/18/1973	IRRIGATION	1.14	920.0	
BOER DAIRY LLC	36-7617	Decreed	03/11/1976	IRRIGATION	10.00	920.0	
BOER JR, ADRIAN K; BOER, LINDA M; NORTHWEST FARM CREDIT SERVICES FLCA	36-8359	License	06/15/1988	COMMERCIAL, STOCKWATER	0.29	0.0	
BOER, JEANNA J; BOER, KENNETH W; BOER, KEVIN S; BOER, STACY L; K & K REAL ESTATE LLC	36-2289M	Decreed	12/02/1955	IRRIGATION	0.16	1009.6	
BOER, JEANNA J; BOER, KENNETH W; BOER, KEVIN S; BOER, STACY L; K & K REAL ESTATE LLC	36-2311D	Decreed	11/23/1956	COMMERCIAL, STOCKWATER	0.12	0.0	
BOER, JEANNA J; BOER, KENNETH W; BOER, KEVIN S; BOER, STACY L; K & K REAL ESTATE LLC	36-2311K	Decreed	11/23/1956	IRRIGATION	1.24	1009.6	
BOER, JEANNA J; BOER, KENNETH W; BOER, KEVIN S; BOER, STACY L; K & K REAL ESTATE LLC	36-2500D	Decreed	07/18/1961	COMMERCIAL, STOCKWATER	0.08	0.0	
BOER, JEANNA J; BOER, KENNETH W; BOER, KEVIN S; BOER, STACY L; K & K REAL ESTATE LLC	36-2500K	Decreed	07/18/1961	IRRIGATION	0.82	1009.6	
BOER, JEANNA J; BOER, KENNETH W; BOER, KEVIN S; BOER, STACY L; K & K REAL ESTATE LLC	36-2614D	Decreed	06/07/1965	COMMERCIAL, STOCKWATER	0.16	0.0	

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BOER, JEANNA J; BOER, KENNETH W; BOER, KEVIN S; BOER, STACY L; K & K REAL ESTATE LLC	36-2614K	Decreed	06/07/1965	IRRIGATION	1.69	1009.6	
BOER, JEANNA J; BOER, KENNETH W; BOER, KEVIN S; BOER, STACY L; K & K REAL ESTATE LLC	36-15169D	Decreed	12/11/1969	COMMERCIAL, STOCKWATER	0.56	0.0	
BOER, JEANNA J; BOER, KENNETH W; BOER, KEVIN S; BOER, STACY L; K & K REAL ESTATE LLC	36-15169K	Decreed	12/11/1969	IRRIGATION	5.76	1009.6	
BOER, JEANNA J; BOER, KENNETH W; BOER, KEVIN S; BOER, STACY L; K & K REAL ESTATE LLC	36-7307D	Decreed	02/26/1973	COMMERCIAL, STOCKWATER	0.13	0.0	
BOER, JEANNA J; BOER, KENNETH W; BOER, KEVIN S; BOER, STACY L; K & K REAL ESTATE LLC	36-7307K	Decreed	02/26/1973	IRRIGATION	1.27	1009.6	
BOER, JEANNA J; BOER, KENNETH W; BOER, KEVIN S; BOER, STACY L; K & K REAL ESTATE LLC	36-7362D	Decreed	08/02/1973	COMMERCIAL, STOCKWATER	0.20	0.0	
BOER, JEANNA J; BOER, KENNETH W; BOER, KEVIN S; BOER, STACY L; K & K REAL ESTATE LLC	36-7362K	Decreed	08/02/1973	IRRIGATION	2.05	1009.6	
BOER, JEANNA J; BOER, KENNETH W; BOER, KEVIN S; BOER, STACY L; K & K REAL ESTATE LLC	36-7477D	Decreed	05/28/1974	COMMERCIAL, STOCKWATER	0.06	0.0	
BOER, JEANNA J; BOER, KENNETH W; BOER, KEVIN S; BOER, STACY L; K & K REAL ESTATE LLC	36-7477K	Decreed	05/28/1974	IRRIGATION	0.66	1009.6	
BOER, JEANNA J; BOER, KENNETH W; BOER, KEVIN S; BOER, STACY L; K & K REAL ESTATE LLC	36-7606D	Decreed	02/04/1976	COMMERCIAL, STOCKWATER	0.06	0.0	
BOER, JEANNA J; BOER, KENNETH W; BOER, KEVIN S; BOER, STACY L; K & K REAL ESTATE LLC	36-7606K	Decreed	02/04/1976	IRRIGATION	0.61	1009.6	
BOER, JEANNA J; BOER, KENNETH W; BOER, KEVIN S; BOER, STACY L; K & K REAL ESTATE LLC	36-7779D	Decreed	02/22/1978	COMMERCIAL, STOCKWATER	0.19	0.0	
BOER, JEANNA J; BOER, KENNETH W; BOER, KEVIN S; BOER, STACY L; K & K REAL ESTATE LLC	36-7779K	Decreed	02/22/1978	IRRIGATION	1.93	1009.6	
BOER, JEANNA J; BOER, KENNETH W; BOER, KEVIN S; BOER, STACY L; K & K REAL ESTATE LLC	36-7832D	Decreed	12/11/1978	COMMERCIAL, STOCKWATER	0.02	0.0	
BOER, JEANNA J; BOER, KENNETH W; BOER, KEVIN S; BOER, STACY L; K & K REAL ESTATE LLC	36-7832K	Decreed	12/11/1978	IRRIGATION	0.16	1009.6	
BOER, JEANNA J; BOER, KENNETH W; BOER, KEVIN S; BOER, STACY L; K & K REAL ESTATE LLC	36-10225D	Decreed	05/01/1985	COMMERCIAL, STOCKWATER	0.06	0.0	
BOER, JEANNA J; BOER, KENNETH W; BOER, KEVIN S; BOER, STACY L; K & K REAL ESTATE LLC	36-10225K	Decreed	05/01/1985	IRRIGATION	0.58	1009.6	Yes
BOKMA, FLORA; BOKMA, HARRY B	36-16920	Decreed	08/22/1961	IRRIGATION	1.19	84.3	
BOKMA, FLORA; BOKMA, HARRY B	36-16921	Decreed	08/22/1961	COMMERCIAL, STOCKWATER	0.27	0.0	
BOKMA, FLORA; BOKMA, HARRY B	36-8662	License	05/26/1992	COMMERCIAL, STOCKWATER	0.18	0.0	
BOLDT, LAWRENCE P; BOLDT, MARCY M	45-7370	Decreed	01/24/1979	IRRIGATION, STOCKWATER	0.11	5.6	
BOLLAY, DENISON; BOLLAY, TAMI	36-17200	Decreed	06/07/1968	IRRIGATION	0.12	5.8	
BONAWITZ, DANI; BONAWITZ, DUKE	36-8065	Decreed	02/17/1982	DOMESTIC, IRRIGATION	0.12	5.0	

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BONNEVILLE SCHOOL DISTRICT #93	25-7594	License	05/23/1991	IRRIGATION	0.80	8.0	
BONNIE B HEPWORTH TRUST; WILLIAM M HEPWORTH TRUST	45-13775	Decreed	09/06/1962	IRRIGATION	0.80	308.0	
BONNIE BARTON BANDY IRREVOCABLE TRUST	36-17003	Decreed	03/13/1956	IRRIGATION	0.01	0.5	
BOOL FARMS LLC	35-13825	Decreed	02/09/1961	IRRIGATION	1.05	568.0	
BOOL FARMS LLC	35-13827	Decreed	03/25/1964	IRRIGATION	1.47	568.0	
BOOL FARMS LLC	35-2811A	Decreed	02/15/1966	IRRIGATION	5.17	463.0	
BOOL FARMS LLC	35-2811B	Decreed	02/15/1966	IRRIGATION	1.26	520.0	
BOOL FARMS LLC	35-13829	Decreed	07/01/1975	IRRIGATION	2.10	568.0	
BOOL FARMS LLC	35-13831	Decreed	08/15/1975	IRRIGATION	1.47	568.0	
BOOL FARMS LLC	35-13833	Decreed	08/15/1975	IRRIGATION	1.52	568.0	
BOOL FARMS LLC	35-13835	Decreed	08/27/1976	IRRIGATION	1.50	568.0	
BOOL FARMS LLC	35-13807	Decreed	06/11/1977	IRRIGATION	3.09	342.0	
BOOL FARMS LLC	35-13809	Decreed	06/11/1977	IRRIGATION	2.17	342.0	
BOOL FARMS LLC	35-13837	Decreed	08/15/1977	IRRIGATION	0.32	568.0	
BOOL FARMS LLC	35-7715	Decreed	11/02/1977	IRRIGATION	3.83	520.0	
BOOT JACK DAIRY PARTNERSHIP	37-2626	Decreed	12/01/1959	IRRIGATION	1.63	277.4	
BOOT JACK DAIRY PARTNERSHIP	37-20395	Decreed	03/16/1982	IRRIGATION	2.10	277.4	
BOOTJACK LTD PARTNERSHIP	37-20396	Decreed	03/16/1982	COMMERCIAL, STOCKWATER	0.08	0.0	
BOOTJACK LTD PARTNERSHIP	37-8361	License	06/16/1988	COMMERCIAL	0.03	0.0	
BORAH CAPITAL LTD	35-7274	Decreed	01/22/1973	IRRIGATION	1.22	93.0	
BORAH PEAK FARMS LLC	36-2294	Decreed	02/09/1956	IRRIGATION	4.12	618.0	
BORAH PEAK FARMS LLC	36-2305	Decreed	07/12/1956	IRRIGATION	4.40	274.0	
BORAH PEAK FARMS LLC	36-16243	Decreed	05/11/1957	IRRIGATION	5.89	538.1	
BORAH PEAK FARMS LLC	36-16241	Decreed	06/11/1957	IRRIGATION	1.98	538.1	
BORAH PEAK FARMS LLC	36-2343	Decreed	01/06/1958	IRRIGATION	3.57	286.0	
BORAH PEAK FARMS LLC	36-2459	Decreed	01/09/1961	IRRIGATION	3.25	254.0	
BORAH PEAK FARMS LLC	36-2546	Decreed	08/22/1962	IRRIGATION	4.90	618.0	
BORAH PEAK FARMS LLC	36-2581	Decreed	11/14/1963	IRRIGATION	4.40	303.0	
BORAH PEAK FARMS LLC	36-14394	Decreed	06/28/1967	IRRIGATION	0.16	618.0	Yes
BORAH PEAK FARMS LLC	36-7403	Decreed	11/08/1973	IRRIGATION	1.35	632.0	
BORAH PEAK FARMS LLC	36-14285	Decreed	05/01/1977	IRRIGATION	0.32	274.0	Yes
BORAH PEAK FARMS LLC	36-8133	License	12/31/1982	IRRIGATION	0.21	632.0	
BOTT, BRIAN; BOTT, KELLI	36-16621	Decreed	07/03/1974	IRRIGATION	2.32	135.0	
BOWMAN, GARY F	37-7465B	License	12/01/1975	IRRIGATION	2.22	132.0	
BOX CANYON LAND HOLDINGS LLC	36-7610	Decreed	02/27/1976	IRRIGATION	2.40	120.0	
BOYCE, BONNIE	35-8676	License	11/15/1988	IRRIGATION	0.04	1.2	
BPOE #2106	36-13579	Decreed	08/01/1960	COMMERCIAL	0.08	0.0	
BPOE #2106	36-13580	Decreed	08/01/1960	IRRIGATION	0.96	70.0	

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BRADBURY, ANDREW; BRADBURY, REBECCA	27-7340	Decreed	01/13/1983	DOMESTIC, IRRIGATION	0.09	1.5	
BRADLEY, DAWN ANN; BRADLEY, R BRUCE	36-8112	Decreed	09/07/1982	COMMERCIAL, DOMESTIC, IRRIGATION	0.04	1.0	
BRADLEY, ROBERT V	27-7425	License	08/23/1982	DOMESTIC, IRRIGATION, STOCKWATER	0.06	1.0	
BRANCA III, JOHN C	35-14650	Decreed	04/22/1979	IRRIGATION	0.32	16.0	
BRANCHFLOWER, KATHERINE L; BRANCHFLOWER, MICHAEL G	36-8581	License	03/13/1991	IRRIGATION	0.74	39.0	
BRANDSMA FAMILY TRUST	36-7032	Decreed	09/14/1968	IRRIGATION	2.56	340.9	
BRANDSMA FAMILY TRUST	36-7336	Decreed	08/08/1986	IRRIGATION	0.88	340.9	
BRANDSMA, DEBRA K; BRANDSMA, KENNETH A	36-7513	Decreed	11/29/1974	IRRIGATION	1.73	152.0	
BRANDSMA, DEBRA K; BRANDSMA, KENNETH A	36-7576	Decreed	11/17/1975	IRRIGATION	1.97	140.0	
BRANDSMA, DEBRA K; BRANDSMA, KENNETH A	36-8252D	License	10/17/1984	COMMERCIAL, STOCKWATER	0.18	0.0	
BRANDSMA, DEBRA K; BRANDSMA, KENNETH A	36-8787	License	01/22/1999	IRRIGATION	1.05	152.0	
BRANIN, KEVIN; BRANIN, VIRGINIA	27-12158	Decreed	09/11/1974	IRRIGATION	0.02	1.0	
BRASIER, DIANE H; BRASIER, DOUGLAS	25-14354	License	02/28/1992	IRRIGATION	0.01	0.3	
BRENT STOLWORTHY FAMILY LTD PARTNERS	35-9054	License	10/18/1995	IRRIGATION	0.28	150.5	
BRENT STOLWORTHY FAMILY LTD PARTNERSHIP	35-2759	Decreed	02/10/1965	IRRIGATION	11.93	726.0	
BRENT STOLWORTHY FAMILY LTD PARTNERSHIP	35-13067	Decreed	04/01/1973	IRRIGATION	1.45	726.0	Yes
BRENT STOLWORTHY FAMILY LTD PARTNERSHIP	35-8799	License	06/09/1989	IRRIGATION	2.29	150.5	
BRENT STOLWORTHY FAMILY LTD PARTNERSHIP	35-8800	License	06/09/1989	IRRIGATION	3.00	196.5	
BRENT STOLWORTHY FAMILY LTD PARTNERSHIP	35-9053	License	10/18/1995	IRRIGATION	0.43	196.5	
BRETZ, WAYNE E	37-7376	Decreed	08/14/1974	DOMESTIC, IRRIGATION, STOCKWATER	0.09	5.0	
BRINEGAR INVESTMENTS LLLP	36-7113	Decreed	01/30/1970	IRRIGATION	3.27	314.0	
BROADHEAD, JUDY	27-11970	Decreed	10/08/1981	IRRIGATION	1.05	78.0	
BROOKHAVEN SUBDIVISION	25-7276	Decreed	02/11/1982	DOMESTIC, IRRIGATION	0.29	7.0	
BROUGH, SHERRY K; BROUGH, WILDE F	36-16697	Decreed	07/12/1964	IRRIGATION	0.16	18.0	
BROWN ALPHA II LLC	31-12133	Decreed	10/25/1954	IRRIGATION	0.12	303.1	
BROWN ALPHA II LLC	31-12205	Decreed	04/18/1958	IRRIGATION	0.07	218.6	
BROWN ALPHA II LLC	31-12135	Decreed	02/20/1959	IRRIGATION	0.04	303.1	
BROWN ALPHA II LLC	31-12127	Decreed	08/11/1966	IRRIGATION	0.39	303.1	
BROWN ALPHA II LLC	31-12105	Decreed	04/03/1969	IRRIGATION	0.27	303.1	
BROWN ALPHA II LLC	31-12151	Decreed	07/07/1969	IRRIGATION	0.05	303.1	
BROWN ALPHA II LLC	31-12207	Decreed	03/09/1970	IRRIGATION	0.08	218.6	
BROWN ALPHA II LLC	31-12123	Decreed	05/11/1970	IRRIGATION	0.16	303.1	
BROWN ALPHA II LLC	31-12125	Decreed	05/11/1970	IRRIGATION	0.16	303.1	
BROWN ALPHA II LLC	31-7034AA	Decreed	05/11/1970	IRRIGATION	1.28	185.0	
BROWN ALPHA II LLC	31-7037C	Decreed	06/08/1970	IRRIGATION	0.24	59.5	
BROWN ALPHA II LLC	31-7038B	Decreed	06/08/1970	IRRIGATION	0.31	59.5	
BROWN ALPHA II LLC	31-12209	Decreed	01/22/1971	IRRIGATION	0.32	218.6	
BROWN ALPHA II LLC	31-12111	Decreed	01/08/1973	IRRIGATION	0.54	303.1	

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BROWN ALPHA II LLC	31-12113	Decreed	01/08/1973	IRRIGATION	0.24	303.1	
BROWN ALPHA II LLC	31-12131	Decreed	09/18/1973	IRRIGATION	0.12	303.1	
BROWN ALPHA II LLC	31-12184	Decreed	10/10/1973	IRRIGATION	0.93	123.0	
BROWN ALPHA II LLC	31-12185	Decreed	10/10/1973	IRRIGATION	0.13	34.0	
BROWN ALPHA II LLC	31-12106	Decreed	02/20/1974	IRRIGATION, STOCKWATER	2.71	143.3	
BROWN ALPHA II LLC	31-12107	Decreed	02/20/1974	IRRIGATION	0.20	303.1	
BROWN ALPHA II LLC	31-12142	Decreed	02/20/1974	IRRIGATION, STOCKWATER	2.04	115.0	
BROWN ALPHA II LLC	31-12143	Decreed	02/20/1974	IRRIGATION	0.38	303.1	
BROWN ALPHA II LLC	31-12191	Decreed	03/18/1974	IRRIGATION	0.26	19.0	
BROWN ALPHA II LLC	31-12186	Decreed	06/14/1974	IRRIGATION	1.24	123.0	
BROWN ALPHA II LLC	31-12187	Decreed	06/14/1974	IRRIGATION	0.17	34.0	
BROWN ALPHA II LLC	31-7127	Decreed	07/25/1974	IRRIGATION	6.24	481.0	
BROWN ALPHA II LLC	31-12179	Decreed	01/24/1975	IRRIGATION	1.25	92.0	
BROWN ALPHA II LLC	31-12188	Decreed	01/24/1975	IRRIGATION	0.59	41.0	
BROWN ALPHA II LLC	31-12189	Decreed	01/24/1975	IRRIGATION	0.06	19.0	
BROWN ALPHA II LLC	31-11978	Decreed	01/31/1975	IRRIGATION	1.79	124.0	
BROWN ALPHA II LLC	31-11979	Decreed	01/31/1975	IRRIGATION	0.11	122.0	
BROWN ALPHA II LLC	31-11980	Decreed	01/31/1975	IRRIGATION	1.73	120.0	
BROWN ALPHA II LLC	31-11981	Decreed	01/31/1975	IRRIGATION	0.17	122.0	
BROWN ALPHA II LLC	31-7158C	Decreed	01/31/1975	IRRIGATION	1.90	122.0	
BROWN ALPHA II LLC	31-12119	Decreed	01/02/1976	IRRIGATION	0.18	303.1	
BROWN ALPHA II LLC	31-12149	Decreed	01/02/1976	IRRIGATION	0.10	303.1	
BROWN ALPHA II LLC	31-12096	Decreed	01/26/1976	IRRIGATION	1.80	119.0	
BROWN ALPHA II LLC	31-12211	Decreed	06/11/1976	IRRIGATION	0.15	218.6	
BROWN ALPHA II LLC	31-12411	Decreed	06/11/1976	IRRIGATION	0.12	33.0	
BROWN ALPHA II LLC	31-11784	Decreed	07/29/1976	IRRIGATION	5.68	381.1	
BROWN ALPHA II LLC	31-7202B	Decreed	07/29/1976	IRRIGATION	2.42	481.0	
BROWN ALPHA II LLC	31-12183	Decreed	08/20/1976	IRRIGATION	0.34	34.0	
BROWN ALPHA II LLC	31-12117	Decreed	11/12/1976	IRRIGATION	0.24	303.1	
BROWN ALPHA II LLC	31-12014	Decreed	02/24/1977	IRRIGATION	2.00	121.4	
BROWN ALPHA II LLC	31-12114	Decreed	02/24/1977	IRRIGATION	2.03	123.3	
BROWN ALPHA II LLC	31-12115	Decreed	02/24/1977	IRRIGATION	0.14	303.1	
BROWN ALPHA II LLC	31-12144	Decreed	02/24/1977	IRRIGATION	2.03	123.7	
BROWN ALPHA II LLC	31-12145	Decreed	02/24/1977	IRRIGATION	0.14	303.1	
BROWN ALPHA II LLC	31-12146	Decreed	02/24/1977	IRRIGATION	2.03	123.7	
BROWN ALPHA II LLC	31-12147	Decreed	02/24/1977	IRRIGATION	0.14	303.1	
BROWN ALPHA II LLC	31-12410	Decreed	02/24/1977	IRRIGATION	0.10	33.0	
BROWN ALPHA II LLC	31-12408	Decreed	03/02/1977	IRRIGATION	0.19	33.0	

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BROWN ALPHA II LLC	31-7222B	Decreed	03/02/1977	IRRIGATION	0.42	59.5	
BROWN ALPHA II LLC	31-12090	Decreed	03/03/1977	IRRIGATION	2.10	119.0	
BROWN ALPHA II LLC	31-12212	Decreed	03/03/1977	IRRIGATION	2.04	119.4	
BROWN ALPHA II LLC	31-12213	Decreed	03/03/1977	IRRIGATION	0.08	218.6	
BROWN ALPHA II LLC	31-7220B	Decreed	03/10/1977	IRRIGATION	1.26	122.0	
BROWN ALPHA II LLC	31-12092	Decreed	03/11/1977	IRRIGATION	1.62	119.0	
BROWN ALPHA II LLC	31-12094	Decreed	03/11/1977	IRRIGATION	1.84	123.0	
BROWN ALPHA II LLC	31-7242	Decreed	03/11/1977	IRRIGATION	1.74	119.1	
BROWN ALPHA II LLC	31-11352	Decreed	09/06/1977	IRRIGATION	0.12	119.0	Yes
BROWN ALPHA II LLC	31-12012	Decreed	11/01/1977	IRRIGATION	1.88	115.4	
BROWN ALPHA II LLC	31-12409	Decreed	11/01/1977	IRRIGATION	0.12	33.0	
BROWN ALPHA II LLC	31-7613	Decreed	05/02/1978	IRRIGATION	0.57	218.6	
BROWN ALPHA II LLC	31-7616	Decreed	05/02/1978	IRRIGATION	0.37	218.6	
BROWN ALPHA II LLC	31-12109	Decreed	05/10/1978	IRRIGATION	0.14	303.1	
BROWN ALPHA II LLC	31-12129	Decreed	05/10/1978	IRRIGATION	0.07	303.1	
BROWN ALPHA II LLC	31-7302B	Decreed	06/23/1978	IRRIGATION	1.01	185.0	
BROWN ALPHA II LLC	31-12412	Decreed	07/15/1981	IRRIGATION	0.02	33.0	Yes
BROWN ALPHA II LLC	31-7373	Decreed	02/22/1982	IRRIGATION	0.11	115.0	
BROWN ALPHA II LLC	31-12171	Decreed	03/11/1982	IRRIGATION	0.13	303.1	
BROWN ALPHA II LLC	31-12172	Decreed	03/11/1982	IRRIGATION	0.08	303.1	
BROWN ALPHA II LLC	31-7630	Decreed	04/23/1983	IRRIGATION	0.78	303.1	
BROWN ALPHA II LLC	31-7605	Decreed	03/29/1984	IRRIGATION	0.75	218.6	
BROWN ALPHA II LLC	31-7607	Decreed	03/29/1984	IRRIGATION	0.95	218.6	
BROWN ALPHA II LLC	31-7423	License	04/25/1984	IRRIGATION	0.20	481.0	
BROWN ALPHA II LLC	31-12121	License	07/27/1985	IRRIGATION	0.20	303.1	
BROWN ALPHA II LLC	31-7608	Decreed	06/01/1987	IRRIGATION	0.38	218.6	
BROWN DELTA II, LLC	31-2365E	Decreed	04/18/1958	IRRIGATION	0.62	124.5	
BROWN DELTA II, LLC	31-2374B	Decreed	02/20/1959	IRRIGATION	0.18	124.5	
BROWN DELTA II, LLC	31-2405B	Decreed	05/02/1963	IRRIGATION	0.22	124.5	
BROWN DELTA II, LLC	31-11779	Decreed	02/17/1969	IRRIGATION	2.57	197.4	
BROWN DELTA II, LLC	31-11910	Decreed	07/07/1969	IRRIGATION	0.80	81.8	
BROWN DELTA II, LLC	31-12150	Decreed	07/07/1969	IRRIGATION	0.61	124.5	
BROWN DELTA II, LLC	31-11996	Decreed	05/11/1970	IRRIGATION	1.61	120.0	
BROWN DELTA II, LLC	31-11997	Decreed	05/11/1970	IRRIGATION	0.05	43.1	
BROWN DELTA II, LLC	31-7034AB	Decreed	05/11/1970	IRRIGATION	0.94	63.0	
BROWN DELTA II, LLC	31-7034AC	Decreed	05/11/1970	IRRIGATION	1.67	114.0	
BROWN DELTA II, LLC	31-7034AD	Decreed	05/11/1970	IRRIGATION	2.70	184.0	
BROWN DELTA II, LLC	31-7034AE	Decreed	05/11/1970	IRRIGATION	1.54	122.0	

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BROWN DELTA II, LLC	31-7034AF	Decreed	05/11/1970	IRRIGATION	1.79	121.0	
BROWN DELTA II, LLC	31-7034AG	Decreed	05/11/1970	IRRIGATION	0.64	122.0	
BROWN DELTA II, LLC	31-7034V	Decreed	05/11/1970	IRRIGATION	1.80	122.0	
BROWN DELTA II, LLC	31-7034W	Decreed	05/11/1970	IRRIGATION	2.41	164.0	
BROWN DELTA II, LLC	31-7034X	Decreed	05/11/1970	IRRIGATION	1.83	124.0	
BROWN DELTA II, LLC	31-7034Z	Decreed	05/11/1970	IRRIGATION	1.78	121.0	
BROWN DELTA II, LLC	31-7044B	Decreed	01/11/1971	IRRIGATION	0.21	127.4	
BROWN DELTA II, LLC	31-11739	Decreed	07/29/1971	IRRIGATION	0.27	184.5	
BROWN DELTA II, LLC	31-11918	Decreed	07/29/1971	IRRIGATION	0.10	76.9	
BROWN DELTA II, LLC	31-11920	Decreed	07/29/1971	IRRIGATION	0.08	76.9	
BROWN DELTA II, LLC	31-11922	Decreed	07/29/1971	IRRIGATION	0.17	76.9	
BROWN DELTA II, LLC	31-7052P	Decreed	07/29/1971	IRRIGATION	0.81	114.0	
BROWN DELTA II, LLC	31-11995	Decreed	01/08/1973	IRRIGATION	0.10	43.1	
BROWN DELTA II, LLC	31-7177B	Decreed	01/02/1976	IRRIGATION	0.13	124.5	
BROWN DELTA II, LLC	31-11791	Decreed	11/12/1976	IRRIGATION	0.02	81.8	
BROWN DELTA II, LLC	31-11792	Decreed	11/12/1976	IRRIGATION	0.20	148.6	
BROWN DELTA II, LLC	31-11990	Decreed	11/12/1976	IRRIGATION	0.05	43.1	
BROWN DELTA II, LLC	31-11991	Decreed	11/12/1976	IRRIGATION	0.26	58.1	
BROWN DELTA II, LLC	31-7220C	Decreed	03/10/1977	IRRIGATION	1.08	104.1	
BROWN DELTA II, LLC	31-7220D	Decreed	03/10/1977	IRRIGATION	1.08	104.1	
BROWN DELTA II, LLC	31-7611	Decreed	05/02/1978	IRRIGATION	0.21	114.0	
BROWN DELTA II, LLC	31-7612A	Decreed	05/02/1978	IRRIGATION	0.51	148.2	
BROWN DELTA II, LLC	31-7612B	Decreed	05/02/1978	IRRIGATION	0.06	122.0	
BROWN DELTA II, LLC	31-7618A	Decreed	05/02/1978	IRRIGATION	0.37	120.3	
BROWN DELTA II, LLC	31-7618B	Decreed	05/02/1978	IRRIGATION	0.06	122.0	
BROWN DELTA II, LLC	31-12108	Decreed	05/10/1978	IRRIGATION	2.86	220.3	
BROWN DELTA II, LLC	31-12128	Decreed	05/10/1978	IRRIGATION	3.16	220.3	
BROWN DELTA II, LLC	31-11993	Decreed	03/05/1980	IRRIGATION	0.46	43.1	
BROWN DELTA II, LLC	31-11793	Decreed	08/12/1981	IRRIGATION	0.10	81.8	
BROWN DELTA II, LLC	31-11794	Decreed	08/12/1981	IRRIGATION	0.75	148.6	
BROWN DELTA II, LLC	31-11797	Decreed	08/12/1981	IRRIGATION	0.04	81.8	
BROWN DELTA II, LLC	31-11798	Decreed	08/12/1981	IRRIGATION	0.29	148.6	
BROWN DELTA II, LLC	31-11911	Decreed	08/12/1981	IRRIGATION	2.25	147.8	
BROWN DELTA II, LLC	31-11912	Decreed	08/12/1981	IRRIGATION	0.27	81.8	
BROWN DELTA II, LLC	31-11923	Decreed	08/12/1981	IRRIGATION	1.42	202.0	
BROWN DELTA II, LLC	31-11924	Decreed	08/12/1981	IRRIGATION	0.25	76.9	
BROWN DELTA II, LLC	31-11929	Decreed	08/12/1981	IRRIGATION	1.54	202.0	
BROWN DELTA II, LLC	31-11930	Decreed	08/12/1981	IRRIGATION	0.28	76.9	

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BROWN DELTA II, LLC	31-11931	Decreed	08/12/1981	IRRIGATION	3.10	202.0	
BROWN DELTA II, LLC	31-12086	Decreed	08/12/1981	IRRIGATION	2.45	184.5	
BROWN DELTA II, LLC	31-7368D	Decreed	08/12/1981	IRRIGATION	0.18	122.0	
BROWN DELTA II, LLC	31-7369E	Decreed	08/12/1981	IRRIGATION	2.65	185.1	
BROWN DELTA II, LLC	31-7369F	Decreed	08/12/1981	IRRIGATION	1.73	120.5	
BROWN DELTA II, LLC	31-7369G	Decreed	08/12/1981	IRRIGATION	0.39	122.0	
BROWN DELTA II, LLC	31-7627A	Decreed	08/12/1981	IRRIGATION	2.63	171.0	
BROWN DELTA II, LLC	31-11795	Decreed	04/23/1983	IRRIGATION	0.13	81.8	
BROWN DELTA II, LLC	31-11796	Decreed	04/23/1983	IRRIGATION	0.99	148.6	
BROWN DELTA II, LLC	31-11800	Decreed	04/23/1983	IRRIGATION	0.23	184.1	
BROWN DELTA II, LLC	31-11802	Decreed	04/23/1983	IRRIGATION	2.20	184.1	
BROWN DELTA II, LLC	31-11804	Decreed	04/23/1983	IRRIGATION	0.38	184.1	
BROWN DELTA II, LLC	31-11913	Decreed	04/23/1983	IRRIGATION	1.16	81.0	
BROWN DELTA II, LLC	31-11914	Decreed	04/23/1983	IRRIGATION	0.03	76.9	
BROWN DELTA II, LLC	31-11915	Decreed	04/23/1983	IRRIGATION	0.01	81.0	
BROWN DELTA II, LLC	31-11916	Decreed	04/23/1983	IRRIGATION	0.01	76.9	
BROWN DELTA II, LLC	31-11925	Decreed	04/23/1983	IRRIGATION	2.19	142.9	
BROWN DELTA II, LLC	31-11926	Decreed	04/23/1983	IRRIGATION	0.04	76.9	
BROWN DELTA II, LLC	31-11927	Decreed	04/23/1983	IRRIGATION	1.77	121.8	
BROWN DELTA II, LLC	31-11928	Decreed	04/23/1983	IRRIGATION	0.20	76.9	
BROWN DELTA II, LLC	31-7609	Decreed	04/23/1983	IRRIGATION	0.11	114.0	
BROWN DELTA II, LLC	31-7610A	Decreed	04/23/1983	IRRIGATION	0.28	148.2	
BROWN DELTA II, LLC	31-7610B	Decreed	04/23/1983	IRRIGATION	0.03	122.0	
BROWN DELTA II, LLC	31-7620A	Decreed	04/23/1983	IRRIGATION	0.52	120.3	
BROWN DELTA II, LLC	31-7620B	Decreed	04/23/1983	IRRIGATION	0.08	122.0	
BROWN DELTA II, LLC	31-7621A	Decreed	04/23/1983	IRRIGATION	0.57	148.2	
BROWN DELTA II, LLC	31-7621B	Decreed	04/23/1983	IRRIGATION	0.06	122.0	
BROWN DELTA II, LLC	31-7622A	Decreed	04/23/1983	IRRIGATION	0.57	120.3	
BROWN DELTA II, LLC	31-7622B	Decreed	04/23/1983	IRRIGATION	0.09	122.0	
BROWN DELTA II, LLC	31-7629	Decreed	04/23/1983	IRRIGATION	0.24	114.0	
BROWN DELTA II, LLC	31-7635A	Decreed	04/23/1983	IRRIGATION	1.86	121.6	
BROWN DELTA II, LLC	31-7635B	Decreed	04/23/1983	IRRIGATION	0.05	122.0	
BROWN DELTA II, LLC	31-7606	Decreed	03/29/1984	IRRIGATION	0.45	114.0	
BROWN DELTA II, LLC	31-7638A	Decreed	03/29/1984	IRRIGATION	0.76	148.2	
BROWN DELTA II, LLC	31-7638B	Decreed	03/29/1984	IRRIGATION	0.08	122.0	
BROWN DELTA II, LLC	31-7439B	License	07/27/1985	IRRIGATION	0.84	58.1	
BROWN DELTA II, LLC	31-7615A	Decreed	06/01/1987	IRRIGATION	0.35	120.3	
BROWN DELTA II, LLC	31-7615B	Decreed	06/01/1987	IRRIGATION	0.05	122.0	

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BROWN ESTATES WELL ASSN	25-7391	License	11/21/1983	DOMESTIC, STOCKWATER	0.13	0.0	
BROWN MAPLE LLC	31-12336	Decreed	03/06/1967	IRRIGATION	0.14	409.0	
BROWN MAPLE LLC	31-2433	Decreed	03/06/1967	IRRIGATION	4.31	271.0	
BROWN MAPLE LLC	31-7029A	Decreed	01/23/1970	IRRIGATION	1.60	409.0	
BROWN MAPLE LLC	31-7035	Decreed	05/12/1970	IRRIGATION	1.60	409.0	
BROWN MAPLE LLC	31-7053	Decreed	08/18/1971	IRRIGATION	4.76	409.0	
BROWN MAPLE LLC	31-12337	Decreed	03/18/1975	IRRIGATION	0.06	409.0	
BROWN MAPLE LLC	31-7159	Decreed	03/18/1975	IRRIGATION	3.94	226.0	
BROWN MAPLE LLC	31-11353	Decreed	04/01/1980	IRRIGATION	0.31	271.0	Yes
BROWN MAPLE LLC	31-11354	Decreed	04/01/1980	IRRIGATION	0.32	226.0	Yes
BROWN WILLOW LLC	36-2453A	Decreed	11/17/1960	IRRIGATION	2.99	260.7	
BROWN WILLOW LLC	36-2453B	Decreed	11/17/1960	IRRIGATION	0.70	634.4	
BROWN WILLOW LLC	36-2467	Decreed	01/24/1961	IRRIGATION	3.89	634.4	
BROWN WILLOW LLC	36-2565B	Decreed	02/11/1963	IRRIGATION	0.38	634.4	
BROWN WILLOW LLC	36-2668	Decreed	11/18/1966	IRRIGATION	4.65	634.4	
BROWN WILLOW LLC	36-15170B	Decreed	06/29/1971	IRRIGATION	0.01	634.4	
BROWN WILLOW LLC	36-13065A	Decreed	03/15/1981	IRRIGATION	0.66	260.7	
BROWN WILLOW LLC	36-13065B	Decreed	03/15/1981	IRRIGATION	0.16	634.4	
BROWN, AUSTIN; BROWN, REED	36-7484	Decreed	06/12/1974	DOMESTIC, IRRIGATION	0.18	13.0	
BROWN, DANE M; BROWN, REED L; RAD BROWN LLC; RL BROWN FARMS LLC	36-2611	Decreed	04/12/1965	IRRIGATION	4.05	274.0	
BROWN, GORDON; LAMCZYK, DANNY; LAMCZYK, JANE	27-7342	Decreed	02/16/1983	DOMESTIC, IRRIGATION	0.06	0.5	
BROWN, JACK C; BROWN, PATRICIA E	35-8015	Decreed	12/14/1981	DOMESTIC, IRRIGATION	0.31	1.0	
BROWN, JAN A; BROWN, SID E	31-12234	Decreed	05/01/1956	IRRIGATION	0.04	2.0	
BROWN, KAMI; BROWN, SPENCER	31-12237	Decreed	03/28/1973	IRRIGATION	0.09	36.3	
BROWN, KAMI; BROWN, SPENCER; SLAGOWSKI, JOE; SLAGOWSKI, NICOLE	31-12245	Decreed	03/28/1973	IRRIGATION	1.85	99.4	
BROWN, REED L	36-2328	Decreed	05/24/1957	IRRIGATION	6.22	611.0	
BROWN, REED L	36-2329	Decreed	05/24/1957	IRRIGATION	5.84	292.0	
BROWN, REED L	36-2463	Decreed	02/12/1961	IRRIGATION	4.51	313.0	
BROWN, SID E	31-7180	Decreed	01/14/1976	IRRIGATION	2.23	136.5	
BROWN, SID E	31-11667	Decreed	01/15/1976	IRRIGATION	0.15	136.5	Yes
BROWN, SID E	31-7269	Decreed	10/03/1977	IRRIGATION	0.84	54.0	
BROWN, SID E	31-7357	Decreed	01/21/1981	IRRIGATION	0.62	40.0	
BROWNING FAMILY LLC	36-7038B	Decreed	09/24/1968	IRRIGATION	0.42	429.0	
BROWNING FAMILY LLC	36-10123	Decreed	04/01/1977	IRRIGATION	1.78	429.0	Yes
BRYAN, CHARLES D; BRYAN, SUSAN S	35-8033	Decreed	03/25/1983	DOMESTIC, IRRIGATION	0.07	1.2	
BS&T LAND & CATTLE	35-14217	License	05/26/1989	IRRIGATION	0.14	7.0	

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BUERKLE, ARLEN E; BUERKLE, MARY LEE	36-8519	License	04/10/1990	COMMERCIAL, IRRIGATION	0.09	1.5	
BULLERS, CINDY; BULLERS, TIMOTHY	37-20931	License	05/05/2003	IRRIGATION	0.12	4.3	
BUNKER HILL FARMS LLC	31-11956	Decreed	08/17/1981	IRRIGATION	1.43	95.0	
BUNKER HILL FARMS LLC	31-11684	Decreed	10/24/1988	IRRIGATION	2.50	145.2	
BUNN, LOUANNA M; BUNN, WILLIAM H	35-14375	Decreed	09/04/1968	IRRIGATION	0.02	1.0	
BURKE, VIRGINIA; BURKE, WILLIAM TODD	35-2737E	Decreed	04/27/1964	IRRIGATION	0.10	4.9	
BURKMAN, DOREEN; BURKMAN, JAMES DOUGLAS	35-2668	Decreed	08/21/1961	IRRIGATION	1.86	176.0	
BURKMAN, JAMES DOUGLAS	35-2849	Decreed	11/29/1966	IRRIGATION	1.20	104.0	
BURKMAN, JAMES DOUGLAS	35-7084	Decreed	06/23/1969	IRRIGATION	2.30	176.0	
BURKMAN, JAMES DOUGLAS	35-10313	Decreed	07/15/1971	IRRIGATION	0.51	104.0	Yes
BURKMAN, JAMES DOUGLAS	35-8869	License	12/12/1989	IRRIGATION	0.14	111.0	
BURR, JOHNNY; BURR, JOLYNNE	35-14434	Decreed	03/11/1955	IRRIGATION	0.60	49.0	
BURR, JOHNNY; BURR, JOLYNNE	35-14435	Decreed	04/01/1962	IRRIGATION	0.38	49.0	
BURT, JACQUE; BURT, PAUL	35-2737C	Decreed	04/27/1964	IRRIGATION	0.12	5.0	
BURTENSHAW LAND & CATTLE LLC	31-7012	Decreed	07/03/1968	IRRIGATION, STOCKWATER	6.25	308.0	
BURTENSHAW, CRAIG A; BURTENSHAW, KARMA S	25-7563	License	01/18/1990	IRRIGATION	2.96	148.0	
BURTON & MARY LLC	31-2456	Decreed	05/28/1965	IRRIGATION	4.98	463.5	
BURTON & MARY LLC	31-7097	Decreed	01/15/1974	IRRIGATION	3.00	150.0	
BUSCH AGRICULTRUAL RESOURCES INC	25-7562	License	03/01/1990	COMMERCIAL	0.06	0.0	
BUSCH AGRICULTURAL RESOURCES	35-8796	License	08/10/1989	COMMERCIAL	0.03	0.0	
BUSCH AGRICULTURAL RESOURCES INC	25-7485	Decreed	02/01/1989	INDUSTRIAL	6.00	0.0	
BUSCH AGRICULTURAL RESOURCES INC	25-7486	Decreed	02/01/1989	INDUSTRIAL	6.00	0.0	
BUTIKOFER, MERLE W	25-7584	License	02/22/1991	IRRIGATION	2.72	136.0	
BUTIKOFER, MERLE W; BUTIKOFER, ULENE	35-7336	Decreed	10/10/1973	IRRIGATION	2.55	160.0	
BUTIKOFER, MERLE W; BUTIKOFER, ULENE	25-7117	Decreed	06/13/1977	IRRIGATION	3.00	150.0	
BUTIKOFER, MERLE W; BUTIKOFER, ULENE	25-7477	License	11/29/1988	IRRIGATION	0.09	3.0	
BUTLER, DALE H; BUTLER, VERLA N	36-2280	Decreed	04/20/1955	IRRIGATION	1.50	75.0	
BUTLER, TERRI	35-13622	License	12/27/1989	DOMESTIC, IRRIGATION, RECREATION	0.11	2.3	
BUTTE COUNTY CEMETERY MAINTENANCE DISTRICT	34-14485	Decreed	02/24/1980	IRRIGATION	0.10	4.9	
BYBEE, DONNA S; BYBEE, ROBERT B	31-11442	Decreed	05/14/1976	IRRIGATION	1.98	105.3	
BYBEE, DONNA S; BYBEE, ROBERT B	31-11408	Decreed	04/01/1987	IRRIGATION	0.12	105.3	Yes
BYBEE, ROBERT B	31-11461	Decreed	09/02/1961	IRRIGATION	0.28	42.0	
BYBEE, ROBERT B	31-7043B	Decreed	11/12/1970	IRRIGATION	0.62	42.0	
C & B FINANCE LLC	35-2609	Decreed	08/09/1960	IRRIGATION	4.82	480.0	
C & B FINANCE LLC	35-2662	Decreed	05/15/1961	DOMESTIC, IRRIGATION	10.79	800.0	
C & N FAMILY LAND INVESTMENTS LLC	35-2804	Decreed	12/13/1965	IRRIGATION	4.60	482.2	
C & N FAMILY LAND INVESTMENTS LLC	35-7261B	Decreed	11/03/1972	IRRIGATION	3.32	482.2	
C & N FAMILY LAND INVESTMENTS LLC	35-14276	Decreed	06/08/1973	IRRIGATION	0.25	482.2	Yes

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C & N FAMILY LAND INVESTMENTS LLC	35-8149	License	05/26/1983	IRRIGATION	0.27	482.2	
C DE KRUYF DAIRY PARTNERSHIP	36-15993	License	07/31/1974	IRRIGATION	0.52	116.0	
C DE KRUYF DAIRY PARTNERSHIP	36-7491	Decreed	07/31/1974	IRRIGATION	1.64	120.0	
C DE KRUYF DAIRY PARTNERSHIP	36-8539	License	04/13/1990	COMMERCIAL, DOMESTIC, IRRIGATION, STOCKWATER	0.27	1.0	
C7 FARMS LLC	36-2301	Decreed	05/29/1956	IRRIGATION	5.46	747.0	
CACO3 GOODING LLC	37-8867	Decreed	11/25/1977	COMMERCIAL, STOCKWATER	0.14	0.0	
CACO3 GOODING LLC	37-13385	Decreed	08/07/1979	DOMESTIC, STOCKWATER	0.30	0.0	
CALAWAY LAND AND CATTLE LLC	31-7558	Decreed	01/26/1983	IRRIGATION	3.34	542.0	
CALAWAY LAND AND CATTLE LLC	31-7563	Decreed	09/07/1983	IRRIGATION	3.31	542.0	
CALDWELL, ALLAN B; CALDWELL, RANAE	35-4157	Decreed	04/01/1954	IRRIGATION	1.36	68.0	
CALDWELL, LARRY D	35-7247	Decreed	09/13/1972	IRRIGATION	1.23	75.0	
CALDWELL, LARRY D	35-4244	Decreed	04/01/1979	IRRIGATION	0.15	158.4	Yes
CALKINS, LAWRENCE L	37-20382	License	03/01/2001	DOMESTIC	0.07	0.0	
CALKINS, LAWRENCE L	37-20383	License	03/12/2001	DOMESTIC	0.07	0.0	
CALKINS, LAWRENCE L	37-22596	License	02/15/2011	DOMESTIC	0.07	0.0	
CALKINS, LAWRENCE L; CALKINS, SANDRA L	37-21384	License	12/06/2004	DOMESTIC	0.07	0.0	
CALL, FORD	27-7541	License	05/31/1991	IRRIGATION	3.00	150.0	
CALLEN JR, JERRY R; CALLEN, PATRICIA	36-4018	Decreed	08/04/1961	IRRIGATION	2.36	617.0	
CALLEN JR, JERRY R; CALLEN, PATRICIA	36-2691	Decreed	08/31/1961	IRRIGATION	2.85	617.0	
CALLEN JR, JERRY R; CALLEN, PATRICIA	36-14324	Decreed	11/15/1962	IRRIGATION	0.09	617.0	
CALLEN JR, JERRY R; CALLEN, PATRICIA	36-7384	Decreed	10/04/1973	IRRIGATION	2.26	130.0	
CALLEN JR, JERRY R; CALLEN, PATRICIA	36-7975	Decreed	03/20/1981	STOCKWATER	0.03	0.0	
CALLEN, GUY P; CALLEN, MERYL J	36-2511B	Decreed	08/25/1961	IRRIGATION	0.52	40.0	
CALLEN, THOMAS J	36-7396	Decreed	10/29/1973	DOMESTIC, IRRIGATION	0.15	5.5	
CALLISTER, LOVELLE J	35-2865	Decreed	02/13/1967	IRRIGATION	1.46	73.0	
CAMERON, JOHN RETT	36-7704B	Decreed	05/12/1977	COMMERCIAL, STOCKWATER	0.18	0.0	
CAMPBELL, CINDY; CAMPBELL, SCOTT A	35-2906	Decreed	11/27/1958	IRRIGATION	0.74	37.0	
CAMPBELL, HUGH SCOTT	36-2707	Decreed	01/05/1966	IRRIGATION	3.17	224.6	
CAMPBELL, RAY A	25-7048	Decreed	04/10/1974	DOMESTIC, IRRIGATION	0.07	2.0	
CANNON JR, ALAN M; CANNON, KATHERINE	35-12292	Decreed	01/18/1962	IRRIGATION	12.08	604.0	
CANNON SHELLEY PROPERTY LP	35-14049	Decreed	01/27/1976	IRRIGATION	1.03	70.0	
CANNON SHELLEY PROPERTY LP	35-7349	Decreed	07/20/1979	IRRIGATION	13.94	950.0	
CANNON SHELLEY PROPERTY LP	35-14043	Decreed	10/31/1986	IRRIGATION	0.27	70.0	Yes
CANNON SHELLEY PROPERTY LTD PARTNERSHIP	35-13293	Decreed	04/27/1956	IRRIGATION	0.07	5.0	
CANNON SHELLEY PROPERTY LTD PARTNERSHIP	35-2714	Decreed	05/31/1962	IRRIGATION	7.11	789.0	
CANNON SHELLEY PROPERTY LTD PARTNERSHIP	35-7003	Decreed	08/04/1967	IRRIGATION	12.11	887.0	
CANNON SHELLEY PROPERTY LTD PARTNERSHIP	35-7011	Decreed	01/12/1968	IRRIGATION	4.67	310.0	

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CANNON SHELLEY PROPERTY LTD PARTNERSHIP	35-7030	Decreed	08/22/1968	IRRIGATION	8.00	1245.0	
CANNON SHELLEY PROPERTY LTD PARTNERSHIP	35-12391	Decreed	04/01/1973	IRRIGATION	4.43	1245.0	Yes
CANNON SHELLEY PROPERTY LTD PARTNERSHIP	35-7304	Decreed	07/02/1973	IRRIGATION	9.58	1245.0	
CANNON SHELLEY PROPERTY LTD PARTNERSHIP	35-7626	Decreed	07/31/1976	IRRIGATION	3.93	304.0	
CANNON SHELLEY PROPERTY LTD PARTNERSHIP	35-7934	Decreed	12/23/1980	IRRIGATION	4.97	274.0	
CANNON SHELLEY PROPERTY LTD PARTNERSHIP	35-13523	Decreed	08/08/1983	IRRIGATION	8.85	682.3	
CANNON SHELLEY PROPERTY LTD PARTNERSHIP	35-13524	Decreed	08/08/1983	COMMERCIAL, STOCKWATER	1.35	0.0	
CANNON SHELLEY PROPERTY LTD PARTNERSHIP	35-14391	Decreed	08/08/1983	COMMERCIAL, STOCKWATER	0.79	0.0	
CANNON SHELLEY PROPERTY LTD PARTNERSHIP	35-14621	Decreed	08/08/1983	IRRIGATION	0.27	274.0	
CANNON SHELLEY PROPERTY LTD PARTNERSHIP	35-8825	License	08/31/1989	COMMERCIAL, DOMESTIC	0.04	0.0	
CANNON STRUCTURES INC	27-7418	License	01/31/1986	IRRIGATION	1.30	65.0	
CANNON, ARLENE P; CANNON, PETER M	35-2646	Decreed	02/16/1961	IRRIGATION	6.00	489.7	
CANNON, ARLENE P; CANNON, PETER M	35-13555	Decreed	09/16/1961	IRRIGATION	0.32	489.7	
CANNON, PETER M	35-2923	Decreed	03/24/1958	IRRIGATION	4.16	315.0	
CANNON, PETER M	35-2566	Decreed	07/07/1959	IRRIGATION	7.01	469.0	
CANNON, PETER M	35-2608	Decreed	08/09/1960	IRRIGATION	6.38	627.0	
CANYONSIDE DAIRY	36-7947	Decreed	11/28/1980	DOMESTIC, IRRIGATION, STOCKWATER	0.13	4.0	
CAPSON, RODGER N	27-7413	License	06/27/1985	IRRIGATION	2.78	139.0	
CARLQUIST BROTHERS	36-7527	Decreed	03/26/1975	IRRIGATION	0.60	528.5	
CARLSON, LEONARD RAY; CARLSON, SHERMA JEAN	35-7307	Decreed	07/05/1973	IRRIGATION	1.14	76.0	
CARNEY FARMS	36-2385	Decreed	05/14/1959	IRRIGATION	2.16	310.0	
CARNEY FARMS	36-2634	Decreed	02/15/1966	IRRIGATION	2.20	117.0	
CARNEY FARMS	36-7025	Decreed	11/21/1966	IRRIGATION	1.88	310.0	
CARNEY FARMS	36-7501	Decreed	09/18/1974	IRRIGATION	0.80	40.0	
CARPENTER, BARBARA; CARPENTER, SCOTT	31-7167A	Decreed	07/01/1975	IRRIGATION	1.56	78.0	
CARPENTER, BARBARA; CARPENTER, SCOTT	31-7167B	Decreed	07/01/1975	IRRIGATION	1.60	80.0	
CARRANZA, KIMBERLY J; CARRANZA, OSCAR A	36-7048	Decreed	12/18/1968	COMMERCIAL, DOMESTIC, IRRIGATION	0.17	4.0	
CARRENO, OSCAR	36-15667	Decreed	12/03/1966	COMMERCIAL, STOCKWATER	0.03	0.0	
CARRENO, OSCAR	36-15665	Decreed	10/18/1968	COMMERCIAL, STOCKWATER	0.04	0.0	
CARRENO, OSCAR	37-21318	Decreed	01/07/1974	IRRIGATION, MITIGATION	0.13	4.5	
CARRENO, OSCAR	36-8731	License	07/13/1994	DOMESTIC, STOCKWATER	0.08	0.0	
CARRIGAN, BRIAN W	35-8738	License	04/21/1989	DOMESTIC, IRRIGATION	0.13	3.5	
CARRILLO, CUTBERTO	36-8407	License	01/19/1989	DOMESTIC, IRRIGATION	0.08	3.0	
CARTER, A LADD	35-7113B	Decreed	01/26/1970	IRRIGATION	0.50	30.0	
CARTER, A LADD	35-8741B	License	04/17/1989	IRRIGATION	0.13	10.0	
CARTER, A LADD; CARTER, JANE	35-7947	Decreed	02/05/1981	IRRIGATION	1.34	74.0	
CARTER, BOONE; CARTER, LORI	35-7292	Decreed	06/12/1973	IRRIGATION	1.91	153.0	
CARTER, BOONE; CARTER, LORI	35-12657	Decreed	04/01/1980	IRRIGATION	0.29	153.0	Yes

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CARTER, CARLENE L; CARTER, WILLIAM LEX	35-2897	Decreed	06/03/1958	IRRIGATION	1.74	132.0	
CARTER, CARLENE L; CARTER, WILLIAM LEX	35-12924	Decreed	04/01/1981	IRRIGATION	0.33	132.0	Yes
CARTER, CHASE; CARTER, MERRICK	35-14491	License	09/12/1989	IRRIGATION	0.18	9.5	
CARTER, DON C	35-13782	Decreed	07/28/1961	IRRIGATION	0.28	14.0	
CARTER, HEATHER I; CARTER, VAL C	35-4056	Decreed	04/01/1955	IRRIGATION	2.23	136.0	
CARTER, HEATHER I; CARTER, VAL C	35-2471	Decreed	08/29/1956	IRRIGATION	0.88	100.0	
CARTER, HEATHER I; CARTER, VAL C	35-7707	Decreed	05/09/1977	IRRIGATION	1.58	194.0	
CARTER, SPENCE W	35-7469	Decreed	01/28/1975	IRRIGATION	2.79	201.0	
CARTER, TIERRA CANDICE; CARTER, WILSON ENGLAND	35-14850	Decreed	02/05/1981	IRRIGATION	0.71	39.0	
CARTER, VAL C	35-13674	Decreed	06/01/1954	IRRIGATION	0.11	128.0	
CARTER, VAL C	35-13675	Decreed	06/01/1954	IRRIGATION	2.39	132.0	
CARTER, VAL C	35-13695	Decreed	10/01/1957	IRRIGATION	1.99	120.0	
CARTER, VAL C	35-13696	Decreed	10/01/1957	IRRIGATION	0.26	128.0	
CARTER, VAL C	35-2138	Decreed	12/21/1958	IRRIGATION	1.70	128.0	
CARTER, VAL C	35-13693	Decreed	12/12/1960	IRRIGATION	0.32	120.0	
CARTER, VAL C	35-13694	Decreed	12/12/1960	IRRIGATION	0.04	128.0	
CARTER, VAL C	35-13691	Decreed	08/18/1969	IRRIGATION	0.88	120.0	
CARTER, VAL C	35-13692	Decreed	08/18/1969	IRRIGATION	0.12	128.0	
CAST & BLAST LLC	35-7498	Decreed	04/07/1975	IRRIGATION	1.04	79.0	
CAST & BLAST LLC	35-14603	License	03/18/1991	IRRIGATION	0.54	79.0	
CASTLE, NICOLE R; CASTLE, SCOTT A	37-7621D	Decreed	06/07/1977	IRRIGATION	0.77	39.0	
CAUDLE, JON	31-11765	Decreed	08/26/1954	IRRIGATION	0.58	160.0	
CAUDLE, JON	31-11759	Decreed	08/22/1955	IRRIGATION	0.52	160.0	
CAUDLE, JON	31-2351A	Decreed	12/01/1955	IRRIGATION	0.30	156.0	
CAUDLE, JON	31-11761	Decreed	11/29/1956	IRRIGATION	0.58	160.0	
CAUDLE, JON	31-11763	Decreed	07/15/1960	IRRIGATION	0.58	160.0	
CEDAR ARCH DAIRIES LLC	27-7579	License	07/14/2005	COMMERCIAL, STOCKWATER	0.10	0.0	
CEDAR PARK VILLAGE LLC	25-7380	License	09/04/1983	DOMESTIC, IRRIGATION	0.13	5.0	
CEDAR POINT SUBDIVISION WATER CO	27-7489	License	06/01/1989	DOMESTIC, IRRIGATION	0.44	16.8	
CEJA, ADAN ARTEAGA	36-7434	Decreed	03/21/1974	IRRIGATION, STOCKWATER	0.17	8.5	
CENARRUSA, JAMES M; CENARRUSA, VICTORIA A	37-2657A	Decreed	07/21/1961	IRRIGATION	2.50	124.0	
CENARRUSA, JAMES M; CENARRUSA, VICTORIA A	37-7593B	Decreed	05/04/1977	IRRIGATION	1.88	94.0	
CENARRUSA, JANICE M; CENARRUSA, JERRY	37-7517	Decreed	09/07/1976	IRRIGATION	2.04	160.0	
CENARRUSA, JANICE M; CENARRUSA, JERRY	37-7593A	Decreed	05/04/1977	IRRIGATION	2.20	110.0	
CENTRAL CEMETERY	25-12422	Decreed	07/01/1959	IRRIGATION	0.10	5.0	
CENTRAL CEMETERY	25-7595	License	05/16/1991	IRRIGATION	0.15	5.0	
CHANDLER, BERNADETTE M; CHANDLER, CHRISTOPHER W	36-7380	Decreed	09/19/1973	IRRIGATION	0.32	16.0	
CHANDLER, LA FAY	27-7376	Decreed	06/27/1983	DOMESTIC, IRRIGATION, STOCKWATER	0.06	1.0	

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CHAPMAN, WILFORD O	27-7037	Decreed	03/13/1974	IRRIGATION	0.38	19.0	
CHAPPELL, BRENT E	27-2120B	Decreed	11/14/1960	IRRIGATION	2.96	148.0	
CHAPPELL, MARIE D	27-12308	Decreed	11/14/1960	IRRIGATION	0.04	1.8	
CHAVEZ, CARMA; CHAVEZ, SAUL R	37-2680B	Decreed	03/29/1963	IRRIGATION	1.08	73.0	
CHERYL LYNN BLOUNT & STEVEN GUY HERICKS LIVING TRUST	37-23115	Decreed	09/20/1974	IRRIGATION	0.02	1.7	
CHILDERS, LINDA MARIE; CHILDERS, RODNEY DEAN	37-23116	Decreed	09/20/1974	IRRIGATION	0.03	2.7	
CHILDERS, LINDA MARIE; CHILDERS, RODNEY DEAN	37-23209	Decreed	09/20/1974	IRRIGATION	0.02	1.8	
CHRISTENSEN FAMILY LAND LLC	35-2562	Decreed	02/09/1959	IRRIGATION	1.26	102.0	
CHRISTENSEN FAMILY LAND LLC	35-14448	Decreed	04/07/1959	IRRIGATION	1.97	228.8	
CHRISTENSEN FAMILY LAND LLC	35-13496	Decreed	02/19/1963	IRRIGATION	0.08	304.0	
CHRISTENSEN FAMILY LAND LLC	35-14449	Decreed	09/04/1968	IRRIGATION	1.80	228.8	
CHRISTENSEN FAMILY LAND LLC	35-13500	Decreed	08/05/1969	IRRIGATION	0.08	304.0	
CHRISTENSEN FAMILY LAND LLC	35-14447	Decreed	04/03/1974	IRRIGATION	0.89	65.0	
CHRISTENSEN FAMILY LAND LLC	35-14450	Decreed	08/12/1975	IRRIGATION	0.79	228.8	
CHRISTENSEN FAMILY LAND LLC	35-13498	License	01/24/1978	IRRIGATION	0.02	304.0	
CHRISTENSEN FAMILY LAND LLC	35-7903A	Decreed	08/07/1980	IRRIGATION	0.54	49.0	
CHRISTENSEN FAMILY LAND LLC	27-7157	Decreed	09/15/1980	IRRIGATION	1.51	92.5	
CHRISTENSEN FAMILY LAND LLC	27-7158	Decreed	09/15/1980	IRRIGATION	0.59	35.5	
CHRISTENSEN FAMILY LAND LLC	27-7291	Decreed	10/13/1981	IRRIGATION	2.30	153.0	
CHRISTENSEN FAMILY LAND LLC	27-7300	Decreed	02/02/1982	IRRIGATION	1.46	78.0	
CHRISTENSEN FAMILY LAND LLC	27-7327	Decreed	08/31/1982	IRRIGATION	2.78	139.0	
CHRISTENSEN FAMILY LAND LLC	27-7383	License	10/27/1983	IRRIGATION	2.76	151.0	
CHRISTENSEN FAMILY LAND LLC	27-7429	License	04/08/1987	IRRIGATION	2.83	147.0	
CHRISTENSEN FAMILY LAND LLC	27-7444	License	07/21/1988	IRRIGATION	1.48	73.8	
CHRISTENSEN FAMILY LAND LLC	27-7445	License	07/21/1988	IRRIGATION	0.87	154.0	
CHRISTENSEN FAMILY LAND LLC	35-8984	License	02/24/1992	IRRIGATION	0.28	102.0	
CHRISTENSEN FARMS INC	35-7861B	Decreed	06/25/1979	IRRIGATION	0.54	151.0	
CHRISTENSEN, BARRY J	35-13495	Decreed	02/19/1963	IRRIGATION	0.01	0.7	
CHRISTENSEN, BARRY J	35-13499	Decreed	08/05/1969	IRRIGATION	0.01	0.7	
CHRISTENSEN, BARRY J	35-13497	License	01/24/1978	IRRIGATION	0.01	0.7	
CHRISTENSEN, BOYD E	35-7533	Decreed	10/27/1975	IRRIGATION	0.98	296.0	
CHRISTENSEN, JERALDEAN A; CHRISTENSEN, ROBERT H	35-7020	Decreed	05/19/1968	IRRIGATION	2.00	151.0	
CHRISTENSEN, TOM	35-13450	Decreed	04/29/1959	IRRIGATION	0.07	4.0	
CHRISTENSON, WAYNE A; STEWART, DOUGLAS J	25-7335	Decreed	06/15/1983	DOMESTIC, IRRIGATION	0.11	2.0	
CHURCH OF JESUS CHRIST OF THE LATTER DAY SAINTS	27-7381	License	09/29/1983	IRRIGATION	0.22	11.0	
CINDER BUTTE CATTLE LLC	35-13556	Decreed	09/16/1961	COMMERCIAL, STOCKWATER	1.51	0.0	
CIOCCA, ANN A; CIOCCA, EDWARD M	36-2279	Decreed	04/18/1955	IRRIGATION	1.80	100.0	
CIOCCA, ANN A; CIOCCA, EDWARD M	36-2527	Decreed	07/06/1961	IRRIGATION	0.80	40.0	

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CIOCCA, ANN A; CIOCCA, EDWARD M	36-7448	Decreed	02/27/1974	IRRIGATION	2.23	139.1	
CIOCCA, ANN A; CIOCCA, EDWARD M	36-8219	License	06/30/1983	IRRIGATION	1.72	86.0	
CIOCCA, ANN A; CIOCCA, EDWARD M	36-8363	License	07/12/1988	COMMERCIAL, STOCKWATER	0.22	0.0	
CIOCCA, ANN A; CIOCCA, EDWARD M	36-8672	License	09/23/1992	STOCKWATER	0.06	0.0	
CIOCCA, TONY M; CIOCCA, TRINA A	36-2425A	Decreed	03/09/1960	IRRIGATION	1.42	154.0	
CIOCCA, TONY M; CIOCCA, TRINA A	36-2425D	Decreed	03/09/1960	IRRIGATION	0.01	154.0	
CIOCCA, TONY M; CIOCCA, TRINA A	36-2520B	Decreed	10/02/1961	IRRIGATION	0.13	154.0	
CIOCCA, TONY M; CIOCCA, TRINA A	36-8255	License	12/07/1984	IRRIGATION	1.16	154.0	
CIRCLE B FARMS LTD PARTNERSHIP	31-2419	Decreed	04/23/1965	IRRIGATION	5.60	300.0	
CIRCLE B FARMS LTD PARTNERSHIP	31-7100A	Decreed	01/16/1974	IRRIGATION	2.15	112.0	
CIRCLE B FARMS LTD PARTNERSHIP	31-7156	Decreed	01/24/1975	IRRIGATION	2.69	140.0	
CIRCLE B FARMS LTD PARTNERSHIP	31-10365	Decreed	06/01/1975	IRRIGATION	0.40	300.0	Yes
CIRCLE B FARMS LTD PARTNERSHIP	31-12367	Decreed	06/05/1985	IRRIGATION	0.16	140.0	
CIRCLE B FARMS LTD PARTNERSHIP	31-7040B	Decreed	06/05/1985	IRRIGATION	0.20	10.0	
CIRCLE VALLEY PROPERTIES LLC	35-13742	Decreed	10/26/1981	IRRIGATION	0.05	4.3	
CIRCLE VALLEY PROPERTIES LLC	35-13743	Decreed	10/26/1981	IRRIGATION	0.87	48.4	
CIRCLE VALLEY PROPERTIES LLC	35-13745	License	07/19/1989	IRRIGATION	0.03	48.4	
CIRCLE VALLEY PROPERTIES LLC	35-13746	License	10/21/1991	IRRIGATION	0.04	4.3	
CIRCLE VALLEY PROPERTIES LLC	35-13747	License	10/21/1991	IRRIGATION	0.06	48.4	
CITY OF BASALT	27-7015	Decreed	04/06/1971	MUNICIPAL	2.00	0.0	
CITY OF HEYBURN	36-7970	Decreed	03/10/1981	MUNICIPAL	0.20	0.0	
CITY OF SHELLEY	27-2155	Decreed	04/14/1967	MUNICIPAL	4.90	0.0	
CITY OF SHELLEY	27-7053	Decreed	04/17/1975	MUNICIPAL	2.89	0.0	
CITY OF SHELLEY	27-12284	Decreed	10/04/1977	IRRIGATION	1.39	73.0	
CITY OF UCON	25-7000	Decreed	02/05/1968	MUNICIPAL	1.10	0.0	
CITY OF UCON	25-7007	Decreed	05/21/1970	MUNICIPAL	0.48	0.0	
CITY OF UCON	25-14226	License	06/17/2008	MUNICIPAL	4.74	0.0	
CLARK, ANGELA; CLARK, MILES	35-14846	Decreed	06/27/1979	IRRIGATION	0.24	16.0	
CLARK, CREG E; CLARK, KURT	36-7644	Decreed	09/22/1976	IRRIGATION	3.34	211.0	
CLARK, CREG E; CLARK, KURT	36-15253	Decreed	03/15/1985	IRRIGATION	0.34	211.0	Yes
CLARK, CREG E; CLARK, KURT	36-8286	License	06/26/1985	IRRIGATION	0.21	225.0	
CLARK, HARRIET A; CLARK, JOHN T	35-2786	Decreed	07/02/1965	IRRIGATION	0.74	47.0	
CLAWSON, BETH M; CLAWSON, MORONI O	27-7036	Decreed	02/19/1974	IRRIGATION	2.00	148.0	
CLAWSON, BETH M; CLAWSON, MORONI O	27-7142	Decreed	11/19/1979	IRRIGATION	0.36	148.0	
CLAWSON, CONNIE S; CLAWSON, MICHAEL R	27-7307	Decreed	03/29/1982	IRRIGATION	3.52	182.0	
CLAWSON, CONNIE S; CLAWSON, MICHAEL R	27-7308	Decreed	03/29/1982	IRRIGATION	3.42	231.0	
CLAWSON, CONNIE S; CLAWSON, MICHAEL R	27-7320	Decreed	07/01/1982	IRRIGATION	2.81	156.1	
CLAWSON, CONNIE S; CLAWSON, MICHAEL R	27-7372	License	07/19/1983	IRRIGATION	2.81	151.0	

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CLAWSON, CONNIE S; CLAWSON, MICHAEL R	27-7389	License	04/09/1984	IRRIGATION	1.43	87.0	
CLAWSON, RONE	27-7519	License	12/10/1990	IRRIGATION	1.88	94.0	
CLAWSON, RONE	27-7520	License	12/10/1990	IRRIGATION	2.76	148.0	
CLAYSON FARMS	27-7123	Decreed	07/19/1978	IRRIGATION	1.98	139.4	
CLAYSON FARMS	27-10183	Decreed	04/01/1987	IRRIGATION	0.70	139.4	Yes
CLAYSON, GAYLEN W	27-7578	License	07/14/2005	COMMERCIAL, STOCKWATER	0.14	0.0	
CLAYTON, CHRISTINE L; CLAYTON, J LLOYD	25-7463	License	02/03/1989	DOMESTIC, IRRIGATION	0.09	1.8	
CLEMENT, ARLEN	35-9017	License	01/23/1992	IRRIGATION	0.12	6.0	
CLEMENT, CORY	25-14358	License	02/28/1992	IRRIGATION	0.02	2.2	
CLEMENT, CRAIG RAY	25-14359	License	02/28/1992	IRRIGATION	0.02	2.2	
CLEMENT, LARRY J	35-2689B	Decreed	09/11/1961	IRRIGATION	1.44	77.0	
CLEMENT, LARRY J	35-2711	Decreed	04/09/1962	IRRIGATION	1.20	60.0	
CLEMENT, LARRY J	35-2716	Decreed	07/19/1962	IRRIGATION	0.81	77.0	
CLEMENT, LARRY J	35-7016	Decreed	04/05/1968	IRRIGATION	1.54	77.0	
CLEMENT, LARRY J; CLEMENT, MARILYN	35-2689D	Decreed	09/11/1961	IRRIGATION	1.00	208.0	
CLEMENT, LARRY J; CLEMENT, MARILYN	35-2691	Decreed	09/12/1961	IRRIGATION	2.40	208.0	
CLEMENT, LARRY J; CLEMENT, MARILYN	35-7300	Decreed	06/25/1973	IRRIGATION	0.78	208.0	
CLEMENT, MARILYN	35-14305	Decreed	03/04/1974	DOMESTIC, IRRIGATION	0.05	0.4	
CLEMENT, ZANE	35-13494	Decreed	12/10/1971	IRRIGATION	0.20	156.0	Yes
CLEMENT, ZANE	35-7193	Decreed	12/10/1971	IRRIGATION	2.44	146.0	
CLOUGH, SUSAN	35-8017A	Decreed	04/05/1982	IRRIGATION	0.34	22.8	
CLOVIS, JOANE; CLOVIS, KELLY	35-7893	Decreed	03/24/1980	IRRIGATION	0.20	10.0	
CLOVIS, JOANE; CLOVIS, KELLY	35-8757	License	04/27/1989	IRRIGATION	0.04	1.2	
CNOSSEN, CLARA H	36-2289F	Decreed	12/02/1955	IRRIGATION	1.21	117.0	
COALT INC	31-12073	Decreed	07/08/1963	IRRIGATION	2.00	295.4	
COALT INC	31-2406A	Decreed	07/08/1963	IRRIGATION	2.30	295.4	
COLEMAN, CAROLYN F; COLEMAN, GARY R	37-2687B	Decreed	03/08/1963	IRRIGATION	0.19	422.0	
COLEMAN, CAROLYN F; COLEMAN, GARY R	37-7191	Decreed	01/05/1973	IRRIGATION	4.61	351.0	
COLEMAN, CAROLYN F; COLEMAN, GARY R	37-7198B	Decreed	01/29/1973	COMMERCIAL, STOCKWATER	0.74	0.0	
COLEMAN, CAROLYN F; COLEMAN, GARY R	37-7198C	Decreed	01/29/1973	IRRIGATION	0.10	422.0	
COLEMAN, CAROLYN F; COLEMAN, GARY R	37-7315A	Decreed	11/07/1973	IRRIGATION	3.05	422.0	
COLEMAN, CAROLYN F; COLEMAN, GARY R	37-7440B	Decreed	05/31/1974	IRRIGATION	0.13	422.0	
COLEMAN, CAROLYN F; COLEMAN, GARY R	37-7379	Decreed	09/21/1974	IRRIGATION	3.96	300.0	
COLEMAN, CAROLYN F; COLEMAN, GARY R	37-7419D	Decreed	01/29/1975	IRRIGATION	0.18	422.0	
COLEMAN, CAROLYN F; COLEMAN, GARY R	37-7420A	Decreed	01/29/1975	IRRIGATION	1.48	422.0	
COLEMAN, CAROLYN F; COLEMAN, GARY R	37-7420B	Decreed	01/29/1975	COMMERCIAL, STOCKWATER	0.58	0.0	
COLEMAN, CAROLYN F; COLEMAN, GARY R	37-7435B	Decreed	04/22/1975	IRRIGATION	0.06	422.0	
COLEMAN, CAROLYN F; COLEMAN, GARY R	37-7438	Decreed	05/13/1975	IRRIGATION	3.00	153.0	

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COLEMAN, CAROLYN F; COLEMAN, GARY R	37-7470	Decreed	12/09/1975	IRRIGATION	3.12	422.0	
COLEMAN, CAROLYN F; COLEMAN, GARY R	37-7476	Decreed	01/07/1976	IRRIGATION	1.40	300.0	
COLEMAN, CAROLYN F; COLEMAN, GARY R	37-7545	Decreed	02/01/1977	COMMERCIAL, STOCKWATER	0.18	0.0	
COLEMAN, CAROLYN F; COLEMAN, GARY R	37-7639B	Decreed	07/08/1977	IRRIGATION	0.13	422.0	
COLEMAN, CAROLYN F; COLEMAN, GARY R	37-20747	Decreed	04/01/1978	IRRIGATION	0.56	300.0	Yes
COLTMAN WATER DISTRICT	25-7374	Decreed	06/16/1983	DOMESTIC, IRRIGATION	0.09	1.0	
CONLEY, DENNIS A	35-7988	Decreed	06/15/1981	DOMESTIC, IRRIGATION, STOCKWATER	0.09	14.0	
CONTOS, NICHOLAS	35-8794	License	06/16/1989	DOMESTIC, IRRIGATION	0.06	3.0	
COOK, AARON G; COOK, ERICA J	37-7621G	Decreed	06/07/1977	IRRIGATION	0.59	30.0	
COOK, CHARLES S; COOK, JUDITH ANN; SORENSEN, BARRY R	35-7356	Decreed	11/26/1973	IRRIGATION	0.80	285.0	
COOK, CHARLES S; COOK, JUDITH; SORENSEN, BARRY	35-2381	Decreed	06/08/1954	IRRIGATION	2.50	190.0	
COOK, CHARLES S; COOK, JUDITH; SORENSEN, BARRY	35-2184A	Decreed	12/31/1963	IRRIGATION	4.74	312.0	
COOK, EDWARD C	35-7371	Decreed	01/18/1974	IRRIGATION	0.14	7.0	
COOK, EDWARD C	35-7458B	Decreed	12/07/1974	IRRIGATION	0.36	18.0	
COOK, JANICE; COOK, JEFF	35-13859	Decreed	04/27/1964	IRRIGATION	1.06	26.5	
COOK, JEFFREY M; COOK, JENNY LYNN	35-7280	Decreed	02/26/1973	IRRIGATION	3.13	418.0	
COOK, JEFFREY M; COOK, JENNY LYNN	35-7281	Decreed	02/26/1973	IRRIGATION	3.73	418.0	
COOK, JEFFREY M; COOK, JENNY LYNN	35-13241	Decreed	04/01/1987	IRRIGATION	0.86	418.0	Yes
COOK, JEFFREY M; COOK, KARL T	35-14402	License	08/29/2014	IRRIGATION	3.07	560.0	
COOK, JENNIFER; COOK, TODD	35-2568	Decreed	03/20/1959	IRRIGATION	4.94	586.5	
COOK, JENNIFER; COOK, TODD	35-7769	Decreed	01/24/1978	IRRIGATION	2.16	586.5	
COOK, KARL T; COOK, MOLLY M	35-14334	Decreed	02/26/1973	IRRIGATION	1.07	142.0	
COOK, KARL T; COOK, MOLLY M	35-14335	Decreed	02/26/1973	IRRIGATION	1.27	142.0	
COOK, KARL T; COOK, MOLLY M	35-14336	Decreed	04/01/1987	IRRIGATION	0.29	142.0	Yes
COOK, TYSON; COOK, VALERIE B	36-7927	Decreed	07/15/1980	DOMESTIC, IRRIGATION	0.07	1.0	
COOPER, BRENT; COOPER, STEPHANIE	27-11912	License	10/24/1985	IRRIGATION	0.74	37.0	
COOPER, CARL R	27-7535	License	03/20/1991	IRRIGATION	1.86	93.0	
COOPER, MARGY; COOPER, STEPHEN C; IDAHO AGCREDIT PCA	27-7397	License	10/27/1984	IRRIGATION	1.40	70.0	
COOPER, STEPHEN C	27-7436	License	07/20/1987	IRRIGATION	2.64	132.0	
COPE, KERRIE D; COPE, MICHAEL E	31-12254	Decreed	07/25/1955	IRRIGATION	0.51	156.0	
COPE, KERRIE D; COPE, MICHAEL E	31-12256	Decreed	07/26/1961	IRRIGATION	0.32	156.0	
COPE, SHELLI G	31-2436	Decreed	10/04/1966	IRRIGATION	4.69	593.4	
COPE, SHELLI G	31-7023	Decreed	06/18/1969	IRRIGATION	3.20	593.4	
COPE, SHELLI G	31-7065	Decreed	08/04/1972	IRRIGATION	3.20	593.4	
CORNELISON OLSEN PARTNERSHIP	31-7663	Decreed	10/10/1973	IRRIGATION	2.17	144.0	
CORNELISON OLSEN PARTNERSHIP	31-7660	Decreed	06/14/1974	IRRIGATION	1.37	128.0	
CORNELISON, LINDA E; CORNELISON, VON T	35-7742	Decreed	08/19/1977	IRRIGATION	0.66	33.0	
CORP OF THE PRESIDING BISHOP	35-2546	Decreed	11/03/1958	IRRIGATION	5.60	2069.0	

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CORP OF THE PRESIDING BISHOP	35-4227A	Decreed	05/01/1959	DOMESTIC, IRRIGATION	0.13	3.0	
CORP OF THE PRESIDING BISHOP	36-11255	Decreed	10/15/1959	DOMESTIC, IRRIGATION	0.07	1.0	
CORP OF THE PRESIDING BISHOP	35-2649	Decreed	02/27/1961	IRRIGATION	10.69	634.0	
CORP OF THE PRESIDING BISHOP	31-4127	Decreed	03/01/1961	DOMESTIC, IRRIGATION	0.08	2.0	
CORP OF THE PRESIDING BISHOP	36-4209	Decreed	02/01/1962	DOMESTIC, IRRIGATION	0.06	1.0	
CORP OF THE PRESIDING BISHOP	35-4229	Decreed	06/01/1962	DOMESTIC, IRRIGATION	0.09	3.0	
CORP OF THE PRESIDING BISHOP	35-2770	Decreed	03/22/1965	IRRIGATION	5.08	476.0	
CORP OF THE PRESIDING BISHOP	35-2840	Decreed	08/10/1966	IRRIGATION	6.35	2069.0	
CORP OF THE PRESIDING BISHOP	35-7288	Decreed	03/28/1973	IRRIGATION	3.35	2069.0	
CORP OF THE PRESIDING BISHOP	35-7423	Decreed	05/23/1974	IRRIGATION	7.13	2069.0	
CORP OF THE PRESIDING BISHOP	27-7112	Decreed	10/02/1977	IRRIGATION	0.06	2.0	
CORP OF THE PRESIDING BISHOP	36-7782	Decreed	03/10/1978	IRRIGATION	2.43	132.0	
CORP OF THE PRESIDING BISHOP	25-7291	Decreed	09/24/1982	DOMESTIC, IRRIGATION	0.05	2.0	
CORP OF THE PRESIDING BISHOP	35-8060	Decreed	11/30/1982	DOMESTIC, IRRIGATION	0.13	1.0	
CORP OF THE PRESIDING BISHOP	27-7335	License	12/29/1982	IRRIGATION	0.10	4.0	
CORP OF THE PRESIDING BISHOP	36-8145	Decreed	02/14/1983	DOMESTIC, IRRIGATION	0.04	0.5	
CORP OF THE PRESIDING BISHOP	35-8119	License	03/18/1983	DOMESTIC, IRRIGATION	0.14	6.0	
CORP OF THE PRESIDING BISHOP	25-7312	Decreed	03/21/1983	DOMESTIC, IRRIGATION	0.06	1.0	
CORP OF THE PRESIDING BISHOP	25-7326	Decreed	05/16/1983	DOMESTIC, IRRIGATION	0.06	4.8	
CORP OF THE PRESIDING BISHOP	31-7400	Decreed	06/14/1983	DOMESTIC, IRRIGATION	0.06	1.0	
CORP OF THE PRESIDING BISHOP	25-7365	Decreed	06/22/1983	DOMESTIC, IRRIGATION	0.20	1.0	
CORP OF THE PRESIDING BISHOP	35-8140	Decreed	07/11/1983	DOMESTIC, IRRIGATION	0.10	2.0	
CORP OF THE PRESIDING BISHOP	35-8192	License	07/19/1983	DOMESTIC, IRRIGATION	0.38	16.8	
CORP OF THE PRESIDING BISHOP	25-7395	License	05/03/1984	DOMESTIC, IRRIGATION	0.05	1.0	
CORP OF THE PRESIDING BISHOP	25-7417	License	07/15/1987	IRRIGATION	0.03	1.0	
CORP OF THE PRESIDING BISHOP	37-7076	License	10/24/1988	DOMESTIC, IRRIGATION	0.09	1.0	
CORP OF THE PRESIDING BISHOP	35-8732	License	04/17/1989	IRRIGATION	0.19	9.5	
CORP OF THE PRESIDING BISHOP	27-7470	License	05/16/1989	DOMESTIC, IRRIGATION	0.04	2.0	
CORP OF THE PRESIDING BISHOP	36-8428	License	06/07/1989	IRRIGATION	0.02	0.5	
CORP OF THE PRESIDING BISHOP	36-8429	License	06/07/1989	IRRIGATION	0.12	4.0	
CORP OF THE PRESIDING BISHOP	36-8430	License	06/07/1989	DOMESTIC, IRRIGATION	0.04	0.8	
CORP OF THE PRESIDING BISHOP	25-7571	License	07/10/1989	COMMERCIAL	0.20	0.0	
CORP OF THE PRESIDING BISHOP	25-7572	License	07/10/1989	DOMESTIC, IRRIGATION	0.13	3.0	
CORP OF THE PRESIDING BISHOP	25-7574	License	07/10/1989	DOMESTIC, IRRIGATION	0.10	0.1	
CORP OF THE PRESIDING BISHOP	35-8902	License	07/10/1989	DOMESTIC, IRRIGATION	0.19	5.5	
CORP OF THE PRESIDING BISHOP	25-7568	License	04/10/1990	DOMESTIC, IRRIGATION	0.09	1.0	
CORP OF THE PRESIDING BISHOP	31-11687	License	03/21/2001	IRRIGATION	0.06	2.7	

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CORP OF THE PRESIDING BISHOP CHURCH OF JESUS CHRIST OF LATTER DAY SAINTS	25-14208	License	06/01/1989	IRRIGATION	0.07	4.4	
CORP OF THE PRESIDING BISHOP CHURCH OF JESUS CHRIST OF LATTER DAY SAINTS	25-14210	License	06/01/1989	IRRIGATION	0.04	2.8	
CORP OF THE PRESIDING BISHOP CHURCH OF JESUS CHRIST OF LATTER DAY SAINTS	27-12162	License	06/01/1989	IRRIGATION	0.04	2.4	
CORP OF THE PRESIDING BISHOP CHURCH OF JESUS CHRIST OF LATTER DAY SAINTS	25-14231	License	09/18/2008	DOMESTIC	0.14	0.0	
COTTONWOOD ACRES DOMESTIC WELL INC	25-7089	Decreed	02/10/1976	DOMESTIC, IRRIGATION	0.22	2.0	
COUMERILH, TERRY L	35-8216	License	06/21/1983	IRRIGATION	0.03	1.0	
COUMERILH, TERRY L	35-8728	License	05/22/1989	IRRIGATION	0.06	3.0	
COUNTRY HAVEN UTILITIES ASSN	35-2667	Decreed	09/09/1961	DOMESTIC, IRRIGATION	0.48	2.0	
COUNTRY HAVEN UTILITIES ASSN	35-10980	Decreed	06/24/1970	DOMESTIC	0.42	0.0	Yes
COUNTRY HAVEN UTILITIES ASSN	35-8818	License	08/30/1989	DOMESTIC, IRRIGATION	0.24	3.0	
COUNTRY LIFE ESTATES WATER USERS ASSN	25-7407	Decreed	04/02/1986	DOMESTIC	0.19	0.0	
COUNTRY SQUIRE ESTATES WATER CO	25-7310	Decreed	03/09/1983	DOMESTIC, IRRIGATION	0.50	13.8	
COUNTRY SQUIRE ESTATES WATER CO	25-7630	License	05/18/1994	DOMESTIC	0.40	0.0	
COUNTY OF BINGHAM	35-8723	License	04/24/1989	IRRIGATION	0.03	1.0	
COX FAMILY FARMS LLC	36-7006	Decreed	10/30/1967	IRRIGATION	1.40	70.0	
COX, BYARD	27-12156	Decreed	09/11/1974	IRRIGATION	0.04	2.0	
COX, PAMELA; COX, RANDY	35-8762	License	05/22/1989	COMMERCIAL, DOMESTIC, IRRIGATION	0.09	1.4	
CRAWFORD, GAYLE; CRAWFORD, JOHN S	36-17138	Decreed	03/07/1978	IRRIGATION	0.04	2.3	
CREG & LETA HANSEN FAMILY LTD PARTNERSHIP	37-7621E	Decreed	06/07/1977	IRRIGATION	0.67	34.0	
CREG & LETA HANSEN FAMILY LTD PARTNERSHIP	37-8729	License	06/11/1991	IRRIGATION	2.00	120.0	
CRESTVIEW CALVES LLC	36-16502	Decreed	03/05/1958	IRRIGATION	0.05	4.1	
CROCKER, BRENT; CROCKER, TONIA	36-8375	License	07/18/1988	DOMESTIC, IRRIGATION	0.04	2.0	
CROFT, ELDON; ROBERTSON, DELL W	35-2828	Decreed	05/31/1966	IRRIGATION	5.06	314.0	
CROFT, LLOYD T; JOHNSON-CROFT, TERRY SUE	35-12372	Decreed	10/01/1965	IRRIGATION	1.99	160.0	
CROFTS INC	27-7045	Decreed	10/15/1974	INDUSTRIAL	0.25	0.0	
CROFTS INC	27-7471	License	06/01/1989	INDUSTRIAL	0.25	0.0	
CROSSBRED DAIRY	36-16198	Decreed	05/11/1957	COMMERCIAL, STOCKWATER	0.22	0.0	
CROSSBRED DAIRY	36-16196	Decreed	06/11/1957	COMMERCIAL, STOCKWATER	0.07	0.0	
CROSSBRED DAIRY	37-4263	Decreed	06/01/1961	IRRIGATION	2.18	117.0	
CROSSBRED DAIRY	36-10845	Decreed	01/28/1972	STOCKWATER	0.19	0.0	
CROSSBRED DAIRY	37-8891	Decreed	03/25/1974	COMMERCIAL, STOCKWATER	0.30	0.0	
CROSSBRED DAIRY	37-8055	Decreed	10/28/1982	COMMERCIAL, DOMESTIC, STOCKWATER	0.08	0.0	
CROSSBRED DAIRY	36-8478	License	11/07/1989	COMMERCIAL, STOCKWATER	0.37	0.0	
CRUMRINE, ERIC R; CRUMRINE, SAMANTHA MARIE	36-16940	Decreed	09/26/1963	IRRIGATION	0.09	5.0	

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CUNDICK, LARRY; CUNDICK, ROSALYNN	37-23213	Decreed	09/20/1974	IRRIGATION	0.02	1.6	
CUNNINGHAM, DEDRA A; CUNNINGHAM, LANNY C	27-12271	Decreed	12/04/1961	IRRIGATION	0.07	2.6	
CURTISS, MICHELLE M; CURTISS, PATRICK E	35-13790	Decreed	03/18/1970	IRRIGATION	0.02	0.8	
CUTLER, BEVERLY; CUTLER, MARION L	35-8853	License	08/28/1989	DOMESTIC, IRRIGATION	0.09	1.5	
CUTLER, KAY ANN; CUTLER, SCOTT L	36-16463	Decreed	11/06/1961	IRRIGATION	0.60	30.0	
CVRH FARM LLC	27-12227	Decreed	04/11/1963	IRRIGATION	2.34	196.0	
CVRH FARM LLC	27-12228	Decreed	04/11/1963	IRRIGATION	0.48	51.5	
CVRH FARM LLC	27-12225	Decreed	01/29/1969	IRRIGATION	1.58	196.0	
CVRH FARM LLC	27-12226	Decreed	01/29/1969	IRRIGATION	0.32	51.5	
CVRH FARM LLC	27-12232	Decreed	05/14/1970	IRRIGATION	7.31	433.0	
CVRH FARM LLC	27-12233	Decreed	05/14/1970	IRRIGATION	0.05	131.0	
CVRH FARM LLC	27-12234	Decreed	05/14/1970	IRRIGATION	0.24	146.0	
CVRH FARM LLC	27-7139	Decreed	06/04/1979	IRRIGATION	2.46	131.0	
CVRH FARM LLC	27-12223	Decreed	07/05/1979	IRRIGATION	0.70	41.0	
CVRH FARM LLC	27-12224	Decreed	07/05/1979	IRRIGATION	0.10	51.5	
CVRH FARM LLC	27-12219	Decreed	03/23/1981	IRRIGATION	0.61	30.7	
CVRH FARM LLC	27-12220	Decreed	03/23/1981	IRRIGATION	0.07	51.5	
CVRH FARM LLC	27-12221	Decreed	03/23/1981	IRRIGATION	0.66	32.8	
CVRH FARM LLC	27-12222	Decreed	03/23/1981	IRRIGATION	0.06	51.5	
CVRH FARM LLC	27-7264	Decreed	03/26/1981	IRRIGATION	2.57	146.0	
D & C PROPERTIES LLC	27-12212		08/04/2010	INDUSTRIAL	4.99	0.0	
D L EVANS BANK; KEARSLEY, BENJAMIN; KEARSLEY, SHAYLEE	37-20950	Decreed	02/18/1971	COMMERCIAL	0.03	0.0	
D M F INC	36-7222	Decreed	02/01/1972	IRRIGATION	4.57	296.0	
DALLEY JR, RICHARD B	36-17164	Decreed	05/16/1961	IRRIGATION	5.56	320.0	
DALLEY JR, RICHARD B; DALLEY SR, RICHARD B; DALLEY, SHAUNA H	36-15173	Decreed	05/16/1961	IRRIGATION	2.78	160.0	
DALLEY SR, RICHARD B; DALLEY, SHAUNA H	36-16129	Decreed	11/08/1973	IRRIGATION	1.24	813.6	
DALLEY SR, RICHARD B; DALLEY, SHAUNA H	36-4263	Decreed	03/15/1974	IRRIGATION	0.74	352.0	Yes
DALLEY SR, RICHARD B; DALLEY, SHAUNA H; ELLIS, STACEY D	36-17167	Decreed	05/16/1961	IRRIGATION	2.78	160.0	
DALLING, BRENT; DALLING, LAUREL	31-2370	Decreed	01/26/1959	IRRIGATION	2.65	309.3	
DALLING, BRENT; DALLING, LAUREL	31-2385	Decreed	12/13/1960	IRRIGATION	2.09	309.3	
DALLING, BRENT; DALLING, LAUREL	31-7141C	Decreed	11/01/1974	DOMESTIC, IRRIGATION, STOCKWATER	0.33	15.0	
DALLING, DERRICK R; DALLING, KELSEE M	31-12074	Decreed	01/21/1981	IRRIGATION	0.38	30.0	
DALLING, DERRICK R; DALLING, KELSEE M	31-12075	Decreed	01/21/1981	IRRIGATION	0.03	2.0	
DALLING, DOROTHY H; DALLING, GLENN W	31-7092	Decreed	09/18/1973	DOMESTIC, IRRIGATION, STOCKWATER	0.12	12.0	
DALLING, DOROTHY H; DALLING, GLENN W	31-11617	Decreed	09/23/1977	IRRIGATION	0.02	12.0	Yes
DALLING, G DAVID; DALLING, THERESSA E	31-7194	Decreed	03/25/1976	IRRIGATION	2.45	136.0	
DALLING, JERALD K; DALLING, NINA H	31-12099	Decreed	05/11/1970	IRRIGATION	0.37	59.0	
DALLING, JERALD K; DALLING, NINA H	31-12122	Decreed	05/11/1970	IRRIGATION	1.82	123.1	

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DALLING, JERALD K; DALLING, NINA H	31-12124	Decreed	05/11/1970	IRRIGATION	1.82	123.1	
DALLING, JERALD K; DALLING, NINA H	31-7061	Decreed	06/20/1972	IRRIGATION	5.28	264.0	
DALLING, JERALD K; DALLING, NINA H	31-12101	Decreed	03/18/1974	IRRIGATION	0.34	59.0	
DALLING, JERALD K; DALLING, NINA H	31-7195	Decreed	04/08/1976	IRRIGATION	2.53	136.0	
DALLING, JERALD K; DALLING, NINA H	31-12103	Decreed	03/11/1982	IRRIGATION	0.20	59.0	
DANCE LAND HOLDINGS LLC	35-7422	Decreed	05/20/1974	IRRIGATION	4.60	230.0	
DANCE LAND HOLDINGS LLC	35-14775	Decreed	03/17/1981	IRRIGATION	1.00	50.0	
DANCE, DAVID P	35-2782	Decreed	06/18/1965	IRRIGATION	1.35	133.0	
DANCE, DAVID P	35-7548	Decreed	12/03/1975	IRRIGATION	0.76	114.0	
DANCE, DAVID P	35-7910	Decreed	08/15/1980	IRRIGATION	0.96	133.0	
DANCE, DAVID P	35-7957	Decreed	03/17/1981	IRRIGATION	0.50	25.0	
DANCE, DAVID P	35-7958	Decreed	03/17/1981	IRRIGATION	1.36	68.0	
DANCE, DAVID P	35-13070	Decreed	04/01/1986	IRRIGATION	0.48	114.0	Yes
DANCE, KELLY	35-7992	Decreed	07/02/1981	IRRIGATION	1.53	100.0	
DANSIE, BEN; DANSIE, ERICA	25-14391	License	02/28/1992	IRRIGATION	0.01	0.6	
DANSIE, CAROL L; DANSIE, CHARLES N	27-7303B	Decreed	03/17/1982	IRRIGATION	0.85	215.0	
DANSIE, CAROL L; DANSIE, CHARLES N	27-7318	Decreed	05/18/1982	IRRIGATION	0.05	2.5	
DANSO, LLC	36-15639	Decreed	12/03/1966	COMMERCIAL	0.05	0.0	
DANSO, LLC	36-15637	Decreed	10/18/1968	COMMERCIAL	0.07	0.0	
DANSO, LLC	36-7045	Decreed	11/15/1968	COMMERCIAL, FIRE PROTECTION	0.14	0.0	
DANSO, LLC	36-15641	Decreed	02/18/1971	COMMERCIAL	0.03	0.0	
DANSO, LLC	36-8766	License	06/08/1997	COMMERCIAL	0.10	0.0	
DAROSA FARMS LLC	36-7317A	Decreed	03/21/1973	IRRIGATION	2.20	110.0	
DAROSA FARMS LLC	36-7317B	Decreed	03/21/1973	COMMERCIAL, STOCKWATER	0.20	0.0	
DAROSA FARMS LLC	36-16381	Decreed	09/12/1973	COMMERCIAL, STOCKWATER	0.08	0.0	
DAROSA FARMS LLC	36-7732B	License	10/21/1977	COMMERCIAL, STOCKWATER	0.40	0.0	
DAROSA FARMS LLC	36-7732C	License	10/21/1977	IRRIGATION	2.64	132.0	
DAROSA FARMS LLC	36-7732D	License	10/21/1977	COMMERCIAL, STOCKWATER	0.34	0.0	
DAROSA FARMS LLC	36-8061	Decreed	02/09/1982	COMMERCIAL, STOCKWATER	0.20	0.0	
DAROSA FARMS LLC	36-8215	Decreed	06/22/1983	COMMERCIAL, DOMESTIC, STOCKWATER	0.07	0.0	
DAROSA FARMS LLC	36-8735	License	01/10/1992	COMMERCIAL, STOCKWATER	0.04	0.0	
DAVID GREENE LIVING TRUST	37-23211	Decreed	09/20/1974	IRRIGATION	0.04	3.4	
DAVID SAUER FARMS INC	32-13259	Decreed	01/21/1957	IRRIGATION	0.28	14.0	
DAVID SAUER FARMS INC	32-2127C	Decreed	10/25/1966	IRRIGATION	1.81	132.0	
DAVID SAUER FARMS INC	32-7013D	Decreed	01/15/1973	IRRIGATION	3.34	256.0	
DAVID SAUER FARMS INC	32-11243C	Decreed	04/01/1986	IRRIGATION	0.29	21.0	Yes
DAVID SAUER FARMS INC	32-11244	Decreed	04/01/1986	IRRIGATION	0.60	56.0	Yes
DAVIDSON, JOSEPH E	36-8790	License	04/12/1999	DOMESTIC	0.05	0.0	

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DAVIES, ROBERT	31-12434	Decreed	03/28/1973	IRRIGATION	0.08	4.0	
DAVIS, BRET W; VAN ORDEN, ANNETTE	27-12285	License	06/09/1983	IRRIGATION	0.13	6.5	
DAVIS, DENNIS	25-7653	License	09/02/1997	DOMESTIC	0.62	0.0	
DAVIS, STACI ; DAVIS, TRENT W	36-2445	Decreed	07/18/1960	IRRIGATION	1.86	93.0	
DAVIS, STACI ; DAVIS, TRENT W	36-7457	Decreed	03/20/1974	IRRIGATION	1.18	59.0	
DAVIS, STACI ; DAVIS, TRENT W	36-7458	Decreed	03/20/1974	IRRIGATION	0.80	40.0	
DAY, DEANA L; DAY, PAUL H	35-13520	License	06/11/1985	IRRIGATION	0.02	1.1	
DE FILIPPIS, EARL H; DE FILIPPIS, JOAN A	36-7864	Decreed	06/18/1979	IRRIGATION	0.03	1.0	
DE GIULIO, ANTHONY P; DE GIULIO, NADINE	35-7654A	Decreed	12/21/1976	IRRIGATION	0.96	48.0	
DE GIULIO, BILLY; DE GIULIO, VELIA	35-2001	Decreed	05/04/1961	IRRIGATION	0.88	80.0	
DE GIULIO, BILLY; DE GIULIO, VELIA	35-7949	Decreed	02/12/1981	IRRIGATION	2.00	131.0	
DE GIULIO, BILLY; DE GIULIO, VELIA	35-9055	License	04/12/1996	IRRIGATION	1.54	132.0	
DE GIULIO, DAN	35-7121A	Decreed	03/29/1970	IRRIGATION	1.84	215.0	
DE GIULIO, VELIA	35-7415	Decreed	04/16/1974	IRRIGATION	0.72	39.0	
DE GIULIO, VELIA	35-13566	Decreed	04/01/1985	IRRIGATION	1.00	135.0	Yes
DE JONG DAIRY LLC	36-7353	Decreed	07/18/1973	IRRIGATION	1.98	99.0	
DE JONG DAIRY LLC	36-7574	Decreed	10/30/1975	IRRIGATION	1.50	108.0	
DE JONG DAIRY LLC	36-8063D	License	03/18/1982	COMMERCIAL, STOCKWATER	0.16	0.0	
DE JONG, RENEE E; DE JONG, WILLIAM J	36-17016	License	11/07/1989	IRRIGATION	0.05	1.6	
DE KRUYF, ALICE RUTH; DE KRUYF, CALVIN	36-2474A	Decreed	02/10/1961	IRRIGATION	2.11	162.7	
DE KRUYF, ALICE RUTH; DE KRUYF, CALVIN	36-10082A	Decreed	03/15/1976	IRRIGATION	0.21	162.7	Yes
DE KRUYF, ALICE RUTH; DE KRUYF, CALVIN	36-8530	License	04/05/1990	COMMERCIAL, DOMESTIC, STOCKWATER	0.54	0.0	
DE KRUYF, CALVIN; DE KRUYF, MARK A	36-2474B	Decreed	02/10/1961	COMMERCIAL, STOCKWATER	0.59	0.0	
DE KRUYF, CALVIN; DE KRUYF, MARK A	36-10082B	Decreed	03/15/1976	COMMERCIAL, STOCKWATER	0.06	0.0	
DE KRUYF, CALVIN; DE KRUYF, MARK A	36-8481	License	12/04/1989	STOCKWATER	0.34	0.0	
DE MELLO, DUSTIN; DE MELLO, KIMBERLY	36-16486	Decreed	11/06/1961	IRRIGATION	0.08	3.8	
DE VRIES, KRISTY; DE VRIES, WIETZE	36-15709	Decreed	03/10/1960	COMMERCIAL, STOCKWATER	0.10	0.0	
DE VRIES, KRISTY; DE VRIES, WIETZE	36-17047	Decreed	10/29/1964	COMMERCIAL, STOCKWATER	0.06	0.0	
DE VRIES, KRISTY; DE VRIES, WIETZE	36-15711	Decreed	12/08/1981	COMMERCIAL, STOCKWATER	0.06	0.0	
DE WOLFE, HARRY G; DE WOLFE, LORI	36-2588	Decreed	02/20/1964	IRRIGATION	0.08	4.0	
DEAN SNARR & SONS	35-7338	Decreed	10/10/1973	IRRIGATION	4.64	421.0	
DEAN SNARR & SONS	35-10189	Decreed	04/01/1985	IRRIGATION	2.08	421.0	Yes
DECKER, LORAL A; DECKER, PATRICIA A	35-2686	Decreed	08/17/1961	IRRIGATION	0.05	2.0	
DEELSTRA, PIETER; NEELEMAN, NIESJE WILLEMINA	36-16304	Decreed	12/04/1972	IRRIGATION	1.81	94.7	
DEELSTRA, PIETER; NEELEMAN, NIESJE WILLEMINA	36-16305	Decreed	12/04/1972	COMMERCIAL, STOCKWATER	0.03	0.0	
DEELSTRA, PIETER; NEELEMAN, NIESJE WILLEMINA	36-7277B	Decreed	12/04/1972	COMMERCIAL, STOCKWATER	0.39	0.0	
DEELSTRA, PIETER; NEELEMAN, NIESJE WILLEMINA	36-7562C	Decreed	01/21/1974	IRRIGATION	0.60	30.0	
DEELSTRA, PIETER; NEELEMAN, NIESJE WILLEMINA	36-7562D	Decreed	01/21/1974	COMMERCIAL, STOCKWATER	0.12	0.0	

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DEELSTRA, PIETER; NEELEMAN, NIESJE WILLEMINA	36-7562E	Decreed	01/21/1974	IRRIGATION	0.15	30.0	
DEELSTRA, PIETER; NEELEMAN, NIESJE WILLEMINA	36-7562F	Decreed	01/21/1974	COMMERCIAL, STOCKWATER	0.05	0.0	
DEELSTRA, PIETER; NEELEMAN, NIESJE WILLEMINA	36-7622A	Decreed	04/29/1976	IRRIGATION	0.45	30.0	
DEELSTRA, PIETER; NEELEMAN, NIESJE WILLEMINA	36-7622B	Decreed	04/29/1976	COMMERCIAL, STOCKWATER	0.15	0.0	
DEL RAY HOLM & SONS	35-2794B	Decreed	10/01/1965	IRRIGATION	0.95	464.0	
DEL RAY HOLM & SONS	35-7376	Decreed	03/26/1974	IRRIGATION	6.42	464.0	
DEL RAY HOLM & SONS	35-8103	License	02/22/1983	IRRIGATION	7.00	474.0	
DELGADO, ANTONIO	27-7515	License	06/20/1990	IRRIGATION	0.10	5.0	
DELIS FARMS INC	36-2629	Decreed	10/27/1965	IRRIGATION	3.82	1275.0	
DELIS FARMS INC	36-2716	Decreed	07/18/1966	IRRIGATION	4.52	1275.0	
DELIS FARMS INC	36-7311	Decreed	03/05/1973	IRRIGATION	4.46	1275.0	
DELIS FARMS INC	36-7371	Decreed	08/23/1973	IRRIGATION	2.90	1275.0	
DELIS FARMS INC	36-7652	Decreed	10/29/1976	IRRIGATION	5.06	283.0	
DELIS FARMS INC	36-8489	License	10/11/1989	COMMERCIAL	0.02	0.0	
DEMOTT FARMS LLC	35-2502	Decreed	04/23/1957	IRRIGATION	5.84	1267.0	
DEMOTT FARMS LLC	35-4014	Decreed	06/01/1961	IRRIGATION	6.40	1267.0	
DEMOTT FARMS LLC	35-2799	Decreed	10/29/1965	IRRIGATION	6.96	1267.0	
DEMOTT, MARY LOU; DEMOTT, WILLIAM J	35-13296	Decreed	04/12/1957	IRRIGATION	0.91	80.0	
DESERT DEEP PROPERTIES LLC	31-2360	Decreed	01/02/1957	IRRIGATION	2.68	596.0	
DESERT DEEP PROPERTIES LLC	31-2375B	Decreed	10/10/1960	IRRIGATION	0.74	596.0	
DESERT RIDGE FARMS INC	36-4010	Decreed	04/01/1959	IRRIGATION	2.17	114.0	
DESERT RIDGE FARMS INC	36-2471	Decreed	02/06/1961	IRRIGATION	1.54	77.0	
DEWEY, JOHN L	35-2567B	Decreed	03/12/1959	IRRIGATION	1.00	152.0	
DEWEY, JOHN L	35-2567C	Decreed	03/12/1959	IRRIGATION	1.30	108.0	
DEWEY, JOHN L	35-13248	Decreed	10/31/1970	IRRIGATION	0.96	108.0	Yes
DEWEY, JOHN L	35-13242	Decreed	10/31/1974	IRRIGATION	0.20	152.0	Yes
DEWEY, JOHN L	35-8045	Decreed	06/17/1982	DOMESTIC, IRRIGATION	0.14	4.0	
DEWEY, JOHN L	35-8612	Decreed	06/28/1985	IRRIGATION	1.40	152.0	
DEWEY, JOHN L; DEWEY, MAXINE	35-7093	Decreed	08/05/1969	IRRIGATION	0.46	274.0	
DEWEY, JOHN L; DEWEY, MAXINE	35-7774	Decreed	01/24/1978	IRRIGATION	1.12	274.0	
DIAMOND A LIVESTOCK INC	37-21490	Decreed	01/29/1965	IRRIGATION	3.16	158.0	
DIAMOND A LIVESTOCK INC	37-21491	Decreed	01/29/1965	COMMERCIAL	0.04	0.0	
DIETRICH CEMETERY DISTRICT	37-22908	Decreed	03/22/1971	IRRIGATION	0.03	2.0	
DILWORTH, ARLEN S; DILWORTH, CARMENE B	37-22450	Decreed	11/25/1962	IRRIGATION	0.40	20.0	
DILWORTH, PAMLA; DILWORTH, REED W	36-8114	Decreed	06/16/1982	DOMESTIC, IRRIGATION	0.04	3.0	
DIMOND, CAROLYN T; DIMOND, HAROLD S	36-2418	Decreed	05/01/1956	IRRIGATION	1.82	95.0	
DIMOND, CAROLYN T; DIMOND, HAROLD S	36-7401	Decreed	11/07/1973	IRRIGATION	3.52	343.0	
DIMOND, DEAN T; DIMOND, EDEN C	36-2460	Decreed	01/11/1961	IRRIGATION	4.72	322.0	

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DIMOND, DEAN T; DIMOND, EDEN C	36-7614	Decreed	05/08/1976	IRRIGATION	1.26	322.0	
DIMOND, GARY B; DIMOND, RUTH P	36-2290	Decreed	12/28/1955	IRRIGATION	1.87	101.0	
DINOS LLC	36-8680	License	10/21/1992	DOMESTIC	0.10	0.0	
DISHMAN, REA ETTA J; DISHMAN, WILLIAM T	35-2737D	Decreed	04/27/1964	IRRIGATION	0.10	5.0	
DIXON, MAE; DIXON, RAND O	31-7068	Decreed	12/06/1972	IRRIGATION	2.52	126.0	
DJC INVESTMENTS LLC	27-7115	Decreed	10/04/1977	IRRIGATION	0.61	32.0	
DN HULTS PROPERTIES LLC; HULTS , JOSEPH; HULTS, KAY A	36-8580	License	02/19/1991	IRRIGATION	0.70	35.0	
DN HULTS PROPERTIES LLC; HULTS, DAVID; HULTS, KAY A; HULTS, NICOLE	36-16316	Decreed	03/21/1956	IRRIGATION	0.08	142.0	
DN HULTS PROPERTIES LLC; HULTS, DAVID; HULTS, KAY A; HULTS, NICOLE	36-16317	Decreed	03/21/1956	IRRIGATION	1.62	120.0	
DN HULTS PROPERTIES LLC; HULTS, DAVID; HULTS, KAY A; HULTS, NICOLE	36-16323	Decreed	05/26/1961	IRRIGATION	0.12	12.0	
DN HULTS PROPERTIES LLC; HULTS, DAVID; HULTS, KAY A; HULTS, NICOLE	36-16318	Decreed	07/21/1967	IRRIGATION	0.12	12.0	
DN HULTS PROPERTIES LLC; HULTS, DAVID; HULTS, KAY A; HULTS, NICOLE	36-16319	Decreed	07/21/1967	IRRIGATION	0.78	120.0	
DN HULTS PROPERTIES LLC; HULTS, KAY A	36-2295	Decreed	02/17/1956	IRRIGATION	2.80	154.0	
DN HULTS PROPERTIES LLC; HULTS, KAY A	36-16398	Decreed	07/08/1957	IRRIGATION	0.57	142.0	
DN HULTS PROPERTIES LLC; HULTS, KAY A	37-2675	Decreed	08/31/1961	IRRIGATION	1.56	120.0	
DN HULTS PROPERTIES LLC; HULTS, KAY A	36-16400	Decreed	08/24/1973	IRRIGATION	0.01	142.0	
DN HULTS PROPERTIES LLC; HULTS, KAY A	36-10547	Decreed	04/01/1980	IRRIGATION	0.25	154.0	Yes
DN HULTS PROPERTIES LLC; HULTS, KAY A	36-8200	License	05/26/1983	IRRIGATION	0.28	154.0	
DOBSON RANCH	31-11429	Decreed	06/21/1957	DIVERSION TO STORAGE, IRRIGATION FROM STORAGE, IRRIGATION STORAGE	13.45	1561.6	
DOBSON RANCH PARTNERSHIP	31-2358	Decreed	11/29/1956	IRRIGATION	1.45	1561.6	
DOIG, BILL L	35-8061	License	11/23/1982	DOMESTIC, IRRIGATION, STOCKWATER	0.08	9.0	
DOUBLE A DAIRY	37-22607	Decreed	12/21/1956	IRRIGATION	0.23	335.1	
DOUBLE A DAIRY	37-22608	Decreed	12/21/1956	COMMERCIAL, STOCKWATER	0.45	0.0	
DOUBLE A DAIRY	37-22616	Decreed	12/21/1956	IRRIGATION	0.03	335.1	
DOUBLE A DAIRY	37-22617	Decreed	12/21/1956	COMMERCIAL, STOCKWATER	0.07	0.0	
DOUBLE A DAIRY	37-2592D	Decreed	12/21/1956	COMMERCIAL, STOCKWATER	0.29	0.0	
DOUBLE A DAIRY	37-2592F	Decreed	12/21/1956	COMMERCIAL, STOCKWATER	0.04	0.0	
DOUBLE A DAIRY	37-22613	Decreed	09/29/1976	IRRIGATION	0.10	335.1	
DOUBLE A DAIRY	37-22614	Decreed	09/29/1976	COMMERCIAL, STOCKWATER	0.19	0.0	
DOUBLE A DAIRY	37-7533B	Decreed	09/29/1976	COMMERCIAL, STOCKWATER	0.12	0.0	
DOUBLE A LAND LLC	36-16263	Decreed	12/02/1955	IRRIGATION	0.03	302.7	
DOUBLE A LAND LLC	36-2289H	Decreed	12/02/1955	STOCKWATER	0.01	0.0	

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DOUBLE A LAND LLC	36-16265	Decreed	11/23/1956	IRRIGATION	0.37	302.7	
DOUBLE A LAND LLC	36-2311F	Decreed	11/23/1956	STOCKWATER	0.01	0.0	
DOUBLE A LAND LLC	36-15559	Decreed	02/18/1959	IRRIGATION	2.47	608.0	
DOUBLE A LAND LLC	36-16267	Decreed	07/18/1961	IRRIGATION	0.24	302.7	
DOUBLE A LAND LLC	36-2500F	Decreed	07/18/1961	STOCKWATER	0.01	0.0	
DOUBLE A LAND LLC	36-2519	Decreed	10/03/1961	IRRIGATION	3.00	171.0	
DOUBLE A LAND LLC	36-15557	Decreed	11/05/1961	IRRIGATION	2.94	608.0	
DOUBLE A LAND LLC	36-2575B	Decreed	08/05/1963	COMMERCIAL, STOCKWATER	0.05	0.0	
DOUBLE A LAND LLC	36-16447	Decreed	01/28/1964	COMMERCIAL, STOCKWATER	0.19	0.0	
DOUBLE A LAND LLC	36-16894	Decreed	01/28/1964	IRRIGATION	2.67	435.1	
DOUBLE A LAND LLC	36-16895	Decreed	01/28/1964	COMMERCIAL, STOCKWATER	0.10	0.0	
DOUBLE A LAND LLC	36-2586B	Decreed	01/28/1964	COMMERCIAL, STOCKWATER	0.20	0.0	
DOUBLE A LAND LLC	36-16269	Decreed	06/07/1965	IRRIGATION	0.51	302.7	
DOUBLE A LAND LLC	36-2614F	Decreed	06/07/1965	STOCKWATER	0.01	0.0	
DOUBLE A LAND LLC	36-15561	Decreed	08/19/1965	IRRIGATION	2.70	608.0	
DOUBLE A LAND LLC	36-15169F	Decreed	12/11/1969	STOCKWATER	0.05	0.0	
DOUBLE A LAND LLC	36-16285	Decreed	12/11/1969	IRRIGATION	1.72	302.7	
DOUBLE A LAND LLC	36-16271	Decreed	02/26/1973	IRRIGATION	0.36	302.7	
DOUBLE A LAND LLC	36-7307F	Decreed	02/26/1973	STOCKWATER	0.02	0.0	
DOUBLE A LAND LLC	36-16273	Decreed	08/02/1973	IRRIGATION	0.61	302.7	
DOUBLE A LAND LLC	36-7362F	Decreed	08/02/1973	STOCKWATER	0.02	0.0	
DOUBLE A LAND LLC	37-8909	Decreed	03/15/1974	STOCKWATER	0.02	0.0	Yes
DOUBLE A LAND LLC	36-16275	Decreed	05/28/1974	IRRIGATION	0.19	302.7	
DOUBLE A LAND LLC	36-7477F	Decreed	05/28/1974	STOCKWATER	0.01	0.0	
DOUBLE A LAND LLC	36-16277	Decreed	02/04/1976	IRRIGATION	0.17	302.7	
DOUBLE A LAND LLC	36-7606F	Decreed	02/04/1976	STOCKWATER	0.01	0.0	
DOUBLE A LAND LLC	36-14035B	Decreed	05/26/1976	COMMERCIAL, STOCKWATER	0.42	0.0	
DOUBLE A LAND LLC	36-16449	Decreed	05/26/1976	COMMERCIAL, STOCKWATER	0.19	0.0	
DOUBLE A LAND LLC	36-16896	Decreed	05/26/1976	IRRIGATION	6.03	435.1	
DOUBLE A LAND LLC	36-16897	Decreed	05/26/1976	COMMERCIAL, STOCKWATER	0.23	0.0	
DOUBLE A LAND LLC	36-16279	Decreed	02/22/1978	IRRIGATION	0.57	302.7	
DOUBLE A LAND LLC	36-7779F	Decreed	02/22/1978	STOCKWATER	0.02	0.0	
DOUBLE A LAND LLC	36-16281	Decreed	12/11/1978	IRRIGATION	0.03	302.7	
DOUBLE A LAND LLC	36-7832F	Decreed	12/11/1978	STOCKWATER	0.01	0.0	
DOUBLE A LAND LLC	36-15563	Decreed	02/26/1979	IRRIGATION	1.91	608.0	
DOUBLE A LAND LLC	36-16893	Decreed	11/01/1979	STOCKWATER	0.02	0.0	
DOUBLE A LAND LLC	36-10225F	Decreed	05/01/1985	STOCKWATER	0.01	0.0	
DOUBLE A LAND LLC	36-16283	Decreed	05/01/1985	IRRIGATION	0.17	302.7	Yes

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DOUBLE A LAND LLC	36-16891	Decreed	01/10/1997	STOCKWATER	0.06	0.0	
DOUBLE V LLC	36-2286A	Decreed	06/24/1955	IRRIGATION	0.15	8.0	
DOUBLE V LLC	36-2286B	Decreed	06/24/1955	IRRIGATION	1.45	138.0	
DOUBLE V LLC	36-14846	Decreed	12/31/1962	COMMERCIAL, DOMESTIC, STOCKWATER	0.12	0.0	
DOUBLE V LLC	36-7023	Decreed	04/15/1968	IRRIGATION, STOCKWATER	1.14	56.0	
DOUBLE V LLC	36-10509	Decreed	01/01/1974	STOCKWATER	0.12	0.0	
DOUBLE V LLC	36-7582	Decreed	01/01/1976	IRRIGATION	1.60	138.0	
DOUBLE V LLC	36-8247	Decreed	06/12/1984	COMMERCIAL, DOMESTIC, STOCKWATER	0.08	0.0	
DOUBLE V LLC	36-10511	Decreed	01/01/1985	STOCKWATER	0.12	0.0	
DOUBLE V LLC	36-8543	License	06/15/1990	COMMERCIAL, STOCKWATER	0.08	0.0	
DOUBLE V LLC; VANDERVEGT, RAY	36-2517C	Decreed	09/11/1961	IRRIGATION	0.17	32.0	
DOUBLE V LLC; VANDERVEGT, RAY	36-7377B	Decreed	09/07/1973	COMMERCIAL, STOCKWATER	0.11	0.0	
DOUBLE V LLC; VANDERVEGT, RAY	36-7460G	Decreed	03/25/1974	IRRIGATION	0.19	32.0	
DOUBLE V LLC; VANDERVEGT, RAY	36-7547B	Decreed	05/13/1975	COMMERCIAL, STOCKWATER	0.09	0.0	
DOUBLE V LLC; VANDERVEGT, RAY	36-8047B	Decreed	12/09/1981	COMMERCIAL, STOCKWATER	0.17	0.0	
DOUBLE V LLC; VANDERVEGT, RAY	36-8047D	Decreed	12/09/1981	COMMERCIAL, STOCKWATER	0.26	0.0	
DOUBLE V LLC; VANDERVEGT, RAY	36-8047E	Decreed	12/09/1981	IRRIGATION	0.80	81.0	
DOUBLE V LLC; VANDERVEGT, RAY	36-8047F	Decreed	12/09/1981	COMMERCIAL, STOCKWATER	0.09	0.0	
DOUBLE V LLC; VANDERVEGT, RAY	36-8313B	License	08/20/1986	IRRIGATION	0.32	16.0	
DOWNS, BRENDA L; DOWNS, FARREL B	31-11434	Decreed	08/19/1955	DOMESTIC, IRRIGATION, STOCKWATER	0.16	5.2	
DRBROWN LLC	35-2496	Decreed	02/18/1957	IRRIGATION	3.00	228.0	
DREHER, DEAN	27-7091	Decreed	06/08/1977	IRRIGATION	1.36	68.0	
DREHER, DEAN	27-7096B	Decreed	07/05/1977	IRRIGATION	6.91	367.9	
DREHER, DEAN	27-11925	License	10/03/1984	IRRIGATION	0.40	20.0	
DREHER, DEAN	27-11926	License	10/03/1984	IRRIGATION	0.48	24.0	
DREHER, DEAN	27-11927	License	10/03/1984	IRRIGATION	0.48	24.0	
DREHER, DEAN	27-7528	License	03/06/1991	IRRIGATION	3.17	168.0	
DREHER, DEAN	27-12167	License	08/22/1991	IRRIGATION	0.78	39.0	
DREHER, DEAN	27-12210	License	08/22/1991	IRRIGATION	0.37	18.7	
DREHER, DEAN; DREHER, LEEANN; DREHER, PAUL	27-7098	Decreed	07/11/1977	IRRIGATION	1.78	111.3	
DREW, RONALD; JENSEN, NOLLENE	27-7078	Decreed	03/04/1977	IRRIGATION	0.40	20.0	
DRISCOLL, DOUGLAS D	35-7051	Decreed	09/04/1968	IRRIGATION	1.40	72.0	
DRISCOLL, DOUGLAS D	35-7513	Decreed	07/02/1975	IRRIGATION	1.32	71.0	
DRISCOLL, JOYCE; DRISCOLL, MICHAEL A	35-2724	Decreed	04/22/1963	IRRIGATION	1.98	141.0	
DRISCOLL, JOYCE; DRISCOLL, MICHAEL A	35-7045	Decreed	09/04/1968	IRRIGATION	2.88	155.0	
DRISCOLL, MICHAEL A	35-8875	License	02/27/1990	COMMERCIAL, DOMESTIC	0.06	0.0	
DUFFIN, DON D	45-7696	License	01/03/1992	IRRIGATION	0.02	0.5	
DUGAN FAMILY FARMS LLC	36-8538	License	06/01/1990	COMMERCIAL, STOCKWATER	0.27	0.0	

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DUNCAN PARTNERSHIP TRUST	45-2479	Decreed	04/28/1954	IRRIGATION	1.15	134.2	
DUNCAN PARTNERSHIP TRUST	45-2616D	Decreed	04/17/1960	IRRIGATION	3.86	250.0	
DUNCAN PARTNERSHIP TRUST	45-7108B	Decreed	05/11/1972	IRRIGATION	2.40	134.2	
DUNCAN PARTNERSHIP TRUST	45-7232C	Decreed	03/13/1975	IRRIGATION	0.17	274.0	
DUNCAN PARTNERSHIP TRUST; DUNCAN, KATHY F; DUNCAN, PAUL H	36-13529	Decreed	03/27/1958	DOMESTIC, INDUSTRIAL	0.08	0.0	
DUNCAN PARTNERSHIP TRUST; DUNCAN, KATHY F; DUNCAN, PAUL H	36-2446	Decreed	07/22/1960	IRRIGATION	3.69	190.0	
DUNCAN PARTNERSHIP TRUST; DUNCAN, KATHY F; DUNCAN, PAUL H	36-2447B	Decreed	07/22/1960	IRRIGATION	0.12	267.0	
DUNCAN PARTNERSHIP TRUST; DUNCAN, KATHY F; DUNCAN, PAUL H	36-2469D	Decreed	01/24/1961	IRRIGATION	5.05	315.0	
DUNCAN PARTNERSHIP TRUST; DUNCAN, KATHY F; DUNCAN, PAUL H	36-2469E	Decreed	01/24/1961	IRRIGATION	0.45	29.0	
DUNCAN PARTNERSHIP TRUST; DUNCAN, KATHY F; DUNCAN, PAUL H	36-2678	Decreed	01/11/1967	IRRIGATION	2.45	158.0	
DUNCAN PARTNERSHIP TRUST; DUNCAN, KATHY F; DUNCAN, PAUL H	36-7294	Decreed	01/30/1973	IRRIGATION	2.12	160.0	
DUNCAN PARTNERSHIP TRUST; DUNCAN, KATHY F; DUNCAN, PAUL H	36-7356A	Decreed	07/24/1973	IRRIGATION	0.35	35.0	
DUNCAN PARTNERSHIP TRUST; DUNCAN, KATHY F; DUNCAN, PAUL H	36-7356D	Decreed	07/24/1973	IRRIGATION	1.81	158.0	
DUNCAN PARTNERSHIP TRUST; DUNCAN, KATHY F; DUNCAN, PAUL H	36-15458	Decreed	12/31/1978	IRRIGATION	0.05	158.0	Yes
DUNCAN PARTNERSHIP TRUST; DUNCAN, KATHY F; DUNCAN, PAUL H	36-13531	Decreed	04/01/1979	IRRIGATION	0.42	341.0	Yes
DUNCAN PARTNERSHIP TRUST; PKD PROPERTIES LC	36-15978	Decreed	04/17/1960	IRRIGATION	0.46	256.0	
DUNCAN PARTNERSHIP TRUST; PKD PROPERTIES LC	36-2436	Decreed	10/09/1960	IRRIGATION	4.60	296.0	
DUNCAN PARTNERSHIP TRUST; PKD PROPERTIES LC	36-15979	Decreed	03/13/1975	IRRIGATION	0.02	256.0	
DUNCAN PARTNERSHIP TRUST; PKD PROPERTIES LC	36-15980	Decreed	03/13/1975	IRRIGATION	0.24	256.0	
DUNCAN PARTNERSHIP TRUST; PKD PROPERTIES LC	36-15200	Decreed	03/15/1980	IRRIGATION	1.01	296.0	Yes
DUNCAN PARTNERSHIP TRUST; PKD PROPERTIES LC	36-15981	Decreed	02/10/1981	IRRIGATION	0.65	256.0	
DUNCAN, JACK F; WALTON, DANIEL C	45-7658	License	07/08/1989	COMMERCIAL	0.02	0.0	
DUNCAN, KATHY F; DUNCAN, PAUL H	45-4241B	Decreed	08/20/1976	IRRIGATION	0.30	271.0	Yes
DURAND, DANIEL G; DURAND, VICKY S	37-8410	License	10/04/1988	COMMERCIAL, DOMESTIC, STOCKWATER	0.03	0.0	
DURBIN, DUANE; DURBIN, JEAN	36-17149	Decreed	05/07/1975	IRRIGATION	0.02	3.0	
DURFEE, DEWEY D	36-7641	Decreed	05/19/1983	IRRIGATION	1.19	64.0	
DURFEE, DEWEY D; DURFEE, YNES V	36-16654	Decreed	11/26/1956	IRRIGATION	0.44	66.0	
DURFEE, DEWEY D; DURFEE, YNES V	36-2312A	Decreed	11/26/1956	IRRIGATION	0.75	66.0	
E & H FARMS LLC	35-7463	Decreed	12/30/1974	IRRIGATION, STOCKWATER	5.24	291.0	
E & H FARMS LLC	35-8621	License	06/28/1985	IRRIGATION	3.24	193.0	
E & H FARMS LLC	35-8622	License	12/06/1990	IRRIGATION	2.69	183.0	
E & H FARMS LLC	35-8974	License	12/23/1991	IRRIGATION	0.91	224.0	
E J STEINKE RANCHES INC	35-12467A	Decreed	08/26/1957	IRRIGATION	4.86	379.0	
E&R LAND LLC	25-7106	Decreed	04/15/1977	IRRIGATION	5.31	1348.0	
E&R LAND LLC	25-10069	Decreed	07/01/1985	IRRIGATION	0.10	1348.0	Yes
EAGLE CREEK NORTHWEST LLC	32-13238	Decreed	04/02/1964	IRRIGATION	0.08	337.6	
EAGLE CREEK NORTHWEST LLC	32-2116B	Decreed	04/02/1964	IRRIGATION	2.28	337.6	
EAGLE CREEK NORTHWEST LLC	31-12219	Decreed	04/11/1968	IRRIGATION	0.10	274.7	

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EAGLE CREEK NORTHWEST LLC	32-13281	Decreed	10/24/1968	IRRIGATION	4.60	523.0	
EAGLE CREEK NORTHWEST LLC	32-7001	Decreed	11/21/1968	IRRIGATION	5.86	523.0	
EAGLE CREEK NORTHWEST LLC	32-7004	Decreed	08/05/1970	IRRIGATION	6.06	650.0	
EAGLE CREEK NORTHWEST LLC	32-7005D	Decreed	12/28/1970	IRRIGATION	2.17	337.6	
EAGLE CREEK NORTHWEST LLC	35-7178	Decreed	06/29/1971	IRRIGATION	1.54	236.0	
EAGLE CREEK NORTHWEST LLC	45-7111	Decreed	09/27/1972	IRRIGATION, STOCKWATER	6.26	480.0	
EAGLE CREEK NORTHWEST LLC	45-7140	Decreed	06/08/1973	IRRIGATION	1.93	140.0	
EAGLE CREEK NORTHWEST LLC	45-7134	Decreed	06/11/1973	IRRIGATION	1.90	128.0	
EAGLE CREEK NORTHWEST LLC	32-13283	Decreed	11/15/1973	IRRIGATION	6.94	650.0	
EAGLE CREEK NORTHWEST LLC	36-7704A	Decreed	05/12/1977	IRRIGATION	1.58	79.0	
EAGLE CREEK NORTHWEST LLC	31-12217	Decreed	12/27/1977	IRRIGATION	0.22	274.7	
EAGLE CREEK NORTHWEST LLC	31-7278A	Decreed	01/24/1978	IRRIGATION	2.75	265.5	
EAGLE CREEK NORTHWEST LLC	31-7279A	Decreed	01/24/1978	IRRIGATION	2.24	132.1	
EAGLE CREEK NORTHWEST LLC	31-7280A	Decreed	01/24/1978	IRRIGATION	2.14	128.9	
EAGLE CREEK NORTHWEST LLC	32-13278	Decreed	07/27/1979	IRRIGATION	0.14	337.6	
EAGLE CREEK NORTHWEST LLC	32-13280	Decreed	07/27/1979	IRRIGATION	0.21	337.6	
EAGLE CREEK NORTHWEST LLC	32-7079H	Decreed	04/23/1983	IRRIGATION	0.10	337.6	
EAGLE CREEK NORTHWEST LLC	31-12214	Decreed	05/12/1983	IRRIGATION	6.48	518.2	
EAGLE CREEK NORTHWEST LLC	31-12215	Decreed	05/12/1983	IRRIGATION	0.21	274.7	
EAGLE EYE PROPERTIES	35-8331	License	11/30/1983	IRRIGATION	9.06	474.0	
EAGLE EYE PROPERTIES	35-8697	License	02/09/1989	IRRIGATION	7.03	471.4	
EAGLE FARMS PROPERTIES LLC	25-14374	Decreed	01/08/1959	INDUSTRIAL	0.04	0.0	
EAGLE FARMS PROPERTIES LLC	25-14376	Decreed	01/18/1974	INDUSTRIAL	0.26	0.0	
EAMES ACRES	36-2683	Decreed	02/20/1967	IRRIGATION	0.55	36.0	
EAMES ACRES INC	36-2628A	Decreed	09/30/1965	IRRIGATION	5.63	296.0	
EAMES, CARI B; EAMES, JERICA L; EAMES, NATHANIEL H; EAMES, TIMOTHY R	36-4110	Decreed	04/01/1956	IRRIGATION	0.85	356.0	
EAMES, CARI B; EAMES, TIMOTHY R	36-7460N	Decreed	03/25/1974	COMMERCIAL, STOCKWATER	0.20	0.0	
EAMES, CARI B; EAMES, TIMOTHY R	36-8231	Decreed	09/27/1983	RECREATION	0.04	0.0	
EAMES, CARI H; EAMES, TIMOTHY R	36-7182	Decreed	06/29/1971	IRRIGATION	0.15	160.0	
EAST RIDGE MILK LLC	45-13405	Decreed	02/10/1960	COMMERCIAL, STOCKWATER	0.53	0.0	
EAST RIDGE MILK LLC	45-14159	Decreed	02/10/1960	IRRIGATION	0.70	52.9	
EAST RIDGE MILK LLC	45-14020	Decreed	02/10/1981	STOCKWATER	0.04	0.0	
EAST RIDGE MILK LLC	45-7462B	Decreed	02/10/1981	STOCKWATER	0.22	0.0	
EAST RIVER ROAD WATER CORP	25-7366	Decreed	07/12/1983	DOMESTIC, IRRIGATION, STOCKWATER	0.23	4.0	
ECHEVARRIA, FRANK J	27-7491	License	01/25/1990	IRRIGATION	2.48	124.0	
EDDINGTON, JEFF KLAIN; EDDINGTON, MINDY	35-13459	Decreed	03/25/1963	IRRIGATION	0.32	60.0	
EDDINGTON, JEFF KLAIN; EDDINGTON, MINDY	35-13461	Decreed	07/01/1968	IRRIGATION	0.30	60.0	

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EDDINS, EDDIE ACE	31-2364	Decreed	02/20/1957	IRRIGATION	2.40	160.0	
EDEN, GARY; EDEN, GLENNA R	37-8363	License	08/06/1988	COMMERCIAL, DOMESTIC, STOCKWATER	0.05	0.0	
EDWARD WESLEY PETERSON & SHARON LYNNE PETERSON REVOCABLE TRUST	36-8780	License	04/17/1998	DOMESTIC, IRRIGATION	0.04	1.0	
EDWARDS, CURTIS	35-14607	Decreed	11/21/1977	IRRIGATION	0.02	1.0	
EDWARDS, KENT F	36-8628	License	11/26/1991	DOMESTIC, IRRIGATION, STOCKWATER	0.18	8.0	
EGAN LAND & CATTLE LLC	32-13341	Decreed	11/12/1974	IRRIGATION	0.02	120.5	
EGAN LAND & CATTLE LLC	32-13343	Decreed	03/29/1984	IRRIGATION	0.02	120.5	
EGAN LAND & CATTLE LLC	32-13345	Decreed	04/01/1987	IRRIGATION	0.00	120.5	Yes
EGAN, BRION D; EGAN, DEANNA	32-7081D	Decreed	06/20/1977	IRRIGATION	1.95	294.0	
EGAN, BROCK; EGAN, KODI	32-7034B	License	01/02/1996	IRRIGATION	1.29	125.8	
EGAN, BROCK; EGAN, KODI	32-7034C	License	01/02/1996	IRRIGATION	1.29	125.8	
EGBERT, KATHRYN H; EGBERT, KIRK S	31-7084	Decreed	03/26/1973	IRRIGATION	3.63	272.0	
EGBERT, KATHRYN H; EGBERT, KIRK S	31-12277	Decreed	06/26/1973	IRRIGATION	2.50	251.8	
EGBERT, KATHRYN H; EGBERT, KIRK S	31-12278	Decreed	06/26/1973	IRRIGATION	0.18	92.0	
EGBERT, KATHRYN H; EGBERT, KIRK S	31-12283	Decreed	03/18/1974	IRRIGATION	1.56	118.8	
EGBERT, KATHRYN H; EGBERT, KIRK S	31-12284	Decreed	03/18/1974	IRRIGATION	0.27	92.0	
EGBERT, KATHRYN H; EGBERT, KIRK S	31-7104	Decreed	03/18/1974	IRRIGATION	2.08	132.0	
EGBERT, KATHRYN H; EGBERT, KIRK S	31-7105	Decreed	03/18/1974	IRRIGATION	2.59	136.0	
EGBERT, KATHRYN H; EGBERT, KIRK S	31-7106	Decreed	03/18/1974	IRRIGATION	2.02	137.0	
EGBERT, KATHRYN H; EGBERT, KIRK S	31-12285	Decreed	07/15/1981	IRRIGATION	0.10	118.8	Yes
EGBERT, KATHRYN H; EGBERT, KIRK S	31-12286	Decreed	07/15/1981	IRRIGATION	0.02	92.0	Yes
EGBERT, KATHRYN H; EGBERT, KIRK S	31-11389	Decreed	10/09/1981	IRRIGATION	0.10	137.0	Yes
EGBERT, KATHRYN H; EGBERT, KIRK S	31-11388	Decreed	06/05/1984	IRRIGATION	0.10	136.0	Yes
EGBERT, KATHRYN; EGBERT, KIRK	31-7569	Decreed	12/12/1975	IRRIGATION	2.28	142.0	
EGBERT, KIRK	31-12174	Decreed	07/08/1963	IRRIGATION	0.14	92.0	
EGBERT, KIRK	31-12244	Decreed	07/08/1963	IRRIGATION	0.06	92.0	
EGBERT, KIRK	31-7154A	Decreed	01/16/1975	IRRIGATION, STOCKWATER	1.54	130.6	
EGBERT, KIRK	31-12242	Decreed	01/17/1978	IRRIGATION	0.06	92.0	
EGBERT, KIRK S	31-10964A	Decreed	02/25/1959	IRRIGATION	2.38	262.3	
EGBERT, KIRK S	31-12369	Decreed	02/25/1959	IRRIGATION	0.06	92.0	
EGBERT, KIRK S	31-12371	Decreed	02/25/1959	IRRIGATION	0.15	251.8	
EGBERT, KIRK S	31-12374	Decreed	02/25/1959	IRRIGATION	0.03	130.6	
EGBERT, KIRK S	31-12376	Decreed	02/25/1959	IRRIGATION	0.07	131.6	
EGBERT, KIRK S	31-12380	Decreed	02/25/1959	IRRIGATION	0.05	92.0	
EGBERT, KIRK S	31-12281	Decreed	03/12/1973	IRRIGATION	1.42	132.2	
EGBERT, KIRK S	31-12282	Decreed	03/12/1973	IRRIGATION	0.33	92.0	
EGBERT, KIRK S	31-11670	Decreed	03/26/1973	IRRIGATION	0.98	251.8	

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EGBERT, KIRK S	31-7545	Decreed	04/18/1974	IRRIGATION	0.80	130.6	
EGBERT, KIRK S	31-12076	Decreed	01/16/1975	IRRIGATION, STOCKWATER	2.55	131.6	
EGBERT, KIRK S	31-12077	Decreed	01/16/1975	IRRIGATION	0.28	130.6	
EGBERT, KIRK S	31-11410	Decreed	01/14/1976	IRRIGATION, MITIGATION	4.54	284.0	
EGBERT, KIRK S	31-11414	Decreed	01/14/1976	IRRIGATION	0.32	284.0	
EGBERT, KIRK S	31-11428	Decreed	01/14/1976	IRRIGATION	0.30	284.0	Yes
EGBERT, KIRK S	31-12368	Decreed	09/07/1977	IRRIGATION	0.07	92.0	
EGBERT, KIRK S	31-12370	Decreed	09/07/1977	IRRIGATION	0.16	251.8	
EGBERT, KIRK S	31-12373	Decreed	09/07/1977	IRRIGATION	0.03	130.6	
EGBERT, KIRK S	31-12375	Decreed	09/07/1977	IRRIGATION	0.07	131.6	
EGBERT, KIRK S	31-12379	Decreed	09/07/1977	IRRIGATION	0.05	92.0	
EGBERT, KIRK S	31-7267A	Decreed	09/07/1977	IRRIGATION	2.50	262.3	
EGBERT, KIRK S	31-12279	Decreed	08/22/1981	IRRIGATION	0.12	132.2	Yes
EGBERT, KIRK S	31-12280	Decreed	08/22/1981	IRRIGATION	0.03	92.0	Yes
ELDON & CLARA SCOTT LIVING TRUST	27-7070	Decreed	02/11/1977	IRRIGATION, STOCKWATER	1.53	75.0	
ELDREDGE, DALE C; ELDREDGE, RENEE J	37-8093	Decreed	03/17/1984	COMMERCIAL, STOCKWATER	0.08	0.0	
ELLIOTT, JERRY; ELLIOTT, RONDA	35-7047B	Decreed	09/04/1968	IRRIGATION	0.06	4.0	
ELLIOTT, JERRY; ELLIOTT, RONDA	35-7526B	Decreed	08/12/1975	IRRIGATION	0.03	4.0	
ELLIS, BARBARA; ELLIS, DELWYN V	35-14576	Decreed	04/01/1960	IRRIGATION	0.11	7.0	
ELLIS, BARBARA; ELLIS, DELWYN V	35-4260	Decreed	04/01/1960	IRRIGATION	2.50	152.0	
ELLIS, BARBARA; ELLIS, DELWYN V	35-14578	Decreed	08/15/1961	IRRIGATION	0.10	5.0	
ELLIS, BARBARA; ELLIS, DELWYN V	35-2684C	Decreed	08/15/1961	IRRIGATION	0.38	152.0	
ELLIS, BARBARA; ELLIS, DELWYN V	35-2684D	Decreed	08/15/1961	IRRIGATION	1.49	77.0	
ELLIS, BARBARA; ELLIS, DELWYN V	35-14580	Decreed	10/19/1961	IRRIGATION	0.31	33.0	
ELLIS, BARBARA; ELLIS, DELWYN V	35-2687	Decreed	10/19/1961	IRRIGATION	1.39	146.0	
ELLIS, BARBARA; ELLIS, DELWYN V	35-14579	Decreed	05/15/1972	IRRIGATION	0.16	33.0	Yes
ELLIS, BARBARA; ELLIS, DELWYN V	35-4261	Decreed	05/15/1972	IRRIGATION	0.73	146.0	Yes
ELLIS, BARBARA; ELLIS, DELWYN V	35-13244	Decreed	04/02/1982	IRRIGATION	0.12	75.0	Yes
ELLIS, BARBARA; ELLIS, DELWYN V	35-8032	Decreed	04/02/1982	IRRIGATION	1.22	75.0	
ELLIS, BARBARA; ELLIS, DELWYN V	35-14577	License	06/12/1985	IRRIGATION	0.26	33.0	
ELLIS, BARBARA; ELLIS, DELWYN V	35-8585	License	06/12/1985	IRRIGATION	1.16	148.0	
ELLIS, BRYCE G; ELLIS, KATHY	35-7475	Decreed	02/04/1975	IRRIGATION	0.15	8.2	
ELLIS, JENNIFER R; ELLIS, SHAWN D; TELFORD, KASSIDY ELLIS; TELFORD, TRAVIS	35-2493	Decreed	02/06/1957	IRRIGATION	4.04	343.0	
ELLIS, JENNIFER R; ELLIS, SHAWN D; TELFORD, KASSIDY ELLIS; TELFORD, TRAVIS	35-7773	Decreed	01/24/1978	IRRIGATION	1.56	343.0	
ELLIS, ROBERT M	31-2390	Decreed	07/24/1961	IRRIGATION	0.71	139.0	
ELLIS, STACEY D	36-17166	Decreed	05/16/1961	IRRIGATION	5.55	320.0	

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ENGBERSON LAND COMPANY LLC	31-10466	Decreed	04/01/1964	IRRIGATION	0.73	220.6	
ESCOBEDO, ASCENCION; ESCOBEDO, CLAUDIA	36-2529	Decreed	11/10/1961	IRRIGATION	1.42	138.0	
ESCOBEDO, ASCENCION; ESCOBEDO, CLAUDIA	36-7337B	Decreed	11/25/1977	IRRIGATION	1.34	138.0	
ESCOBEDO, ASCENCION; ESCOBEDO, CLAUDIA	36-8345	License	04/09/2001	COMMERCIAL, STOCKWATER	0.08	0.0	
ESPLIN, BRIAN; ESPLIN, TRINA	27-7082	Decreed	02/26/1980	IRRIGATION	2.74	180.0	
ESPLIN, BRIAN; ESPLIN, TRINA; NORTHWEST FARM CREDIT SERVICES PCA	27-11959	License	08/12/2003	COMMERCIAL, STOCKWATER	0.18	0.0	
ESPLIN, LEON M	27-10147	Decreed	09/01/1961	IRRIGATION	1.12	55.9	
ESPLIN, RONALD	27-7368	License	09/06/1983	IRRIGATION	0.74	37.0	
ESTATE OF DON JACKSON	35-13792	Decreed	05/01/1956	IRRIGATION	0.24	23.0	
ESTATE OF DON JACKSON	35-13796	Decreed	04/01/1979	IRRIGATION	0.11	23.0	Yes
ETCHEVERRY SHEEP CO	36-7059	Decreed	05/09/1969	IRRIGATION	1.06	64.0	
EVANS BROTHERS LAND LLC	35-2473	Decreed	03/16/1956	IRRIGATION	1.64	82.0	
EVANS BROTHERS LAND LLC	35-2592	Decreed	03/16/1960	IRRIGATION	2.45	284.0	
EVANS BROTHERS LAND LLC	35-8787	License	06/03/1989	IRRIGATION	1.02	51.0	
EVANS GRAIN & ELEVATOR CO	36-8436	License	09/08/1989	COMMERCIAL	0.11	0.0	
EVANS, BYRON	27-7561	Decreed	05/02/1977	IRRIGATION	1.12	55.0	
EVANS, CRAIG B	35-8656	License	07/16/1987	COMMERCIAL	0.01	0.0	
EVANS, CRAIG B; EVANS, SHARI J	35-13054	Decreed	08/12/1957	IRRIGATION	0.01	2.7	
EVANS, CRAIG B; EVANS, SHARI J	35-7429	Decreed	07/01/1974	IRRIGATION	0.01	2.7	
EVANS, CRAIG B; EVANS, SHARI J	35-13042	Decreed	04/01/1976	IRRIGATION	0.01	2.7	Yes
EVANS, CRAIG B; EVANS, SHARI J	35-7842	Decreed	02/20/1979	IRRIGATION	1.10	310.0	
EVANS, DAN; EVANS, KATHRYN	35-7053	Decreed	09/04/1968	IRRIGATION	2.48	124.0	
EVANS, DEAN M; EVANS, JANET M	35-14493	Decreed	09/04/1968	IRRIGATION	1.30	228.0	
EVANS, DEAN M; EVANS, JANET M	35-14494	Decreed	01/15/1970	IRRIGATION	1.55	228.0	
EVANS, DEAN M; EVANS, JANET M	27-11909	License	07/10/1987	IRRIGATION	2.00	140.0	
EVANS, HELEN	27-11910	License	07/10/1987	IRRIGATION	1.11	77.0	
EVANS, JANA	27-7538	License	04/09/1991	IRRIGATION	0.18	8.8	
EVANS, KATHLEEN	27-7315	Decreed	05/11/1982	IRRIGATION	2.79	142.0	
EVANS, KATHLEEN	27-7517	License	10/05/1990	IRRIGATION	1.46	73.0	
EVENSEN, JULIE A; EVENSEN, KENT	36-8201	License	05/31/1983	DOMESTIC, IRRIGATION	0.04	1.6	
EVERS BROTHERS PARTNERSHIP	36-8584	License	02/26/1991	IRRIGATION	2.08	144.0	
EVERS BROTHERS PROPERTIES LLC	36-2584	Decreed	12/30/1963	IRRIGATION	1.50	75.0	
EVERS BROTHERS PROPERTIES LLC	36-7668	Decreed	01/13/1977	IRRIGATION	1.22	76.0	
F & C TRUCKING LLC	36-17067	Decreed	09/08/1962	COMMERCIAL, STOCKWATER	0.09	0.0	
F & J SHEEP & HAY INC	31-2366	Decreed	05/05/1958	IRRIGATION	6.36	318.0	
F & J SHEEP & HAY INC	31-12243	Decreed	07/08/1963	IRRIGATION	0.10	6.7	
F & J SHEEP & HAY INC	31-12241	Decreed	01/17/1978	IRRIGATION	1.22	61.0	

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F & J SHEEP & HAY INC	31-7294	Decreed	02/27/1978	IRRIGATION	1.74	87.0	
F F CORP	27-7476	License	05/26/1989	IRRIGATION, STOCKWATER	0.07	3.0	
FALLS WATER CO INC	25-14035	Decreed	06/10/1958	MUNICIPAL	0.59	0.0	
FALLS WATER CO INC	25-14055	Decreed	12/31/1962	MUNICIPAL	1.16	0.0	
FALLS WATER CO INC	25-14301	Decreed	07/27/1972	IRRIGATION	0.02	77.5	
FALLS WATER CO INC	25-7090	Decreed	04/18/1976	DOMESTIC	1.00	0.0	
FALLS WATER CO INC	25-7148	Decreed	03/13/1978	MUNICIPAL	1.89	0.0	
FALLS WATER CO INC	25-14483	Decreed	04/22/1979	IRRIGATION	0.26	6965.7	
FALLS WATER CO INC	25-7191	Decreed	04/18/1980	MUNICIPAL	3.00	0.0	
FALLS WATER CO INC	25-14326	Decreed	10/31/1986	MUNICIPAL	1.20	0.0	Yes
FALLS WATER CO INC	25-7418	Decreed	09/23/1987	MUNICIPAL	1.00	0.0	
FALLS WATER CO INC	25-7509	License	08/10/1989	MUNICIPAL	0.17	0.0	
FALLS WATER CO INC	25-7593	License	10/10/1995	DOMESTIC, IRRIGATION	0.79	23.0	
FALLS WATER CO INC	25-14114	License	08/26/2004	MUNICIPAL	9.56	0.0	
FALLS WATER CO INC	25-14199	License	09/04/2007	DOMESTIC	0.83	0.0	
FALLS WATER CO INC	25-14236	License	07/06/2009	DOMESTIC	0.25	0.0	
FALLS WATER CO INC	25-14440		06/08/2016	DOMESTIC	0.50	0.0	
FAR SOUTH LAND HOLDINGS LLC	36-8552	License	06/28/1990	COMMERCIAL, DOMESTIC, STOCKWATER	0.12	0.0	
FARM CREDIT BANK OF SPOKANE	35-7706B	Decreed	05/06/1977	IRRIGATION	2.06	103.0	
FARM DOMAIN OF DAN LIMITED PARTNERSHIP	35-7166	Decreed	02/12/1971	IRRIGATION	1.21	68.0	
FARM DOMAIN OF DAN LIMITED PARTNERSHIP	35-7382	Decreed	01/30/1974	IRRIGATION	1.34	168.0	
FARM DOMAIN OF DAN LIMITED PARTNERSHIP	35-10316	Decreed	04/01/1979	IRRIGATION	0.36	168.0	Yes
FARM LAND LLC	35-2878A	Decreed	05/29/1967	IRRIGATION	1.66	98.0	
FARM LAND LLC	35-14034	Decreed	05/21/1974	IRRIGATION	3.54	195.0	
FARM LAND LLC	35-7396A	Decreed	05/21/1974	IRRIGATION	0.70	35.0	
FARM LAND LLC	35-7397A	Decreed	05/21/1974	IRRIGATION	0.30	98.0	
FARM LAND LLC	35-13798	License	02/10/1983	IRRIGATION	0.82	202.0	
FARMLAND RESERVE INC	35-2391	Decreed	12/20/1954	IRRIGATION	1.38	173.0	
FARMLAND RESERVE INC	36-2320	Decreed	04/08/1957	IRRIGATION	2.28	1610.0	
FARMLAND RESERVE INC	36-15033	Decreed	05/07/1957	IRRIGATION	6.40	630.0	
FARMLAND RESERVE INC	36-15035	Decreed	05/20/1957	IRRIGATION	0.84	630.0	
FARMLAND RESERVE INC	36-2336	Decreed	07/10/1957	IRRIGATION	2.40	1610.0	
FARMLAND RESERVE INC	36-2358	Decreed	08/25/1958	IRRIGATION	3.00	1610.0	
FARMLAND RESERVE INC	36-15560	Decreed	02/18/1959	IRRIGATION	1.25	307.0	
FARMLAND RESERVE INC	36-15558	Decreed	11/05/1961	IRRIGATION	1.48	307.0	
FARMLAND RESERVE INC	36-15562	Decreed	08/19/1965	IRRIGATION	1.37	307.0	
FARMLAND RESERVE INC	36-7097	Decreed	12/09/1969	IRRIGATION	6.02	505.0	
FARMLAND RESERVE INC	35-7537	Decreed	10/14/1975	IRRIGATION	3.29	223.0	

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FARMLAND RESERVE INC	36-11278	Decreed	04/01/1977	IRRIGATION	2.55	1610.0	Yes
FARMLAND RESERVE INC	35-7777	Decreed	01/24/1978	IRRIGATION	1.77	173.0	
FARMLAND RESERVE INC	36-15564	Decreed	02/26/1979	IRRIGATION	0.96	307.0	
FARMLAND RESERVE INC	36-8239	Decreed	01/12/1984	IRRIGATION	0.88	630.0	
FARMLAND RESERVE INC	35-13708	Decreed	04/03/1984	IRRIGATION	0.66	223.0	Yes
FARMS LLC	35-2153B	Decreed	05/14/1954	IRRIGATION	2.68	289.4	
FARMS LLC	35-2153C	Decreed	05/14/1954	IRRIGATION	2.20	288.3	
FARMS LLC	35-2153D	Decreed	05/14/1954	IRRIGATION	2.87	311.9	
FARMS LLC	35-2460B	Decreed	04/30/1956	IRRIGATION	4.36	789.0	
FARMS LLC	35-2468	Decreed	06/15/1956	IRRIGATION	3.60	302.0	
FARMS LLC	35-2499	Decreed	03/13/1957	IRRIGATION	2.74	322.0	
FARMS LLC	35-2520	Decreed	11/29/1957	IRRIGATION	5.24	298.0	
FARMS LLC	35-2561	Decreed	02/18/1959	IRRIGATION	2.86	200.0	
FARMS LLC	35-2594A	Decreed	03/31/1960	IRRIGATION	2.24	311.9	
FARMS LLC	35-4214	Decreed	06/01/1960	IRRIGATION	0.59	428.0	
FARMS LLC	35-12932	Decreed	06/22/1961	IRRIGATION	2.33	322.0	
FARMS LLC	35-2708	Decreed	04/10/1962	IRRIGATION	5.26	311.0	
FARMS LLC	35-2709	Decreed	04/10/1962	IRRIGATION	4.74	320.0	
FARMS LLC	35-12238	Decreed	05/01/1962	DOMESTIC, STOCKWATER	0.24	0.0	
FARMS LLC	35-2656	Decreed	07/18/1964	IRRIGATION	2.22	289.4	
FARMS LLC	35-13716	Decreed	03/11/1966	IRRIGATION	4.02	286.2	
FARMS LLC	35-14465	Decreed	03/11/1966	IRRIGATION	0.22	24.0	
FARMS LLC	35-2827	Decreed	05/17/1966	IRRIGATION	4.30	291.0	
FARMS LLC	35-2863	Decreed	02/03/1967	IRRIGATION	8.00	480.0	
FARMS LLC	35-2876	Decreed	05/15/1967	IRRIGATION	3.52	303.0	
FARMS LLC	35-14464	Decreed	05/03/1969	IRRIGATION	0.12	24.0	
FARMS LLC	35-7026	Decreed	05/03/1969	IRRIGATION	4.83	310.0	
FARMS LLC	35-7082	Decreed	06/04/1969	IRRIGATION	2.13	288.3	
FARMS LLC	35-7155	Decreed	11/02/1970	IRRIGATION	2.00	789.0	
FARMS LLC	35-7156	Decreed	11/03/1970	IRRIGATION	2.00	789.0	
FARMS LLC	35-7215	Decreed	04/26/1972	IRRIGATION	1.82	152.0	
FARMS LLC	35-7311	Decreed	07/19/1973	IRRIGATION	5.50	416.0	
FARMS LLC	35-7436	Decreed	08/01/1974	IRRIGATION	4.90	314.0	
FARMS LLC	35-12656A	Decreed	06/01/1975	IRRIGATION	0.81	288.3	Yes
FARMS LLC	35-12656B	Decreed	06/01/1975	IRRIGATION	0.15	311.9	Yes
FARMS LLC	35-14707	Decreed	06/01/1975	IRRIGATION	0.01	68.0	Yes
FARMS LLC	35-7521	Decreed	07/31/1975	IRRIGATION	5.79	506.0	
FARMS LLC	35-13718	Decreed	10/01/1976	IRRIGATION	0.33	286.2	Yes

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FARMS LLC	35-14466	Decreed	10/01/1976	IRRIGATION	0.02	24.0	Yes
FARMS LLC	35-7655	Decreed	12/27/1976	IRRIGATION	2.07	144.0	
FARMS LLC	35-14411	Decreed	04/15/1980	IRRIGATION	0.45	22.5	Yes
FARMS LLC	35-7929	Decreed	12/03/1980	IRRIGATION	1.04	123.0	
FARMS LLC	35-8973	License	12/23/1991	IRRIGATION	0.85	200.0	
FARRIS, GREGORY NEIL; FARRIS, JOAN M; US FARM SERVIE AGENCY	35-2740	Decreed	05/15/1964	IRRIGATION	2.58	193.0	
FASSETT, LYLE A	36-2405	Decreed	11/09/1959	IRRIGATION	1.24	202.5	
FASSETT, LYLE A	36-2664	Decreed	09/22/1966	IRRIGATION	1.46	146.0	
FASSETT, LYLE A	36-7268	Decreed	10/03/1972	IRRIGATION	1.30	146.0	
FASSETT, LYLE A	36-12650	Decreed	03/15/1979	IRRIGATION	0.08	146.0	
FASSETT, LYLE A	36-8046	License	12/11/1981	IRRIGATION	0.62	202.5	
FATTIG, PATSY; FATTIG, WAYNE	36-7524	Decreed	03/05/1975	IRRIGATION	4.36	232.0	
FATTIG, PATSY; FATTIG, WAYNE	36-8637	License	12/06/1991	IRRIGATION	0.23	245.0	
FAULKNER LAND & LIVESTOCK CO INC	37-8812	Decreed	08/07/1961	IRRIGATION	0.82	53.0	
FAULKNER LAND & LIVESTOCK CO INC	37-7242	Decreed	06/14/1973	IRRIGATION	4.00	200.0	
FAULKNER LAND & LIVESTOCK CO INC	37-7808	License	11/16/1979	IRRIGATION	3.26	427.0	
FAULKNER LAND & LIVESTOCK CO INC	37-8005B	Decreed	03/20/1982	IRRIGATION	2.02	427.0	
FAULKNER LAND & LIVESTOCK CO INC	37-8005C	Decreed	03/20/1982	IRRIGATION	1.60	427.0	
FAULKNER LAND & LIVESTOCK CO INC	37-8005D	Decreed	03/20/1982	IRRIGATION	0.41	427.0	
FAULKNER LAND & LIVESTOCK CO INC	37-8487D	License	01/25/1989	IRRIGATION	0.86	112.0	
FAULKNER LAND & LIVESTOCK CO INC	37-8720	License	04/23/1991	IRRIGATION	3.20	324.0	
FCF INVESTMENTS	35-13749	Decreed	04/28/1980	IRRIGATION	1.71	85.3	
FERNANDES, PEDRO	36-2256	Decreed	04/07/1954	IRRIGATION	1.00	73.0	
FGS FARMS INC	35-2697	Decreed	01/10/1962	IRRIGATION	10.42	581.0	
FIELDING, ALAN	27-7017	Decreed	05/03/1971	IRRIGATION	4.12	281.0	
FIELDING, GARY R	35-8895	License	04/03/1990	IRRIGATION	2.00	100.0	
FIELDING, KENNETH; FIELDING, RAY	25-7577	License	06/28/1990	IRRIGATION	1.34	67.0	
FIELDS FINANCIAL SERVICES INC	35-12264	Decreed	04/20/1974	IRRIGATION	0.32	65.0	Yes
FIELDS FINANCIAL SERVICES INC	35-7458C	Decreed	12/06/1974	IRRIGATION	0.68	65.0	
FINICLE, CHARLES A; FINICLE, DOUGLAS P; FINICLE, EVELYN; FINICLE, MARLENE K	35-8840A	License	07/03/1989	IRRIGATION	0.72	154.0	
FINICLE, DOUGLAS P	35-8834B	License	07/03/1989	IRRIGATION	0.76	160.0	
FINICLE, DOUGLAS P	35-8840B	License	07/03/1989	IRRIGATION	0.19	160.0	
FINICLE, DOUGLAS P; FINICLE, MARLENE K	35-2474A	Decreed	09/18/1956	IRRIGATION	1.40	160.0	
FINICLE, DOUGLAS P; FINICLE, MARLENE K	35-2476A	Decreed	09/18/1956	IRRIGATION	2.21	158.0	
FINICLE, DOUGLAS P; FINICLE, MARLENE K	35-2476B	Decreed	09/18/1956	IRRIGATION	0.55	160.0	
FINICLE, DOUGLAS P; FINICLE, MARLENE K	35-2739	Decreed	05/14/1964	IRRIGATION	4.16	310.0	
FIRST BAPTIST CHURCH	27-7583	License	04/13/1998	IRRIGATION	0.09	3.0	

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FIRST CHRISTIAN PRAISE CHAPEL	36-12780	Decreed	09/01/1962	IRRIGATION	0.04	2.0	
FIRTH SCHOOL DISTRICT #59	27-7014A	Decreed	04/17/1971	IRRIGATION	0.04	1.8	
FIRTH SCHOOL DISTRICT #59	27-7014B	Decreed	04/17/1971	IRRIGATION	0.08	4.1	
FIRTH SCHOOL DISTRICT #59	27-7063	Decreed	05/14/1976	IRRIGATION	0.32	16.0	
FLAGTOWN AG LLC	35-13486	Decreed	03/18/1970	IRRIGATION	3.76	185.2	
FLAGTOWN AG LLC	35-8962	License	11/26/1991	IRRIGATION	0.35	17.6	
FLAT TOP SHEEP CO	36-2455	Decreed	12/13/1960	IRRIGATION	3.40	447.0	
FLAT TOP SHEEP CO	36-7021D	Decreed	04/09/1968	IRRIGATION	2.42	447.0	
FLAT TOP SHEEP CO	36-7138	Decreed	09/24/1970	STOCKWATER	0.03	0.0	
FLAT TOP SHEEP CO	36-8641	License	08/25/1983	STOCKWATER	0.08	0.0	
FLAT TOP SHEEP CO	36-8275A	Decreed	05/09/1985	IRRIGATION	2.44	447.0	
FLAT TOP SHEEP CO	36-8273	Decreed	07/04/1985	IRRIGATION	0.68	447.0	
FLF SAWTOOTH LLC	37-7259	Decreed	09/12/1973	IRRIGATION	3.64	182.0	
FLF SAWTOOTH LLC	37-8707	License	03/26/1991	IRRIGATION	2.00	100.0	
FLOYD WILCOX & SONS INC	31-2408B	Decreed	11/27/1963	IRRIGATION	1.63	421.7	
FLOYD WILCOX & SONS INC	31-7095B	Decreed	04/22/1974	IRRIGATION	5.74	421.7	
FOOS, MEGHAN	31-11359	Decreed	11/28/1961	IRRIGATION	0.12	106.0	
FORSBERG, DAVID R	35-2535	Decreed	05/02/1958	IRRIGATION	0.80	40.0	
FORSYTH, DANNY R	36-16639	License	02/26/1980	IRRIGATION	1.10	59.0	
FORSYTH, DANNY R; FORSYTH, GINGER	36-8531	License	04/24/1990	DOMESTIC, IRRIGATION	0.05	0.8	
FOSTER CO	35-14432	Decreed	11/28/1960	IRRIGATION	1.28	80.0	
FOSTER CO	35-2619	Decreed	11/28/1960	IRRIGATION	5.12	320.0	
FOSTER CO	35-2633	Decreed	01/19/1961	IRRIGATION	0.85	80.0	
FOSTER CO	35-12367	Decreed	03/17/1961	COMMERCIAL, DOMESTIC	0.15	0.0	
FOSTER CO	35-4013	Decreed	05/01/1962	IRRIGATION	6.95	626.4	
FOSTER CO	35-4021	Decreed	03/20/1963	IRRIGATION	4.98	317.0	
FOSTER CO	35-2888	Decreed	07/10/1964	IRRIGATION	6.47	474.0	
FOSTER CO	35-2743	Decreed	11/19/1964	IRRIGATION	3.90	317.0	
FOSTER CO	35-2757	Decreed	01/14/1965	IRRIGATION	7.70	781.0	
FOSTER CO	35-2771	Decreed	05/11/1965	IRRIGATION	5.20	315.0	
FOSTER CO	35-2794A	Decreed	10/01/1965	IRRIGATION	0.14	80.0	
FOSTER CO	35-13802	Decreed	02/01/1967	IRRIGATION	0.12	15.0	
FOSTER CO	35-12350	Decreed	08/31/1967	IRRIGATION	0.85	320.0	
FOSTER CO	35-14433	Decreed	08/31/1967	IRRIGATION	0.21	80.0	
FOSTER CO	35-7037	Decreed	09/03/1968	IRRIGATION	4.44	314.0	
FOSTER CO	35-14113	Decreed	09/25/1973	IRRIGATION	3.31	846.0	
FOSTER CO	35-14115	Decreed	09/25/1973	IRRIGATION	3.26	846.0	
FOSTER CO	35-14125	Decreed	10/10/1973	IRRIGATION	0.26	846.0	

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FOSTER CO	35-7337	Decreed	10/10/1973	IRRIGATION	5.45	846.0	
FOSTER CO	35-14117	Decreed	04/08/1975	IRRIGATION	3.31	846.0	
FOSTER CO	35-13845	Decreed	05/23/1975	IRRIGATION	0.12	781.0	
FOSTER CO	35-14119	Decreed	05/23/1975	IRRIGATION	1.65	846.0	
FOSTER CO	35-14123	Decreed	05/23/1975	IRRIGATION	0.36	846.0	
FOSTER CO	35-14121	Decreed	07/27/1976	IRRIGATION	0.43	846.0	
FOSTER CO	35-7629A	Decreed	07/27/1976	IRRIGATION	0.31	781.0	
FOSTER CO	35-13437	Decreed	05/12/1983	IRRIGATION	0.56	40.0	
FOSTER CO	35-13438	Decreed	05/12/1983	IRRIGATION	1.67	118.0	
FOSTER CO	35-13439	License	05/02/1985	IRRIGATION	2.29	160.0	
FOSTER CO	35-13440	License	05/02/1985	IRRIGATION	1.58	158.0	
FOSTER LAND AND CATTLE	35-13551	Decreed	05/06/1957	IRRIGATION	3.10	1270.5	
FOSTER LAND AND CATTLE	35-13954	Decreed	05/06/1957	IRRIGATION	1.57	1270.5	
FOSTER LAND AND CATTLE	35-13948	Decreed	06/07/1957	IRRIGATION	0.47	129.8	
FOSTER LAND AND CATTLE	35-13547	Decreed	03/20/1961	IRRIGATION	8.40	1270.5	
FOSTER LAND AND CATTLE	35-7076	Decreed	05/05/1969	IRRIGATION	1.82	118.0	
FOSTER LAND AND CATTLE	35-13944	Decreed	08/04/1979	IRRIGATION	1.08	129.8	
FOSTER LAND AND CATTLE	35-13549	Decreed	05/01/1980	IRRIGATION	4.10	1270.5	Yes
FOSTER LAND AND CATTLE	25-7494C	License	04/05/1989	IRRIGATION	22.00	3591.7	
FOSTER LAND AND CATTLE	35-8595	License	09/20/1990	IRRIGATION	2.46	246.0	
FOSTER LAND AND CATTLE	35-8933	License	01/02/1991	IRRIGATION	0.60	40.0	
FOSTER, BRAD; FOSTER, SHAROL	35-13953	Decreed	05/06/1957	IRRIGATION	0.29	1713.5	
FOSTER, BRAD; FOSTER, SHAROL	35-14271	Decreed	05/06/1957	IRRIGATION	0.11	1270.5	
FOSTER, BRAD; FOSTER, SHAROL	35-13687	Decreed	06/14/1965	IRRIGATION	0.75	1713.5	
FOSTER, BRAD; FOSTER, SHAROL	35-13776	Decreed	06/14/1965	IRRIGATION	5.33	1713.5	
FOSTER, BRAD; FOSTER, SHAROL	35-13777	Decreed	06/14/1965	IRRIGATION	0.87	1713.5	
FOSTER, BRAD; FOSTER, SHAROL	35-13682	Decreed	04/03/1967	IRRIGATION	3.51	1713.5	
FOSTER, BRAD; FOSTER, SHAROL	35-13683	Decreed	04/03/1967	IRRIGATION	3.43	1713.5	
FOSTER, BRAD; FOSTER, SHAROL	35-13684	Decreed	04/01/1971	IRRIGATION	0.30	1713.5	Yes
FOSTER, BRAD; FOSTER, SHAROL	35-13685	Decreed	04/01/1971	IRRIGATION	0.29	1713.5	Yes
FOSTER, BRAD; FOSTER, SHAROL	35-13822	Decreed	05/01/1980	IRRIGATION	1.89	1713.5	
FOSTER, BRAD; FOSTER, SHAROL	35-14270	Decreed	05/01/1980	IRRIGATION	0.75	1270.5	
FOUR SEASON WATER USERS ASSN	27-7007B	Decreed	05/18/1969	IRRIGATION	0.52	40.0	
FRANCIS, MARK	36-16141	Decreed	04/03/1961	IRRIGATION	0.06	5.0	
FRANCIS, MARK	36-8371	License	07/20/1988	DOMESTIC, IRRIGATION	0.06	2.0	
FRANKLIN DON WIXOM & ZOE FAR WIXOM FAMILY TRUST	36-11271	Decreed	10/01/1957	DOMESTIC, IRRIGATION, STOCKWATER	0.12	4.0	
FRANSEN, DOUGLAS M	31-10392A	Decreed	04/01/1954	IRRIGATION	0.22	128.6	
FRANSEN, DOUGLAS M	31-11973	Decreed	04/01/1954	IRRIGATION	0.03	489.9	

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FRANSEN, DOUGLAS M	31-11974	Decreed	04/01/1954	IRRIGATION	0.01	116.0	
FRANSEN, DOUGLAS M	31-11967	Decreed	08/25/1954	IRRIGATION, STOCKWATER	1.44	489.9	
FRANSEN, DOUGLAS M	31-11968	Decreed	08/25/1954	IRRIGATION	0.35	116.0	
FRANSEN, DOUGLAS M	31-11908	Decreed	08/22/1955	IRRIGATION	0.13	489.9	
FRANSEN, DOUGLAS M	31-11969	Decreed	05/07/1987	IRRIGATION	0.17	489.9	Yes
FRANSEN, DOUGLAS M	31-11970	Decreed	05/07/1987	IRRIGATION	0.04	116.0	Yes
FREDERICK, EUGENE; FREDERICK, STELLA	35-8721	License	04/07/1989	DOMESTIC, IRRIGATION, STOCKWATER	0.09	2.0	
FREEMAN, FRANKLYN J; FREEMAN, NANCY J	27-7077A	Decreed	03/04/1977	IRRIGATION	0.04	2.0	
FRENCH JR, JAMES A; FRENCH, KARI D	36-16405	License	11/14/1991	IRRIGATION, STOCKWATER	0.03	1.5	
FRENCH, TERRY K; HOFFMAN, MICHAEL; LOFGREEN, BRAD	27-7332	Decreed	12/14/1982	DOMESTIC, IRRIGATION	0.12	2.0	
FRIED, DAVID; FRIED, DEANNA	27-12160	Decreed	09/11/1974	IRRIGATION	0.09	5.0	
FROST, KEVIN; FROST, LISA	35-13605	Decreed	04/01/1967	IRRIGATION	0.01	2.0	Yes
FROST, KEVIN; FROST, LISA	35-13649	Decreed	04/01/1967	IRRIGATION	0.14	66.5	Yes
FUELL, FRANK J; FUELL, LINDA LEE	35-8674	License	08/30/1988	IRRIGATION	0.06	4.5	
FUNDERBURG, DENISE K; FUNDERBURG, GARY L	36-7357	Decreed	08/26/1973	DOMESTIC, IRRIGATION	0.08	2.0	
FUNK, BRENT; FUNK, CHALET	36-17181	Decreed	11/28/1977	IRRIGATION, MITIGATION BY NON-USE	2.14	104.7	
FURNISS BROTHERS FARMS PARTNERSHIP	35-2692	Decreed	09/13/1961	IRRIGATION	2.15	155.0	
FURNISS BROTHERS FARMS PARTNERSHIP	35-7072	Decreed	03/10/1969	IRRIGATION	4.90	309.0	
FURNISS BROTHERS FARMS PARTNERSHIP	35-8702	License	04/19/1989	COMMERCIAL	0.01	0.0	
FURNISS BROTHERS FARMS PARTNERSHIP	35-8703	License	04/19/1989	COMMERCIAL	0.02	0.0	
G & B FARMS INC	37-2753	Decreed	11/29/1966	IRRIGATION	2.95	372.0	
GALLEGOS, MARCELINO; PEREZ, MARIA; PEREZ, MARIO	36-8638	License	01/07/1992	DOMESTIC, IRRIGATION	0.04	1.0	
GALOW, MOLLY; GALOW, ROGER A	36-8448	License	09/28/1989	IRRIGATION	0.05	1.5	
GAMBLE, DIRK M; GAMBLE, JANEL	35-7700	Decreed	04/29/1977	IRRIGATION	1.46	233.0	
GARCIA, ALEX Q	36-7929	Decreed	08/04/1980	DOMESTIC, IRRIGATION	0.06	1.0	
GARDNER FARMS	35-14407	Decreed	06/04/1954	IRRIGATION	2.07	136.7	
GARDNER FARMS	35-2399	Decreed	12/07/1954	IRRIGATION	3.46	297.0	
GARDNER FARMS	35-2573	Decreed	06/08/1959	IRRIGATION	1.96	297.0	
GARDNER FARMS	35-2765	Decreed	03/09/1965	IRRIGATION	0.95	320.0	
GARDNER FARMS	35-7263	Decreed	12/14/1972	IRRIGATION	4.47	296.0	
GARDNER FARMS	35-14408	Decreed	03/05/1982	IRRIGATION	0.68	136.7	
GARDNER FARMS	27-11911	License	10/24/1985	IRRIGATION	1.52	76.0	
GARDNER FARMS	35-8725	License	04/24/1989	COMMERCIAL, STOCKWATER	0.04	0.0	
GARDNER TRUST	36-16849	Decreed	02/21/1958	IRRIGATION	0.04	20.0	
GARDNER TRUST	36-16843	Decreed	02/12/1960	IRRIGATION	0.04	20.0	
GARDNER TRUST	36-16588	Decreed	05/10/1960	IRRIGATION	0.09	7.0	
GARDNER TRUST	36-2432A	Decreed	05/10/1960	IRRIGATION	1.34	354.0	
GARDNER TRUST	36-16851	Decreed	06/01/1962	IRRIGATION	0.04	20.0	

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Owner	Water Right No.	Basis	Priority Date	Water Use List	Diversion Rate (cfs)	Total Acres	Enlargement
GARDNER TRUST	36-16845	Decreed	03/07/1966	IRRIGATION	0.06	20.0	
GARDNER TRUST	36-2694A	Decreed	06/17/1967	IRRIGATION	0.82	354.0	
GARDNER TRUST	36-16590	Decreed	02/29/1968	IRRIGATION	0.05	7.0	
GARDNER TRUST	36-16853	Decreed	09/27/1968	IRRIGATION	0.04	20.0	
GARDNER TRUST	36-7053	Decreed	02/20/1969	IRRIGATION	3.75	354.0	
GARDNER TRUST	36-7479	Decreed	07/08/1974	IRRIGATION	0.65	354.0	
GARDNER TRUST	36-7588	Decreed	01/12/1976	IRRIGATION	0.40	354.0	
GARDNER TRUST	36-16855	Decreed	04/06/1978	IRRIGATION	0.01	20.0	
GARDNER TRUST	36-16847	Decreed	07/13/1987	IRRIGATION	0.01	20.0	
GARDNER TRUST	36-16841	License	03/13/1989	IRRIGATION	0.05	20.0	
GARDNER, ALVIN	35-7653	License	10/19/1998	IRRIGATION	1.07	57.0	
GARDNER, IVAN E; GARDNER, JEAN; GARDNER, LANCE I	35-7144	Decreed	05/02/1970	IRRIGATION	1.11	56.0	
GARNER, BEVERLY; GARNER, GARY B	36-2381A	Decreed	04/07/1959	IRRIGATION	4.27	308.0	
GARNER, BEVERLY; GARNER, GARY B	36-12043	Decreed	07/31/1987	IRRIGATION	0.25	308.0	Yes
GARRETT, GREGORY ALLEN; GARRETT, LESLIE KAY	35-13392	Decreed	05/09/1956	IRRIGATION	0.06	4.5	
GASSER, CHIP L	31-12246	Decreed	03/28/1973	IRRIGATION	0.07	4.0	
GATENS, JOHN T; GATENS, KATHLEEN M	35-2737F	Decreed	04/27/1964	IRRIGATION	0.12	5.8	
GAY, GARY H; GAY, JOAN	35-8772	License	06/02/1989	DOMESTIC, IRRIGATION, STOCKWATER	0.13	3.5	
GAY, IRMA M; GAY, WALTER A	35-2772	Decreed	04/12/1965	IRRIGATION	3.40	518.0	
GAY, IRMA M; GAY, WALTER A	35-2524	Decreed	04/18/1966	IRRIGATION	0.90	518.0	
GAY, IRMA M; GAY, WALTER A	35-2859	Decreed	01/18/1967	IRRIGATION	1.77	518.0	
GAY, IRMA M; GAY, WALTER A	35-7278	Decreed	02/15/1973	IRRIGATION	1.98	518.0	
GELLES, LYNNE R; GELLES, PAUL J	35-13451	Decreed	04/29/1959	IRRIGATION	1.93	118.0	
GELLES, LYNNE R; GELLES, PAUL J	35-13347	Decreed	03/24/1976	IRRIGATION	0.39	150.0	
GELLES, LYNNE R; GELLES, PAUL J	35-13348	Decreed	03/24/1976	IRRIGATION	0.21	78.0	
GELLES, LYNNE R; GELLES, PAUL J	35-7595B	Decreed	03/24/1976	IRRIGATION	0.19	74.0	
GELLINGS, MATT J	35-7691	Decreed	04/14/1977	IRRIGATION	2.00	147.0	
GELLINGS, MATT J	35-7794	Decreed	03/09/1978	IRRIGATION	0.94	147.0	
GENTILLION, CYPRIEN E; GENTILLION, MARGJORIE N	35-7716	Decreed	05/13/1977	IRRIGATION	1.53	77.0	
GENTILLON, RONALD C	35-12923	Decreed	04/01/1985	IRRIGATION	0.12	116.0	Yes
GENTILLON, RONALD C; GENTILLON, VICKIE V	35-2841	Decreed	09/30/1964	IRRIGATION, STOCKWATER	0.45	116.0	
GENTILLON, RONALD C; GENTILLON, VICKIE V	35-7706A	Decreed	05/06/1977	IRRIGATION	2.28	112.0	
GEORGE VANDERVEGT TESTAMENTARY TRUST	36-4037	Decreed	08/01/1961	IRRIGATION	2.56	128.0	
GEORGE VANDERVEGT TESTAMENTARY TRUST	36-7283	Decreed	01/05/1973	IRRIGATION	1.16	76.0	
GEORGE VANDERVEGT TESTAMENTARY TRUST	36-7289	Decreed	01/22/1973	IRRIGATION	2.10	105.0	
GEORGE VANDERVEGT TESTAMENTARY TRUST	36-7363B	Decreed	08/07/1973	IRRIGATION	2.56	245.0	
GEORGE W WATKINS JR FAMILY LTD PARTNERS; WATKINS JR, GEORGE W; WATKINS, SHARON	35-2663	Decreed	05/15/1961	IRRIGATION	6.13	659.0	

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GEORGE W WATKINS JR FAMILY LTD PARTNERS; WATKINS JR, GEORGE W; WATKINS, SHARON	35-8011A	Decreed	12/07/1981	IRRIGATION	3.54	659.0	
GEORGE W WATKINS JR FAMILY LTD PARTNERS; WATKINS JR, GEORGE W; WATKINS, SHARON	35-8011B	Decreed	12/07/1981	IRRIGATION	0.46	659.0	
GERALD E STOLWORTHY & SON INC	27-7001	Decreed	11/01/1967	IRRIGATION	19.21	1039.0	
GERGEN, KEVIN; GERGEN, ORALIA	36-7715	Decreed	05/26/1977	IRRIGATION	3.63	257.0	
GERGEN, KEVIN; GERGEN, ORALIA	36-7885	Decreed	12/28/1979	IRRIGATION	0.74	257.0	
GIBSON, DEAN W	35-13446	Decreed	11/18/1980	IRRIGATION	0.02	1.0	
GIBSON, DEAN W	35-13444	Decreed	04/07/1983	IRRIGATION	0.01	1.0	Yes
GILBERT, CORY; GILBERT, JENNY LYNN	35-13816	Decreed	09/17/1975	IRRIGATION	1.36	137.0	
GILBERT, DAN; GILBERT, DEBORAH	35-14007	Decreed	01/09/1961	IRRIGATION	1.50	150.0	
GILBERT, DAN; GILBERT, DEBORAH	35-14009	Decreed	03/11/1969	IRRIGATION	0.68	150.0	
GILBERT, DAN; GILBERT, DEBORAH	35-12904	Decreed	05/01/1969	IRRIGATION	1.02	304.0	Yes
GILBERT, DAN; GILBERT, DEBORAH	35-14011	Decreed	06/12/1973	IRRIGATION	0.85	150.0	
GILBERT, EMILEE; GILBERT, KELLY	35-13817	Decreed	09/17/1975	IRRIGATION	1.54	155.0	
GILBERT, KURT; GILBERT, NEIKELL	35-14008	Decreed	01/09/1961	IRRIGATION	1.58	159.0	
GILBERT, KURT; GILBERT, NEIKELL	35-14010	Decreed	03/11/1969	IRRIGATION	0.72	159.0	
GILBERT, KURT; GILBERT, NEIKELL	35-14012	Decreed	06/12/1973	IRRIGATION	0.91	159.0	
GILLETTE, CINDY; GILLETTE, RANDY	36-2269A	Decreed	09/28/1954	IRRIGATION	2.78	196.0	
GILLETTE, CINDY; GILLETTE, RANDY	36-2600	Decreed	01/20/1965	IRRIGATION	6.54	1105.5	
GILLETTE, CINDY; GILLETTE, RANDY	36-7046	Decreed	12/09/1968	IRRIGATION	2.97	1105.5	
GILLETTE, CINDY; GILLETTE, RANDY	36-7212A	Decreed	11/29/1971	IRRIGATION	0.69	196.0	
GILLETTE, CINDY; GILLETTE, RANDY	36-7435	Decreed	01/25/1974	IRRIGATION	5.02	1105.5	
GILLETTE, CINDY; GILLETTE, RANDY	36-11412	Decreed	04/01/1984	IRRIGATION	0.83	1105.5	Yes
GILLETTE, JERRY; GILLETTE, ROANNE	36-2269B	Decreed	09/28/1954	IRRIGATION	1.89	162.0	
GILLETTE, JERRY; GILLETTE, ROANNE	36-2669	Decreed	01/09/1967	IRRIGATION	3.38	262.0	
GILLETTE, JERRY; GILLETTE, ROANNE	36-7212B	Decreed	11/29/1971	IRRIGATION	0.54	162.0	
GILLETTE, JERRY; GILLETTE, ROANNE	36-7626	Decreed	06/03/1976	IRRIGATION	5.14	308.0	
GILLETTE, JERRY; GILLETTE, ROANNE	36-11413	Decreed	04/01/1984	IRRIGATION	0.12	262.0	Yes
GILLETTE, PERRY	36-7340	Decreed	06/15/1973	IRRIGATION	2.92	146.0	
GILLETTE, PERRY	36-7542	Decreed	05/07/1975	IRRIGATION	5.36	268.0	
GILTNER DAIRY LLC	36-2439	Decreed	06/24/1960	IRRIGATION	0.50	747.0	
GILTNER DAIRY LLC	36-4089	Decreed	01/01/1963	COMMERCIAL, DOMESTIC	0.06	0.0	
GILTNER JR, ROBERT; GILTNER, HOLLY L; GILTNER, LINDA L; GILTNER, SCOTT R; MC COY, LUKE; MC COY, TANI; PITTOCK & SONS DAIRY LLC; PITTOCK, BRIAN M; PITTOCK, SANDY L	36-15745	Decreed	12/03/1966	COMMERCIAL, STOCKWATER	0.28	0.0	

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GILTNER JR, ROBERT; GILTNER, HOLLY L; GILTNER, LINDA L; GILTNER, SCOTT R; MC COY, LUKE; MC COY, TANI; PITTOCK & SONS DAIRY LLC; PITTOCK, BRIAN M; PITTOCK, SANDY L	36-15747	Decreed	10/18/1968	COMMERCIAL, STOCKWATER	0.36	0.0	
GILTNER JR, ROBERT; GILTNER, HOLLY L; GILTNER, LINDA L; GILTNER, SCOTT R; MC COY, LUKE; MC COY, TANI; PITTOCK & SONS DAIRY LLC; PITTOCK, BRIAN M; PITTOCK, SANDY L	36-15749	Decreed	02/18/1971	COMMERCIAL, STOCKWATER	0.15	0.0	
GILTNER JR, ROBERT; GILTNER, HOLLY L; GILTNER, LINDA L; GILTNER, SCOTT R; MC COY, LUKE; MC COY, TANI; PITTOCK & SONS DAIRY LLC; PITTOCK, BRIAN M; PITTOCK, SANDY L	36-8532	License	04/10/1990	STOCKWATER	0.18	0.0	
GILTNER, HOLLY L; GILTNER, SCOTT R; MC COY, LUKE; MC COY, TANI; PITTOCK, BRIAN M; PITTOCK, SANDY L	36-14988	Decreed	12/31/1983	COMMERCIAL, DOMESTIC, STOCKWATER	0.07	0.0	
GINGERICH, AMANDA; GINGERICH, MERLE	36-8372	License	08/03/1988	IRRIGATION	0.06	3.0	
GLANBIA FOODS INC	36-16213	Decreed	11/11/1959	MITIGATION	2.60	400.0	
GLANBIA FOODS INC	37-7051	Decreed	08/27/1969	COMMERCIAL	1.00	0.0	
GLANBIA FOODS INC	36-16215	Decreed	11/15/1970	MITIGATION	3.90	410.0	
GLANBIA FOODS INC	36-16219	Decreed	05/26/1971	MITIGATION	0.33	400.0	Yes
GLANBIA FOODS INC	37-7252A	Decreed	07/24/1973	IRRIGATION	3.09	622.0	
GLANBIA FOODS INC	37-7252B	Decreed	07/24/1973	IRRIGATION	0.21	622.0	
GLANBIA FOODS INC	37-7260	Decreed	08/08/1973	IRRIGATION	5.70	983.7	
GLANBIA FOODS INC	37-7380A	Decreed	09/05/1974	IRRIGATION	3.03	983.7	
GLANBIA FOODS INC	37-7380C	Decreed	09/05/1974	IRRIGATION	4.38	983.7	
GLANBIA FOODS INC	37-7576	Decreed	03/29/1977	IRRIGATION	2.50	983.7	
GLANBIA FOODS INC	37-7677	Decreed	09/15/1977	IRRIGATION	2.00	622.0	
GLANBIA FOODS INC	36-16217	Decreed	05/16/1980	MITIGATION	0.96	400.0	
GLANBIA FOODS INC	37-8903	License	09/17/1999	COMMERCIAL	1.67	0.0	
GLANBIA FOODS INC	37-21136	License	08/28/2003	IRRIGATION	7.85	488.9	
GLOBAL AG PROPERTIES II USA LLC	36-16473	Decreed	05/12/1954	IRRIGATION	0.37	6717.5	
GLOBAL AG PROPERTIES II USA LLC	36-2259	Decreed	05/14/1954	IRRIGATION	7.80	6717.5	
GLOBAL AG PROPERTIES II USA LLC	36-16454	Decreed	08/30/1954	IRRIGATION	0.38	11002.5	
GLOBAL AG PROPERTIES II USA LLC	36-15366B	Decreed	03/15/1958	IRRIGATION	0.05	11002.5	
GLOBAL AG PROPERTIES II USA LLC	36-15366C	Decreed	03/15/1958	IRRIGATION	2.31	11002.5	
GLOBAL AG PROPERTIES II USA LLC	36-15366D	Decreed	03/15/1958	IRRIGATION	0.16	11002.5	
GLOBAL AG PROPERTIES II USA LLC	36-2410B	Decreed	12/08/1959	IRRIGATION	0.05	11002.5	
GLOBAL AG PROPERTIES II USA LLC	36-2410C	Decreed	12/08/1959	IRRIGATION	2.23	11002.5	
GLOBAL AG PROPERTIES II USA LLC	36-2410D	Decreed	12/08/1959	IRRIGATION	0.20	11002.5	
GLOBAL AG PROPERTIES II USA LLC	36-10515	Decreed	05/01/1960	IRRIGATION	1.66	6717.5	
GLOBAL AG PROPERTIES II USA LLC	36-2434	Decreed	09/30/1960	IRRIGATION	2.92	6717.5	
GLOBAL AG PROPERTIES II USA LLC	36-2433	Decreed	10/01/1960	IRRIGATION	5.04	6717.5	

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GLOBAL AG PROPERTIES II USA LLC	36-2435	Decreed	10/01/1960	IRRIGATION	4.80	6717.5	
GLOBAL AG PROPERTIES II USA LLC	36-2454B	Decreed	12/08/1960	IRRIGATION	0.45	11002.5	
GLOBAL AG PROPERTIES II USA LLC	36-16686	Decreed	06/09/1961	IRRIGATION	0.74	113.0	
GLOBAL AG PROPERTIES II USA LLC	36-16687	Decreed	06/09/1961	IRRIGATION	2.26	2969.3	
GLOBAL AG PROPERTIES II USA LLC	36-2479A	Decreed	06/09/1961	IRRIGATION	1.20	2969.3	
GLOBAL AG PROPERTIES II USA LLC	36-2480	Decreed	07/19/1961	IRRIGATION	12.50	2969.3	
GLOBAL AG PROPERTIES II USA LLC	36-2530A	Decreed	12/06/1961	IRRIGATION	5.27	11002.5	
GLOBAL AG PROPERTIES II USA LLC	36-2530B	Decreed	12/06/1961	IRRIGATION	0.19	11002.5	
GLOBAL AG PROPERTIES II USA LLC	36-13320	Decreed	09/08/1962	COMMERCIAL, STOCKWATER	0.02	0.0	
GLOBAL AG PROPERTIES II USA LLC	36-2582A	Decreed	11/17/1963	IRRIGATION	3.52	6717.5	
GLOBAL AG PROPERTIES II USA LLC	36-2582B	Decreed	11/17/1963	IRRIGATION	0.03	6717.5	
GLOBAL AG PROPERTIES II USA LLC	36-2591	Decreed	06/03/1964	IRRIGATION	2.90	11002.5	
GLOBAL AG PROPERTIES II USA LLC	36-2618	Decreed	07/28/1965	IRRIGATION	2.90	6717.5	
GLOBAL AG PROPERTIES II USA LLC	36-2620	Decreed	08/06/1965	IRRIGATION	7.13	11002.5	
GLOBAL AG PROPERTIES II USA LLC	36-2619	Decreed	10/16/1965	IRRIGATION	12.80	11002.5	
GLOBAL AG PROPERTIES II USA LLC	36-15618	Decreed	01/11/1966	IRRIGATION	3.86	260.0	
GLOBAL AG PROPERTIES II USA LLC	36-15619	Decreed	01/11/1966	IRRIGATION	0.71	11002.5	
GLOBAL AG PROPERTIES II USA LLC	36-15264A	Decreed	08/24/1966	IRRIGATION	0.68	6717.5	Yes
GLOBAL AG PROPERTIES II USA LLC	36-2653B	Decreed	09/12/1966	IRRIGATION	0.68	11002.5	
GLOBAL AG PROPERTIES II USA LLC	36-2653N	Decreed	09/12/1966	IRRIGATION	0.05	11002.5	
GLOBAL AG PROPERTIES II USA LLC	36-2653P	Decreed	09/12/1966	IRRIGATION	6.75	11002.5	
GLOBAL AG PROPERTIES II USA LLC	36-2653Q	Decreed	09/12/1966	IRRIGATION	0.09	11002.5	
GLOBAL AG PROPERTIES II USA LLC	36-7007B	Decreed	09/11/1967	IRRIGATION	1.32	11002.5	
GLOBAL AG PROPERTIES II USA LLC	36-16789	Decreed	11/01/1967	IRRIGATION	0.15	260.0	
GLOBAL AG PROPERTIES II USA LLC	36-16790	Decreed	11/01/1967	IRRIGATION	0.08	2969.3	
GLOBAL AG PROPERTIES II USA LLC	36-15217	Decreed	03/15/1968	IRRIGATION	0.31	70.0	Yes
GLOBAL AG PROPERTIES II USA LLC	36-17124	Decreed	03/15/1968	IRRIGATION	0.41	6717.5	Yes
GLOBAL AG PROPERTIES II USA LLC	36-7021A	Decreed	04/09/1968	IRRIGATION	0.42	11002.5	
GLOBAL AG PROPERTIES II USA LLC	36-7021C	Decreed	04/09/1968	IRRIGATION	0.54	11002.5	
GLOBAL AG PROPERTIES II USA LLC	36-7041	Decreed	10/15/1968	IRRIGATION	4.40	11002.5	
GLOBAL AG PROPERTIES II USA LLC	36-10863A	Decreed	05/01/1970	IRRIGATION	2.57	6717.5	Yes
GLOBAL AG PROPERTIES II USA LLC	36-10863B	Decreed	05/01/1970	IRRIGATION	0.03	6717.5	Yes
GLOBAL AG PROPERTIES II USA LLC	35-7168	Decreed	01/12/1971	IRRIGATION	3.18	225.0	
GLOBAL AG PROPERTIES II USA LLC	36-15234	Decreed	03/15/1971	IRRIGATION	1.14	2969.3	Yes
GLOBAL AG PROPERTIES II USA LLC	36-15616	Decreed	07/13/1971	IRRIGATION	0.17	260.0	Yes
GLOBAL AG PROPERTIES II USA LLC	36-15617	Decreed	07/13/1971	IRRIGATION	0.03	11002.5	Yes
GLOBAL AG PROPERTIES II USA LLC	36-7209	Decreed	11/17/1971	IRRIGATION	4.01	6717.5	
GLOBAL AG PROPERTIES II USA LLC	36-11340	Decreed	04/01/1972	IRRIGATION	0.97	11002.5	Yes

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GLOBAL AG PROPERTIES II USA LLC	36-7246A	Decreed	05/18/1972	IRRIGATION	3.81	6717.5	
GLOBAL AG PROPERTIES II USA LLC	36-7246B	Decreed	05/18/1972	IRRIGATION	0.04	6717.5	
GLOBAL AG PROPERTIES II USA LLC	36-17126	Decreed	07/24/1973	IRRIGATION	0.46	6717.5	
GLOBAL AG PROPERTIES II USA LLC	36-7391	Decreed	10/12/1973	IRRIGATION	0.11	11002.5	
GLOBAL AG PROPERTIES II USA LLC	36-16688	Decreed	05/22/1974	IRRIGATION	1.52	113.0	
GLOBAL AG PROPERTIES II USA LLC	36-16689	Decreed	05/22/1974	IRRIGATION	4.68	2969.3	
GLOBAL AG PROPERTIES II USA LLC	36-7476B	Decreed	05/22/1974	IRRIGATION	1.80	2969.3	
GLOBAL AG PROPERTIES II USA LLC	36-7580B	Decreed	11/21/1975	IRRIGATION	0.07	11002.5	
GLOBAL AG PROPERTIES II USA LLC	36-7580C	Decreed	11/21/1975	IRRIGATION	3.53	11002.5	
GLOBAL AG PROPERTIES II USA LLC	36-7580D	Decreed	11/21/1975	IRRIGATION	0.32	11002.5	
GLOBAL AG PROPERTIES II USA LLC	36-7627	Decreed	06/07/1976	IRRIGATION	5.57	6717.5	
GLOBAL AG PROPERTIES II USA LLC	36-15621	Decreed	02/08/1977	IRRIGATION	3.34	11002.5	
GLOBAL AG PROPERTIES II USA LLC	36-7611B	Decreed	02/25/1977	IRRIGATION	4.29	11002.5	
GLOBAL AG PROPERTIES II USA LLC	36-4006	Decreed	07/14/1977	IRRIGATION	1.70	11002.5	Yes
GLOBAL AG PROPERTIES II USA LLC	36-7795A	Decreed	05/26/1978	IRRIGATION	1.58	11002.5	
GLOBAL AG PROPERTIES II USA LLC	36-7795B	Decreed	05/26/1978	IRRIGATION	0.06	11002.5	
GLOBAL AG PROPERTIES II USA LLC	36-7830B	Decreed	11/09/1978	IRRIGATION	1.71	11002.5	
GLOBAL AG PROPERTIES II USA LLC	36-15264B	Decreed	08/04/1979	IRRIGATION	0.71	6717.5	Yes
GLOBAL AG PROPERTIES II USA LLC	36-8068B	Decreed	03/04/1982	IRRIGATION	0.05	11002.5	
GLOBAL AG PROPERTIES II USA LLC	36-8068D	Decreed	03/04/1982	IRRIGATION	0.04	11002.5	
GLOBAL AG PROPERTIES II USA LLC	36-8068E	Decreed	03/04/1982	IRRIGATION	2.17	11002.5	
GLOBAL AG PROPERTIES II USA LLC	36-8068F	Decreed	03/04/1982	IRRIGATION	0.05	11002.5	
GLOBAL AG PROPERTIES II USA LLC	36-8069N	Decreed	03/04/1982	IRRIGATION	0.03	11002.5	
GLOBAL AG PROPERTIES II USA LLC	36-8069P	Decreed	03/04/1982	IRRIGATION	3.34	11002.5	
GLOBAL AG PROPERTIES II USA LLC	36-8069Q	Decreed	03/04/1982	IRRIGATION	0.05	11002.5	
GLOBAL AG PROPERTIES II USA LLC	36-8777	Decreed	03/04/1982	IRRIGATION	1.12	11002.5	
GLOBAL AG PROPERTIES II USA LLC	36-8227	License	06/30/1983	IRRIGATION	1.91	6717.5	
GLOBAL AG PROPERTIES II USA LLC	36-16456	Decreed	03/15/1984	IRRIGATION	0.10	11002.5	Yes
GLOBAL AG PROPERTIES II USA LLC	36-16690	License	09/10/1984	IRRIGATION	5.52	11002.5	
GLOBAL AG PROPERTIES II USA LLC	36-16691	License	09/10/1984	IRRIGATION	2.68	11002.5	
GLOBAL AG PROPERTIES II USA LLC	36-16692	License	09/10/1984	IRRIGATION	0.11	5.4	
GLOBAL AG PROPERTIES II USA LLC	36-11290	Decreed	05/01/1985	IRRIGATION	0.06	11002.5	Yes
GLOBAL AG PROPERTIES II USA LLC	36-8275B	Decreed	05/09/1985	IRRIGATION	2.46	11002.5	
GLOBAL AG PROPERTIES II USA LLC	36-8274A	Decreed	07/04/1985	IRRIGATION	0.28	11002.5	
GLOBAL AG PROPERTIES II USA LLC	36-8274B	Decreed	07/04/1985	IRRIGATION	2.04	11002.5	
GLOBAL AG PROPERTIES II USA LLC	36-16582	Decreed	03/15/1987	IRRIGATION	0.09	11002.5	Yes
GLOBAL AG PROPERTIES II USA LLC	36-16585	Decreed	03/15/1987	IRRIGATION	0.96	2969.3	Yes
GLOBAL AG PROPERTIES II USA LLC	36-8404	License	03/01/1989	IRRIGATION	2.10	11002.5	

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GLOBAL AG PROPERTIES II USA LLC	36-8475	License	10/31/1989	IRRIGATION	2.64	11002.5	
GLOBAL AG PROPERTIES II USA LLC	36-15567	License	02/20/1990	IRRIGATION	1.54	11002.5	
GLOBAL AG PROPERTIES II USA LLC	36-16814	License	02/20/1990	IRRIGATION	11.33	2969.3	
GLOBAL AG PROPERTIES II USA LLC	36-16815	License	02/20/1990	IRRIGATION	3.90	11002.5	
GLOBAL AG PROPERTIES II USA LLC	36-16816	License	02/20/1990	IRRIGATION	0.16	6717.5	
GLOBAL AG PROPERTIES USA LLC	36-2340	Decreed	09/26/1957	IRRIGATION	5.47	3110.0	
GLOBAL AG PROPERTIES USA LLC	36-2339	Decreed	09/30/1957	IRRIGATION	4.40	3110.0	
GLOBAL AG PROPERTIES USA LLC	36-2346	Decreed	02/06/1958	IRRIGATION	3.73	3110.0	
GLOBAL AG PROPERTIES USA LLC	36-16501	Decreed	03/05/1958	IRRIGATION	3.95	3110.0	
GLOBAL AG PROPERTIES USA LLC	36-2360	Decreed	10/08/1958	IRRIGATION	5.52	3110.0	
GLOBAL AG PROPERTIES USA LLC	36-2363	Decreed	11/13/1958	IRRIGATION	4.40	3110.0	
GLOBAL AG PROPERTIES USA LLC	36-2389	Decreed	06/15/1959	IRRIGATION	4.42	3110.0	
GLOBAL AG PROPERTIES USA LLC	36-2431	Decreed	08/23/1960	IRRIGATION	4.04	3110.0	
GLOBAL AG PROPERTIES USA LLC	36-2451	Decreed	12/21/1960	IRRIGATION	1.55	3110.0	
GLOBAL AG PROPERTIES USA LLC	36-16417	Decreed	03/17/1963	IRRIGATION	0.28	3110.0	
GLOBAL AG PROPERTIES USA LLC	36-16419	Decreed	09/24/1968	IRRIGATION	0.59	3110.0	
GLOBAL AG PROPERTIES USA LLC	36-15165	Decreed	03/15/1970	IRRIGATION	2.20	3110.0	Yes
GLOBAL AG PROPERTIES USA LLC	36-4200	Decreed	03/15/1974	IRRIGATION	0.84	3110.0	Yes
GLOBAL AG PROPERTIES USA LLC	36-16425	Decreed	05/01/1976	IRRIGATION	0.15	3110.0	Yes
GLOBAL AG PROPERTIES USA LLC	36-16421	Decreed	12/30/1983	IRRIGATION	0.13	3110.0	
GLOBAL AG PROPERTIES USA LLC	36-8403	License	11/28/1988	IRRIGATION	0.31	3110.0	
GOKEY, ROBERT F	35-8196	License	06/28/1983	IRRIGATION	0.14	5.0	
GOLD EMBLEM FARMS	35-2715	Decreed	05/31/1962	IRRIGATION	0.14	17.9	
GOLD EMBLEM FARMS	35-2853A	Decreed	12/19/1966	IRRIGATION	0.09	17.9	
GOLD EMBLEM FARMS	35-7563	Decreed	12/15/1975	IRRIGATION	0.02	17.9	
GOLD EMBLEM FARMS	35-14467	License	05/05/2016	IRRIGATION	2.50	125.2	
GOLDEN ACRES LLC	37-7458B	Decreed	10/14/1975	IRRIGATION	1.23	142.5	
GOLDEN CREST INC	25-7134	Decreed	09/13/1977	IRRIGATION	2.47	143.0	
GOLDEN VALLEY LLC	36-8221	Decreed	07/09/1983	COMMERCIAL	0.02	0.0	
GOLDEN VALLEY LLC	36-8341	Decreed	11/25/1987	COMMERCIAL	0.08	0.0	
GOOCH, BEATRICE; GOOCH, ELLIS	37-21154	Decreed	12/03/1966	COMMERCIAL, STOCKWATER	0.03	0.0	
GOOCH, BEATRICE; GOOCH, ELLIS	37-21155	Decreed	10/18/1968	COMMERCIAL, STOCKWATER	0.04	0.0	
GOOCH, BEATRICE; GOOCH, ELLIS	37-22446	Decreed	09/12/1973	COMMERCIAL, STOCKWATER	0.10	0.0	
GOOCH, BEATRICE; GOOCH, ELLIS	37-8839	License	11/22/1994	STOCKWATER	0.06	0.0	
GOODWIN EXCAVATING LLC; POCATELLO READY MIX	35-13986	Decreed	05/02/1977	IRRIGATION	1.31	65.5	
GOODWIN, JERRY; GOODWIN, TISHA	36-7892	Decreed	02/04/1980	DOMESTIC, IRRIGATION	0.06	1.4	
GOODWIN, STEVE B	35-7862	Decreed	06/27/1979	IRRIGATION	0.32	21.0	
GOODWIN, STEVE B; GOODWIN, VIRGINIA A	35-8090	Decreed	02/08/1983	IRRIGATION	0.67	73.5	

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GOODWIN, STEVE B; GOODWIN, VIRGINIA A	35-8091	Decreed	02/08/1983	IRRIGATION	0.14	7.0	
GOODWIN, STEVE B; GOODWIN, VIRGINIA A	35-8092	Decreed	02/08/1983	IRRIGATION	0.20	10.0	
GOODWIN, STEVE B; GOODWIN, VIRGINIA A	35-8633	Decreed	11/25/1986	IRRIGATION	1.12	56.0	
GOODWIN, STEVE B; GOODWIN, VIRGINIA A	35-8700	License	02/13/1989	IRRIGATION	0.36	18.0	
GOODWIN, STEVE B; GOODWIN, VIRGINIA A	35-8847	Decreed	10/20/1989	IRRIGATION	0.80	73.5	
GOTT, MIKE	36-8534	License	04/27/1990	DOMESTIC, IRRIGATION	0.10	2.5	
GOUGH, JENNIFER	37-23114	License	08/22/1988	IRRIGATION	0.09	4.0	
GOUGH, JENNIFER; GOUGH, JERAD R	37-22923	License	08/22/1988	IRRIGATION	0.09	4.4	
GOUGH, JONATHAN; GOUGH, MEMORI DEANN	37-23212	Decreed	09/20/1974	IRRIGATION	0.03	2.7	
GPOD OF IDAHO	27-7040	Decreed	05/06/1974	DOMESTIC, INDUSTRIAL	0.55	0.0	
GRANT 4D FARMSS	36-11584	Decreed	12/31/1958	COMMERCIAL	0.05	0.0	
GRANT 4D FARMSS	36-16656	Decreed	04/01/1961	IRRIGATION	2.49	171.0	
GRANT 4D FARMSS	36-7273A	Decreed	11/14/1972	IRRIGATION	2.08	104.0	
GRANT 4D FARMSS	36-16130	Decreed	11/08/1973	IRRIGATION	0.05	264.0	
GRANT 4D FARMSS	36-2194	Decreed	09/10/1984	IRRIGATION	3.18	264.0	
GRANT 4D FARMSS; RLDR FARM LLC	36-7850D	Decreed	03/30/1979	IRRIGATION	0.04	591.0	
GRANT 4D FARMSS; RLDR FARM LLC	36-8106D	Decreed	08/10/1982	IRRIGATION	0.13	591.0	
GRANT 4D PROPERTIES LLC	36-2300	Decreed	05/15/1956	IRRIGATION	3.88	194.0	
GRANT 4D PROPERTIES LLC	36-2481B	Decreed	05/01/1961	IRRIGATION	1.83	151.0	
GRANT 4D PROPERTIES LLC	36-2540	Decreed	04/26/1962	IRRIGATION	2.00	130.0	
GRANT 4D PROPERTIES LLC	36-11856	Decreed	06/01/1962	IRRIGATION	0.46	130.0	
GRANT 4D PROPERTIES LLC	36-2650	Decreed	05/06/1966	IRRIGATION	2.42	320.0	
GRANT 4D PROPERTIES LLC	36-7897	Decreed	02/25/1980	IRRIGATION	2.84	203.0	
GRANT 4D PROPERTIES LLC	36-8446	License	09/26/1989	IRRIGATION	0.20	10.0	
GRANT 4D PROPERTIES LLC	36-8622	License	12/04/1991	COMMERCIAL	0.02	0.0	
GRANT JR, DOUGLAS E; GRANT, DUANE R	36-2481A	Decreed	05/01/1961	IRRIGATION	0.40	157.0	
GRANT JR, DOUGLAS E; GRANT, LAUREL A	36-2684	Decreed	03/02/1967	IRRIGATION	5.36	320.0	
GRANT JR, ROBERT	36-7516	Decreed	12/13/1974	IRRIGATION	5.35	420.0	
GRANT, DOUGLAS E	36-2585	Decreed	04/07/1964	IRRIGATION	0.78	40.0	
GREAVES, ALAN; GREAVES, COLLEEN	36-8479	License	11/13/1989	IRRIGATION	0.04	1.5	
GREEN DESERT LLC	31-7182A	Decreed	01/22/1976	IRRIGATION	6.78	468.0	
GREEN DESERT LLC	31-11699	Decreed	04/01/1980	IRRIGATION	0.25	312.0	Yes
GREGERSEN, MICHAEL R; GREGERSEN, ROXIE; UNITED STATES OF AMERICA ACTING THROUGH	35-7357C	Decreed	11/28/1973	IRRIGATION	4.70	235.0	
GREGORY, CHAD; GREGORY, JILL	35-14545	Decreed	08/07/1980	IRRIGATION	0.06	8.2	
GREGORY, CHAD; GREGORY, JILL	35-7903B	Decreed	08/07/1980	IRRIGATION	0.04	3.8	
GREGORY, DARVEL J; GREGORY, KATHRYN S	35-8671	License	08/16/1988	DOMESTIC, IRRIGATION, STOCKWATER	0.14	8.2	
GRESCHKE, GEORGE; SIMONS, NANCY A	25-7285	Decreed	07/29/1982	IRRIGATION	0.04	2.0	

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GRIFFITH, JOSH; GRIFFITH, SHELBY	36-8681	License	10/16/1992	DOMESTIC, IRRIGATION	0.03	1.0	
GRIFFITHS, JESSE J	35-13669	Decreed	04/26/1961	IRRIGATION	0.18	49.6	
GRIFFITHS, JESSE J	35-13667	Decreed	05/06/1969	IRRIGATION	0.37	49.6	
GRIMMETT, GARY D	35-8179	Decreed	08/02/1983	DOMESTIC, IRRIGATION	0.10	3.0	
GROLL, BECKY L; GROLL, TERRY J	35-14410	Decreed	08/14/1973	IRRIGATION	0.31	39.0	
GROVELAND CEMETERY	35-13342	Decreed	11/13/1972	IRRIGATION	0.09	4.0	
GROVELAND CEMETERY	35-13364	Decreed	11/13/1972	IRRIGATION	0.01	4.0	Yes
GROVELAND WATER & SEWER DISTRICT	35-8354	License	11/01/1984	DOMESTIC	1.06	0.0	
GROVELAND WATER & SEWER DISTRICT	35-13917	License	03/16/2009	DOMESTIC	0.42	0.0	
GROVELAND WATER & SEWER DISTRICT	35-13918	License	03/24/2009	MUNICIPAL	0.48	0.0	
GROVER, BOYD; GROVER, LA VAR	27-7356	License	05/31/1983	COMMERCIAL, DOMESTIC, IRRIGATION	0.42	29.0	
GROVER, KIM	35-7987	Decreed	06/11/1981	DOMESTIC, IRRIGATION, STOCKWATER	0.18	7.0	
GROVER, ROGER KIM; GROVER, SUE ANN	35-13321	Decreed	12/04/1975	IRRIGATION	0.31	36.0	
GROVER, ROGER KIM; GROVER, SUE ANN	35-14597	Decreed	12/04/1975	IRRIGATION	0.93	97.0	
GROVER, ROGER KIM; GROVER, SUE ANN	35-7549A	Decreed	12/04/1975	IRRIGATION	0.34	36.0	
GUNDERSON, K PAUL	31-11228	Decreed	04/01/1954	IRRIGATION, STOCKWATER	0.05	2.0	
GUNDERSON, K PAUL	31-7008	Decreed	03/10/1968	IRRIGATION, STOCKWATER	1.08	156.0	
GUNDERSON, K PAUL	31-11604	Decreed	12/31/1976	IRRIGATION	0.46	152.0	Yes
GUNDERSON, K PAUL	31-7338	License	05/04/1980	IRRIGATION	0.03	152.0	
GUNDERSON, PAUL	31-12314	Decreed	04/01/1977	IRRIGATION	0.41	177.0	Yes
GUNN, DANIELLE	35-13426	License	04/05/1983	DOMESTIC, IRRIGATION, STOCKWATER	0.10	4.0	
GUNNING, F F; GUNNING, G C	36-8063A	License	02/16/1982	IRRIGATION	2.14	329.0	
GZMAC LLC	36-7431	Decreed	01/18/1974	IRRIGATION	0.54	122.0	
H & H DAIRY LLC	36-15511	Decreed	03/24/1963	COMMERCIAL, STOCKWATER	0.19	0.0	
H & P FARMS; HUNT, JEFF; PINCOCK, BRUCE	36-2321	Decreed	04/08/1957	IRRIGATION	3.88	319.0	
H & P FARMS; HUNT, JEFF; PINCOCK, BRUCE	36-2349	Decreed	04/17/1958	IRRIGATION	4.32	317.0	
H & P FARMS; HUNT, JEFF; PINCOCK, BRUCE	36-15506	Decreed	04/15/1961	IRRIGATION	2.53	185.0	
H & P FARMS; HUNT, JEFF; PINCOCK, BRUCE	36-2573	Decreed	04/29/1963	IRRIGATION	3.96	198.0	
H & P FARMS; HUNT, JEFF; PINCOCK, BRUCE	36-2578	Decreed	10/03/1963	IRRIGATION	4.71	238.0	
H & P FARMS; HUNT, JEFF; PINCOCK, BRUCE	36-2589	Decreed	02/25/1964	IRRIGATION	0.34	319.0	
H & T REAL ESTATE	37-8487B	License	01/25/1989	COMMERCIAL, STOCKWATER	0.18	0.0	
H & T REAL ESTATE	37-8487C	License	01/25/1989	IRRIGATION	0.48	97.9	
HALBERT, GILBERT L; HALBERT, KIM M	36-2371B	Decreed	12/31/1958	IRRIGATION	0.08	2.5	
HALDY, PAULA	35-8807	License	09/22/1989	DOMESTIC, IRRIGATION	0.07	4.0	
HALE, ALDEN C; HALE, GLENNA	35-2428C	Decreed	07/01/1955	IRRIGATION, STOCKWATER	2.90	143.0	
HAMER LAND LLC	31-4000A	Decreed	05/20/1956	IRRIGATION	2.53	133.0	
HAMER LAND LLC	31-4000B	Decreed	05/20/1956	IRRIGATION	2.47	135.0	
HAMER LAND LLC	31-4001A	Decreed	05/15/1961	IRRIGATION	2.38	135.0	

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HAMER LAND LLC	31-4001B	Decreed	05/15/1961	IRRIGATION	2.23	129.0	
HAMER LAND LLC	31-7001	Decreed	07/20/1967	IRRIGATION	4.84	264.0	
HAMER LAND LLC	31-7000	Decreed	07/21/1967	IRRIGATION	5.07	264.0	
HAMILTON LAND & LIVESTOCK	31-4011C	Decreed	09/01/1956	IRRIGATION	1.75	1104.0	
HAMILTON LAND & LIVESTOCK	31-2415	Decreed	12/26/1964	IRRIGATION	2.55	1104.0	
HAMILTON LAND & LIVESTOCK	32-2132	Decreed	02/14/1967	IRRIGATION	6.13	1061.0	
HAMILTON LAND & LIVESTOCK	31-7131	Decreed	07/30/1974	IRRIGATION	4.82	1104.0	
HAMILTON LAND & LIVESTOCK	32-2135	Decreed	04/15/1975	IRRIGATION	2.70	1061.0	
HAMILTON LAND & LIVESTOCK	31-7320	Decreed	12/18/1984	IRRIGATION	5.12	1104.0	
HAMILTON, LAYNE F	27-12275	Decreed	09/11/1961	IRRIGATION	0.60	304.0	
HAMILTON, LAYNE F	27-2129A	Decreed	09/11/1961	IRRIGATION	1.18	139.5	
HAMILTON, LAYNE F	27-2129B	Decreed	09/11/1961	IRRIGATION	1.00	139.5	
HAMILTON, LAYNE F	27-2134	Decreed	04/25/1963	IRRIGATION	1.38	69.0	
HAMILTON, RHITT	27-2123	Decreed	11/22/1961	IRRIGATION	2.02	96.0	
HAMMETT, R LEE	27-11903	Decreed	11/14/1960	IRRIGATION	0.10	5.0	
HANCHETT, AUREL K; HANCHETT, PHYLLIS	36-7128	Decreed	03/23/1970	IRRIGATION	1.40	139.0	
HANCHETT, AUREL K; HANCHETT, PHYLLIS	36-15355	Decreed	03/23/1971	IRRIGATION	0.40	139.0	Yes
HANCOCK, GRACE; HANCOCK, VERN	35-2438B	Decreed	08/29/1955	IRRIGATION	2.72	210.0	
HANDY TRUCK LINES INC	36-8510	License	02/14/1990	COMMERCIAL	0.04	0.0	
HANSEN FARMS LAND LLC	36-7607	Decreed	02/20/1976	IRRIGATION	4.30	279.0	
HANSEN HOLDINGS LLC	31-12418	Decreed	07/25/1955	IRRIGATION	0.36	154.0	
HANSEN HOLDINGS LLC	31-12221	Decreed	08/22/1955	IRRIGATION	0.97	316.5	
HANSEN HOLDINGS LLC	31-2349	Decreed	09/26/1955	IRRIGATION	5.24	320.0	
HANSEN HOLDINGS LLC	31-2377	Decreed	05/11/1959	IRRIGATION	3.57	317.0	
HANSEN HOLDINGS LLC	31-12419	Decreed	07/26/1961	IRRIGATION	0.23	154.0	
HANSEN HOLDINGS LLC	31-12417	Decreed	08/07/1962	IRRIGATION	0.87	154.0	
HANSEN HOLDINGS LLC	31-12315	Decreed	08/18/1965	IRRIGATION	1.65	152.4	
HANSEN HOLDINGS LLC	31-12524	Decreed	08/18/1965	IRRIGATION	0.05	5.0	
HANSEN, ANN; HANSEN, KENT G	31-12423	Decreed	07/25/1955	IRRIGATION	0.35	156.0	
HANSEN, ANN; HANSEN, KENT G	31-12424	Decreed	07/25/1955	IRRIGATION	0.33	147.5	
HANSEN, ANN; HANSEN, KENT G	31-2379	Decreed	07/12/1960	IRRIGATION	3.20	159.0	
HANSEN, ANN; HANSEN, KENT G	31-12425	Decreed	07/26/1961	IRRIGATION	0.23	156.0	
HANSEN, ANN; HANSEN, KENT G	31-12426	Decreed	07/26/1961	IRRIGATION	0.22	147.5	
HANSEN, ANN; HANSEN, KENT G	31-12421	Decreed	08/07/1962	IRRIGATION	0.88	156.0	
HANSEN, ANN; HANSEN, KENT G	31-12422	Decreed	08/07/1962	IRRIGATION	0.84	147.5	
HANSEN, BEVERLY P; HANSEN, LARON J	35-2729	Decreed	08/19/1963	IRRIGATION	1.15	199.0	
HANSEN, BEVERLY P; HANSEN, LARON J	35-2756	Decreed	09/22/1964	IRRIGATION	3.20	320.0	
HANSEN, BEVERLY P; HANSEN, LARON J	35-7099	Decreed	08/25/1969	IRRIGATION	3.20	320.0	

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HANSEN, BEVERLY P; HANSEN, LARON J	35-7767	Decreed	01/24/1978	IRRIGATION	2.83	199.0	
HANSEN, BRUCE E; HANSEN, ELAINE	36-17203	Decreed	03/15/1968	IRRIGATION	0.01	2.9	Yes
HANSEN, CREG; HANSEN, LETA	37-7621F	Decreed	06/07/1977	IRRIGATION	1.80	92.0	
HANSEN, DARLENE; HANSEN, JOHN W	27-7388	License	03/30/1984	IRRIGATION	0.05	2.5	
HANSEN, GARY L	36-2473A	Decreed	02/09/1961	IRRIGATION	1.33	110.0	
HANSEN, GARY L	36-11508	Decreed	03/15/1978	IRRIGATION	0.31	110.0	Yes
HANSEN, JANAE; HANSEN, ZANE	35-13517	Decreed	04/27/1964	IRRIGATION	0.06	1.5	
HANSEN, JAYCI MAE; HANSEN, KOLTON KIRT	31-2352B	Decreed	12/12/1955	IRRIGATION	2.61	160.0	
HANSEN, KENT G	31-2470	Decreed	11/09/1959	IRRIGATION	3.63	308.0	
HANSEN, KRISTEN; HANSEN, PAUL	35-14608	Decreed	11/21/1977	IRRIGATION	0.08	4.0	
HANSEN, LARON J	35-8655	License	07/28/1987	IRRIGATION	0.72	235.0	
HANSENS QUALITY JERSEYS LLC	36-2371A	Decreed	12/31/1958	IRRIGATION	1.81	229.5	
HANSENS QUALITY JERSEYS LLC	36-16329	Decreed	11/11/1959	COMMERCIAL, STOCKWATER	0.11	0.0	
HANSENS QUALITY JERSEYS LLC	36-16531	Decreed	11/11/1959	COMMERCIAL, STOCKWATER	0.09	0.0	
HANSENS QUALITY JERSEYS LLC	36-16758	Decreed	09/30/1965	IRRIGATION	4.55	249.9	
HANSENS QUALITY JERSEYS LLC	36-16759	Decreed	09/30/1965	COMMERCIAL, STOCKWATER	0.30	0.0	
HANSENS QUALITY JERSEYS LLC	36-2638	Decreed	01/27/1966	IRRIGATION	1.57	233.0	
HANSENS QUALITY JERSEYS LLC	36-16760	Decreed	09/23/1967	IRRIGATION	0.35	249.9	Yes
HANSENS QUALITY JERSEYS LLC	36-16761	Decreed	09/23/1967	COMMERCIAL, STOCKWATER	0.03	0.0	Yes
HANSENS QUALITY JERSEYS LLC	36-16331	Decreed	11/15/1970	COMMERCIAL, STOCKWATER	0.17	0.0	
HANSENS QUALITY JERSEYS LLC	36-16534	Decreed	11/15/1970	COMMERCIAL, STOCKWATER	0.13	0.0	
HANSENS QUALITY JERSEYS LLC	36-16335	Decreed	05/26/1971	COMMERCIAL, STOCKWATER	0.01	0.0	Yes
HANSENS QUALITY JERSEYS LLC	36-16540	Decreed	05/26/1971	COMMERCIAL, STOCKWATER	0.01	0.0	Yes
HANSENS QUALITY JERSEYS LLC	36-7717	Decreed	05/26/1977	COMMERCIAL, STOCKWATER	0.06	0.0	
HANSENS QUALITY JERSEYS LLC	36-16333	Decreed	05/16/1980	COMMERCIAL, STOCKWATER	0.04	0.0	
HANSENS QUALITY JERSEYS LLC	36-16537	Decreed	05/16/1980	COMMERCIAL, STOCKWATER	0.04	0.0	
HARBOR VIEW DEVELOPMENT LLC	36-7684	Decreed	03/02/1977	IRRIGATION	1.41	180.0	
HARDY, ANITA KAY	36-7510	Decreed	11/07/1974	IRRIGATION	0.47	23.5	
HARMS, BOYD L	36-16904	Decreed	08/21/1973	IRRIGATION	0.08	3.9	
HAROLDSEN, JAMES TRON	35-2464	Decreed	05/16/1956	IRRIGATION	1.50	151.0	
HAROLDSEN, RYAN HEATH	35-2418	Decreed	04/19/1955	IRRIGATION	2.42	221.0	
HARPER LAND LLC	36-4009	Decreed	04/16/1963	IRRIGATION	0.50	26.6	
HARPER LAND LLC	36-7108	Decreed	01/12/1970	IRRIGATION	1.94	152.0	
HARPER, BRENT	35-2478B	Decreed	10/18/1956	IRRIGATION	2.81	208.0	
HARPER, CLINT; HARPER, KEVIN; HARPER, LAYNE R	36-7960A	Decreed	01/26/1981	IRRIGATION	0.90	1194.0	
HARPER, CLINT; HARPER, KEVIN; HARPER, LAYNE R	36-7960B	Decreed	01/26/1981	IRRIGATION	0.90	1194.0	
HARPER, CLINT; HARPER, LAYNE R	36-16336	Decreed	10/17/1955	IRRIGATION	3.43	460.0	
HARPER, CLINT; HARPER, LAYNE R	36-16337	Decreed	10/17/1955	IRRIGATION	0.33	1194.0	

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HARPER, CLINT; HARPER, LAYNE R	36-7412	Decreed	11/30/1973	IRRIGATION	4.01	460.0	
HARPER, LARRY F	36-7020	Decreed	04/15/1968	IRRIGATION	1.00	50.0	
HARPER, LAYNE R	36-2401	Decreed	09/20/1959	IRRIGATION	2.50	1194.0	
HARRIS, JARED; HARRIS, SONYA	35-8209	License	06/28/1983	DOMESTIC, IRRIGATION	0.20	4.0	
HARRIS, NILS	35-4074A	Decreed	05/01/1962	IRRIGATION	0.80	40.0	
HARRIS, NILS	35-4074B	Decreed	05/01/1962	IRRIGATION	1.22	61.0	
HARTLEY, DOUGLAS D; HARTLEY, RENEA N	36-7529E	Decreed	03/28/1975	IRRIGATION	0.42	312.0	
HARTWELL FAMILY LLC	31-2351B	Decreed	12/01/1955	IRRIGATION	1.90	382.0	
HARTWELL FAMILY LLC	31-12372	Decreed	07/14/1960	IRRIGATION	0.11	382.0	
HARTWELL FAMILY LLC	31-2381B	Decreed	07/14/1960	IRRIGATION	1.92	137.0	
HARTWELL FAMILY LLC	31-2381C	Decreed	07/14/1960	IRRIGATION	0.52	382.0	
HARTWELL FAMILY LLC	31-2381D	Decreed	07/14/1960	IRRIGATION	0.56	382.0	
HATCH, DAVID B	27-7089	Decreed	06/03/1977	IRRIGATION	3.00	150.0	
HATFIELD DAIRY LLC	37-21628	Decreed	09/25/1979	DOMESTIC, STOCKWATER	0.11	0.0	
HAWKER, DOYLE	35-7132	Decreed	03/13/1970	IRRIGATION	0.60	30.0	
HAWKER, DOYLE; HAWKER, MARRI SUSAN	35-7039	Decreed	11/13/1968	IRRIGATION	1.11	68.0	
HAWKER, DOYLE; HAWKER, MARRI SUSAN	35-7244	Decreed	08/29/1972	IRRIGATION	1.11	60.0	
HAWKER, DOYLE; HAWKER, MARRI SUSAN	35-7438	Decreed	08/14/1974	IRRIGATION	0.91	47.0	
HAWKER, DOYLE; HAWKER, SUSAN	35-4006A	Decreed	04/01/1961	IRRIGATION	0.73	41.0	
HAWKER, DOYLE; HAWKER, SUSAN	35-4006B	Decreed	04/01/1961	IRRIGATION	0.42	150.0	
HAWKER, DOYLE; HAWKER, SUSAN	35-2744	Decreed	12/15/1964	IRRIGATION	2.00	186.0	
HAWKER, DOYLE; HAWKER, SUSAN	35-7112B	Decreed	01/22/1970	IRRIGATION	0.51	150.0	
HAWKER, DOYLE; HAWKER, SUSAN	35-14852	Decreed	12/21/1976	IRRIGATION	0.02	1.0	
HAWKER, DOYLE; HAWKER, SUSAN	35-7664	Decreed	01/31/1977	IRRIGATION	1.42	150.0	
HAWKER, PRESTON L	35-8917	License	10/24/1990	IRRIGATION	0.49	35.0	
HAWKER, REBECCA; HAWKER, TRACY	35-7755	Decreed	11/14/1977	IRRIGATION	0.55	36.0	
HAWKER, REBECCA; HAWKER, TRACY	35-14657	Decreed	04/05/1982	IRRIGATION	0.35	23.2	
HAWKES, DANIEL A; HAWKES, DEBRA	35-13677	Decreed	06/07/1957	IRRIGATION	0.02	5.0	
HAWKES, DANIEL A; HAWKES, DEBRA	35-13681	Decreed	08/04/1979	IRRIGATION	0.04	5.0	
HAYDEN, DONALD D; HAYDEN, SHARON A	36-8470	License	09/12/1989	IRRIGATION	0.04	1.2	
HAYES, COLIN LEE	36-2276	Decreed	02/03/1955	IRRIGATION	2.90	145.0	
HAYES, COLIN LEE	36-2396	Decreed	07/01/1959	IRRIGATION	1.48	135.0	
HAYES, COLIN LEE	36-2679	Decreed	01/12/1967	IRRIGATION	1.50	135.0	
HAYNES, THOMAS RAYMOND	36-2398	Decreed	07/30/1959	IRRIGATION	2.71	678.0	
HAYNES, THOMAS RAYMOND	36-2403	Decreed	10/12/1959	IRRIGATION	1.76	678.0	
HAYNES, THOMAS RAYMOND	36-7883A	Decreed	01/15/1980	IRRIGATION	5.64	678.0	
HAZELBRUSH, CHARLES; HAZELBRUSH, DALEEN	35-8908	License	07/12/1990	DOMESTIC, IRRIGATION	0.12	2.5	
HEATH JR, JESSE M; HEATH, SANDRA L	35-2862A	Decreed	02/15/1967	IRRIGATION	0.24	12.0	

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HEATH, RONALD	35-2730	Decreed	10/11/1963	IRRIGATION	2.60	267.0	
HEATH, RONALD	35-7994	Decreed	08/03/1981	IRRIGATION	0.40	267.0	
HEATH, RONALD	35-13228	Decreed	04/01/1987	IRRIGATION	0.42	267.0	Yes
HEIDA, MARY JANE; HEIDA, THOMAS	36-2493B	Decreed	06/28/1961	IRRIGATION	0.36	78.0	
HEIDA, MARY JANE; HEIDA, THOMAS	36-7597A	Decreed	01/13/1976	IRRIGATION	0.70	114.0	
HEIDA, MARY JANE; HEIDA, THOMAS	36-7597B	Decreed	01/13/1976	IRRIGATION	1.18	79.0	
HEIDA, MARY JANE; HEIDA, THOMAS	36-7682	Decreed	02/14/1977	IRRIGATION	1.24	78.0	
HEIDA, MARY JANE; HEIDA, THOMAS	36-8276	Decreed	06/06/1985	IRRIGATION	0.14	121.0	
HELEN M MURDOCK FAMILY TRUST; MURDOCK, ELWIN W	35-14462	Decreed	06/22/1961	IRRIGATION	1.12	55.8	
HENDERSON, A R	25-4240	Decreed	08/01/1959	DOMESTIC, IRRIGATION	0.28	4.0	
HENDERSON, BRINDIE; HENDERSON, TRAVIS	27-11904	Decreed	11/14/1960	IRRIGATION	0.03	1.5	
HENDRICKS, BARBARA C; HENDRICKS, GERALD L	35-14612	Decreed	11/21/1977	IRRIGATION	0.04	2.0	
HENNEY, RONALD ARTHUR; HENNEY, SADIE SHARLENE	35-8826	License	05/07/1989	DOMESTIC, IRRIGATION	0.08	2.0	
HENRY AND CAROL MILES FAMILY TRUST	35-2874	Decreed	04/05/1967	IRRIGATION	2.90	253.0	
HENRY AND CAROL MILES FAMILY TRUST	35-7014	Decreed	04/05/1967	IRRIGATION	2.40	253.0	
HENRY FARMS	36-2341	Decreed	12/09/1957	IRRIGATION	2.40	240.0	
HENRY FARMS	36-2359	Decreed	09/19/1958	IRRIGATION	3.68	287.0	
HENRY FARMS	36-2513	Decreed	08/29/1961	IRRIGATION	2.00	286.0	
HENRY FARMS	36-7698	Decreed	04/22/1977	IRRIGATION	2.36	160.0	
HENRY FARMS	36-15163	Decreed	05/01/1981	IRRIGATION	0.66	286.0	Yes
HENRY FARMS	36-8568	License	11/07/1990	IRRIGATION	0.79	240.0	
HENRY, AUDREY; HENRY, ROBERT P	36-4122	Decreed	09/04/1961	IRRIGATION	1.58	94.0	
HENRY, AUDREY; HENRY, ROBERT P	36-14844	Decreed	03/15/1983	IRRIGATION	0.25	94.0	Yes
HENSEN, CARL; HENSEN, TINA M	35-13490	Decreed	06/09/1977	IRRIGATION	0.08	4.5	
HENSEN, CARL; HENSEN, TINA M	35-13491	Decreed	06/09/1977	IRRIGATION	0.08	4.5	
HEPWORTH, AARON BRAY; HEPWORTH, AMANDA KAE	45-2752	Decreed	04/07/1960	IRRIGATION	4.72	320.0	
HEPWORTH, AARON BRAY; HEPWORTH, AMANDA KAE	45-7160	Decreed	12/13/1973	IRRIGATION	3.11	229.0	
HEPWORTH, AARON BRAY; HEPWORTH, AMANDA KAE	45-7187	Decreed	09/16/1974	IRRIGATION, STOCKWATER	0.36	229.0	
HEPWORTH, CRAIG D	36-2512	Decreed	11/30/1962	IRRIGATION	2.00	247.1	
HEPWORTH, CRAIG D	36-11110	Decreed	03/15/1968	IRRIGATION	1.00	247.1	Yes
HEPWORTH, CRAIG D	36-17202	License	03/01/1989	IRRIGATION	0.49	247.1	
HERITAGE FARMS LLC	36-8466	License	10/04/1989	COMMERCIAL	0.03	0.0	
HERNANDO, EDWARD O; HERNANDO, TERESA C	36-16493	Decreed	08/25/1977	DIVERSION TO STORAGE, IRRIGATION FROM STORAGE, IRRIGATION STORAGE, IRRIGATION, STOCKWATER	0.11	5.0	
HERSHBERGER, GEORGE H; HERSHBERGER, MARY E	35-8601	License	07/01/1985	IRRIGATION	0.50	25.0	
HETTINGA, ARLENE; HETTINGA, STEVEN	36-2575A	Decreed	08/05/1963	IRRIGATION	0.62	36.0	
HIBBARD, DONNA G; HIBBARD, GARY J	37-7199	Decreed	01/30/1973	IRRIGATION	3.02	151.0	

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HICKMAN, RANDY; HICKMAN, TAMERA	35-8843	License	09/12/1989	IRRIGATION	0.18	9.5	
HIDDEN VALLEY LAND CO LLC	36-2382	Decreed	04/28/1959	IRRIGATION	4.85	377.0	
HIDDEN VALLEY LAND CO LLC	36-7016	Decreed	02/27/1968	IRRIGATION	0.50	377.0	
HIDDEN VALLEY LAND CO LLC	36-10174	Decreed	03/15/1968	IRRIGATION	0.74	377.0	Yes
HIDDEN VALLEY LAND CO LLC	36-8528	License	03/16/1990	IRRIGATION	0.60	421.5	
HIEB, DEBBIE L; HIEB, RONALD J	45-2499	Decreed	08/01/1955	IRRIGATION	1.88	148.0	
HIEB, DEBBIE L; HIEB, RONALD J	45-2638A	Decreed	03/08/1961	IRRIGATION	0.44	148.0	
HIGH OUTPUT DEVELOPMENT LLC	36-7030	Decreed	06/07/1968	IRRIGATION	0.31	15.7	
HIGHWAY 26 BLACKFOOT PROPERTY, LLC	35-13340	Decreed	11/13/1972	COMMERCIAL, IRRIGATION	0.65	25.0	
HIGHWAY 26 BLACKFOOT PROPERTY, LLC	35-13362	Decreed	11/13/1972	IRRIGATION	0.05	25.0	Yes
HILL, BROOKE; HILL, CHRISTOPHER	31-12353	Decreed	06/09/1977	IRRIGATION	0.05	9.8	
HILL, DENNIS G; HILL, KRISTINE S	35-7566	Decreed	01/05/1976	IRRIGATION	0.64	32.0	
HILL, LEONORA A; HILL, MARK E	35-2380	Decreed	06/04/1954	IRRIGATION	0.03	2.3	
HILL, LEONORA A; HILL, MARK E	35-8026	Decreed	03/05/1982	IRRIGATION	0.01	2.3	
HILLIARD, MICHAEL W; HILLIARD, VERONICA A	36-8195	License	09/01/1989	DOMESTIC, IRRIGATION	0.08	1.5	
HILLMAN, ANNETTE; HILLMAN, RON R	31-7225	Decreed	03/03/1977	IRRIGATION	2.23	170.0	
HILLMAN, ANNETTE; HILLMAN, RON R	31-7230	Decreed	03/08/1977	IRRIGATION	2.16	140.0	
HILLMAN, ANNETTE; HILLMAN, RON R	31-11349	Decreed	04/01/1985	IRRIGATION	0.19	170.0	Yes
HILLMAN, BLAINE; HILLMAN, JANICE	27-11977	Decreed	09/19/1977	IRRIGATION	1.48	74.0	
HILLMAN, BRENT; HILLMAN, KARISA	27-7068A	Decreed	11/23/1976	IRRIGATION	0.98	66.0	
HILLMAN, BRENT; HILLMAN, LINDA	25-7625	License	08/20/1993	DOMESTIC	0.19	0.0	
HILLMAN, JAMIE MICHAEL	31-12175	Decreed	10/10/1973	IRRIGATION	1.06	140.0	
HILLMAN, JAMIE MICHAEL	31-12177	Decreed	06/14/1974	IRRIGATION	1.41	140.0	
HILLMAN, JAMIE MICHAEL	31-7232	Decreed	03/11/1977	IRRIGATION	2.29	140.0	
HILLMAN, JAMIE MICHAEL	31-7239	Decreed	03/11/1977	IRRIGATION	2.27	140.0	
HILLMAN, JAMIE MICHAEL	31-7243	Decreed	03/11/1977	IRRIGATION	2.27	140.0	
HILLMAN, NICK R	31-7031	Decreed	02/17/1970	IRRIGATION	2.64	132.0	
HILLMAN, NICK R	31-7030B	Decreed	03/09/1970	IRRIGATION	1.60	115.0	
HILLMAN, NICK R	31-7032	Decreed	03/09/1970	IRRIGATION	2.45	132.0	
HILLMAN, NICK R	31-7188	Decreed	02/23/1976	IRRIGATION	0.70	115.0	
HILLMAN, RALPH L	31-7183	Decreed	01/26/1976	IRRIGATION	2.11	136.0	
HILLMAN, RALPH L	31-7184	Decreed	01/26/1976	IRRIGATION	2.23	136.0	
HILLMAN, RALPH L	31-7185	Decreed	01/26/1976	IRRIGATION	2.05	136.0	
HILLMAN, RALPH L	31-7234	Decreed	03/08/1977	IRRIGATION	2.56	216.0	
HILLMAN, RALPH L	31-7236	Decreed	03/08/1977	IRRIGATION	2.48	137.0	
HILLMAN, RALPH L	31-7237	Decreed	03/08/1977	IRRIGATION	2.12	127.0	
HILLMAN, RALPH L	31-7240	Decreed	03/08/1977	IRRIGATION	2.50	125.0	
HILLMAN, RALPH L	31-11356	Decreed	03/09/1977	IRRIGATION	0.15	137.0	Yes

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HILLMAN, RALPH L	31-7233A	Decreed	03/11/1977	IRRIGATION	1.27	86.0	
HILLMAN, RALPH L	31-7241	Decreed	03/11/1977	IRRIGATION	1.94	140.0	
HILLMAN, RALPH L	31-10711	Decreed	04/01/1978	IRRIGATION	1.76	216.0	Yes
HILLTOP DAIRY LLC	36-2475	Decreed	02/20/1961	IRRIGATION	0.88	49.0	
HILLTOP DAIRY LLC	36-2502	Decreed	07/24/1961	IRRIGATION	0.99	90.0	
HILLTOP DAIRY LLC	36-8636	License	09/23/1997	COMMERCIAL, STOCKWATER	0.55	0.0	
HINCKLEY, KEITH S	27-7149	Decreed	04/07/1980	IRRIGATION	0.98	49.0	
HIRAI FARMS LLC	36-10522	Decreed	08/01/1961	IRRIGATION	0.74	130.0	
HIRAI, GREGORY; HIRAI, JENNIFER	36-7793	Decreed	06/01/1978	IRRIGATION	2.26	144.0	
HIRAI, GREGORY; HIRAI, JENNIFER	36-7946	Decreed	01/08/1981	COMMERCIAL, STOCKWATER	0.05	0.0	
HIRAI, JACK J; HIRAI, KUNIE; MATTHEWS, J W; MATTHEWS, REBA MARIE	36-2464	Decreed	03/12/1961	IRRIGATION	2.75	183.0	
HIRAI, JACK J; HIRAI, KUNIE; PRINCE, CARI L; PRINCE, JAMES J	36-2507	Decreed	08/17/1961	IRRIGATION	1.38	75.0	
HIRAI, JACK J; MATTHEWS, J W	36-8585	License	08/11/1988	IRRIGATION	0.22	171.0	
HIRSCHMAN, MICHELLE L	31-7172	Decreed	12/04/1975	IRRIGATION	2.64	155.0	
HK CONTRACTORS INC	25-14462		03/02/2018	INDUSTRIAL	1.12	0.0	
HODGES, BARBARA J; HODGES, DOUGLAS K	35-14468	Decreed	07/13/1954	IRRIGATION	0.01	2.0	
HODGES, BARBARA J; HODGES, DOUGLAS K	35-14469	Decreed	11/12/1975	IRRIGATION	0.02	2.0	
HOFF ROAD FARM LLC	35-7937	Decreed	02/23/1981	IRRIGATION	3.22	290.0	
HOFFMAN, RICHARD R; MUELLER, STEVE A; PETTINGILL, CASEY; PETTINGILL, HOLLIE; SIMMONS, JOHN G	25-7649	License	08/12/1996	DOMESTIC	0.15	0.0	
HOGE, BRADLEY R; HOGE, WENDY L	35-7012A	Decreed	01/16/1968	IRRIGATION	0.58	36.0	
HOGE, JOHN; HOGE, SHARON	27-11971	Decreed	10/08/1981	IRRIGATION	0.03	2.0	
HOGGAN BROTHERS INC	31-7443	Decreed	06/24/1985	IRRIGATION	2.21	134.0	
HOGGAN BROTHERS INC	31-11683	Decreed	10/24/1988	IRRIGATION	0.26	14.8	
HOLDAWAY FARMS LLC	31-11698	Decreed	04/01/1980	IRRIGATION	0.26	313.0	Yes
HOLDAWAY, BRYAN W; HOLDAWAY, CHRIS B; HOLDAWAY, LEO S	31-7019	Decreed	05/30/1969	IRRIGATION	2.07	104.0	
HOLLAND, JOHN H; HOLLAND, JUDITH A	36-7112	Decreed	01/22/1970	IRRIGATION, STOCKWATER	0.84	40.0	
HOLLUM, GARY J	35-7938	Decreed	01/05/1981	DOMESTIC, IRRIGATION	0.05	5.0	
HOLM FARMS INC	35-2507	Decreed	07/30/1957	IRRIGATION	4.60	309.0	
HOLM FARMS INC	35-2785	Decreed	06/21/1965	IRRIGATION	6.84	550.0	
HOLM FARMS INC	35-7517	Decreed	06/23/1975	IRRIGATION	5.31	312.0	
HOLM FARMS INC	35-8763	License	05/17/1989	COMMERCIAL, DOMESTIC	0.06	0.0	
HOLM FARMS INC; HOLM, DELRAY	35-2783	Decreed	06/21/1965	IRRIGATION	3.87	304.0	
HOLM FARMS INC; MIRELES, AUGUSTIN MUNOZ; ROBISON, MELINDA M; ROBISON, RYAN L; SANCHEZ, SOCORRO SANCHEZ	35-8637	Decreed	06/20/1983	DOMESTIC, IRRIGATION	0.12	1.0	
HOLT, RONALD; HOLT, SHARON	36-7876	Decreed	10/26/1979	IRRIGATION	0.88	48.0	
HOLTON, DOROTHY; HOLTON, HAROLD L	36-7067	Decreed	07/12/1969	IRRIGATION, STOCKWATER	1.00	147.0	

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Owner	Water Right No.	Basis	Priority Date	Water Use List	Diversion Rate (cfs)	Total Acres	Enlargement
HOLTON, RONALD	36-2561	Decreed	01/22/1963	IRRIGATION	2.40	147.0	
HOLTON, RONALD	36-12588	Decreed	03/01/1974	IRRIGATION	0.44	147.0	Yes
HOLTZEN FARMS INC	36-8603	License	06/14/1991	STOCKWATER	0.14	0.0	
HOOPER, CYNTHIA ANN; HOOPER, LAURA KAY; HOOPER, TIMOTHY E	37-7279	Decreed	09/13/1973	IRRIGATION, STOCKWATER	1.23	74.0	
HOOPER, GRAHAM E; HOOPER, PATTY	37-7205	Decreed	02/16/1973	IRRIGATION	5.81	321.8	
HOPKINS PACKING CO	35-8751	Decreed	05/15/1989	COMMERCIAL	0.07	0.0	
HORROCKS, CHARLES R	27-2128	Decreed	08/17/1961	DOMESTIC, INDUSTRIAL	0.63	0.0	
HORROCKS, CHARLES R	27-7512	License	04/05/1990	INDUSTRIAL	0.55	0.0	
HORROCKS, CHARLES R	27-7513	License	04/05/1990	DOMESTIC, INDUSTRIAL	0.20	0.0	
HOSKINS, BARBARA K; HOSKINS, ROBERT A	27-2125D	Decreed	12/27/1961	IRRIGATION	1.08	54.0	
HOUGHLAND, JOHN; HOUGHLAND, REBECCA	35-2398	Decreed	01/17/1955	IRRIGATION	2.00	100.0	
HOWARD TAYLOR & SONS INC	35-2621	Decreed	12/08/1960	IRRIGATION	6.25	428.0	
HOWARD TAYLOR & SONS INC	25-13250	Decreed	12/31/1960	COMMERCIAL	0.22	0.0	
HOWARD TAYLOR & SONS INC	35-13824	Decreed	02/09/1961	IRRIGATION	0.63	334.0	
HOWARD TAYLOR & SONS INC	35-2648	Decreed	02/27/1961	IRRIGATION	10.66	631.0	
HOWARD TAYLOR & SONS INC	35-2672	Decreed	06/28/1961	IRRIGATION	6.40	791.0	
HOWARD TAYLOR & SONS INC	35-2673	Decreed	10/12/1961	IRRIGATION	4.45	791.0	
HOWARD TAYLOR & SONS INC	35-2674	Decreed	10/12/1961	IRRIGATION	6.44	476.0	
HOWARD TAYLOR & SONS INC	35-4018	Decreed	05/01/1962	IRRIGATION	4.87	320.0	
HOWARD TAYLOR & SONS INC	35-13826	Decreed	03/25/1964	IRRIGATION	0.88	334.0	
HOWARD TAYLOR & SONS INC	35-2853B	Decreed	12/19/1966	IRRIGATION	0.04	8.5	
HOWARD TAYLOR & SONS INC	35-7197	Decreed	01/04/1972	IRRIGATION, STOCKWATER	4.51	294.0	
HOWARD TAYLOR & SONS INC	35-7198	Decreed	01/04/1972	IRRIGATION	4.64	320.0	
HOWARD TAYLOR & SONS INC	35-7323	Decreed	08/28/1973	IRRIGATION	0.07	8.5	
HOWARD TAYLOR & SONS INC	35-13828	Decreed	07/01/1975	IRRIGATION	1.25	334.0	
HOWARD TAYLOR & SONS INC	35-13830	Decreed	08/15/1975	IRRIGATION	0.88	334.0	
HOWARD TAYLOR & SONS INC	35-13832	Decreed	08/15/1975	IRRIGATION	0.90	334.0	
HOWARD TAYLOR & SONS INC	35-7559	Decreed	12/05/1975	IRRIGATION	0.02	8.5	
HOWARD TAYLOR & SONS INC	35-13834	Decreed	08/27/1976	IRRIGATION	0.89	334.0	
HOWARD TAYLOR & SONS INC	35-13836	Decreed	08/15/1977	IRRIGATION	0.19	334.0	
HOWARD TAYLOR & SONS INC	35-7495	Decreed	09/19/1979	IRRIGATION	2.12	791.0	
HOWARD TAYLOR & SONS INC	35-13748	Decreed	04/15/1980	IRRIGATION	0.28	14.2	Yes
HOWE FAMILY TRUST	35-13793	Decreed	05/01/1956	IRRIGATION	0.80	78.0	
HOWE FAMILY TRUST	35-13797	Decreed	04/01/1979	IRRIGATION	0.37	78.0	Yes
HOWE, CASSIDY; HOWE, JAKE	35-13283	Decreed	02/23/1972	IRRIGATION	1.25	90.5	
HOWE, CASSIDY; HOWE, JAKE	35-14598	Decreed	02/23/1972	STOCKWATER	0.41	0.0	
HOWE, CASSIDY; HOWE, JAKE	35-7212B	Decreed	02/23/1972	COMMERCIAL, STOCKWATER	0.15	0.0	

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HOWE, RUTH G; HOWE, WILLIAM G	35-8157	Decreed	06/15/1983	DOMESTIC, IRRIGATION	0.07	1.0	
HRUZA, EUGENE; HRUZA, SHIRLEY	36-17156	Decreed	10/07/1954	IRRIGATION	1.54	77.0	
HRUZA, EUGENE; HRUZA, SHIRLEY	36-4169	Decreed	03/15/1963	IRRIGATION	1.12	56.0	
HUETTIG, ANDREA B; HUETTIG, BRIAN J	36-2444	Decreed	06/28/1960	IRRIGATION	3.60	316.0	
HUETTIG, ANDREA B; HUETTIG, BRIAN J	36-7150	Decreed	01/06/1971	IRRIGATION	1.32	66.0	
HUETTIG, DOUGLAS	36-15994	Decreed	11/27/1964	IRRIGATION	1.49	110.0	
HUETTIG, ELLEN M; HUETTIG, MYRON A	36-2594	Decreed	10/29/1964	IRRIGATION	0.80	471.0	
HUETTIG, ELLEN M; HUETTIG, MYRON A	36-7639	Decreed	08/24/1976	IRRIGATION	1.45	471.0	
HUETTIG, ELLEN M; HUETTIG, MYRON A	36-8147	License	03/01/1983	IRRIGATION	1.60	471.0	
HUETTIG, ELLEN M; HUETTIG, MYRON A	36-8289	License	06/26/1985	IRRIGATION	0.04	471.0	
HUFF CREEK LLC	37-7620	Decreed	06/02/1977	DIVERSION TO STORAGE, IRRIGATION FROM STORAGE, IRRIGATION STORAGE, IRRIGATION	3.31	900.8	
HUGHES, PATRICK O; HUGHES, SUSAN L	27-7409	Decreed	07/09/1985	DOMESTIC, IRRIGATION, STOCKWATER	0.11	3.0	
HULTS , JOSEPH	36-2277	Decreed	02/25/1955	IRRIGATION	1.52	142.0	
HULTS , JOSEPH	36-2334A	Decreed	07/08/1957	IRRIGATION	3.15	158.0	
HULTS , JOSEPH	36-16322	Decreed	05/26/1961	IRRIGATION	0.66	142.0	
HULTS , JOSEPH; HULTS, DAVID; HULTS, KAY A; HULTS, NICOLE	36-2665A	Decreed	10/11/1966	IRRIGATION	2.92	387.5	
HULTS , JOSEPH; HULTS, DAVID; HULTS, KAY A; HULTS, NICOLE	36-16203	Decreed	08/21/1973	IRRIGATION	2.60	387.5	
HULTS , JOSEPH; HULTS, DAVID; HULTS, KAY A; HULTS, NICOLE	36-16902	Decreed	08/21/1973	IRRIGATION	0.73	387.5	
HULTS , JOSEPH; HULTS, DAVID; HULTS, KAY A; HULTS, NICOLE	36-16903	Decreed	08/21/1973	IRRIGATION	3.11	307.6	
HULTS , JOSEPH; HULTS, DAVID; HULTS, KAY A; HULTS, NICOLE	36-7817	Decreed	10/14/1978	IRRIGATION	1.10	307.6	
HULTS , JOSEPH; HULTS, DAVID; HULTS, KAY A; HULTS, NICOLE	36-7877	Decreed	12/21/1979	IRRIGATION	0.83	307.6	
HULTS , JOSEPH; HULTS, KAY A	36-16397	Decreed	07/08/1957	IRRIGATION	0.18	9.0	
HULTS , JOSEPH; HULTS, KAY A	36-2413	Decreed	12/10/1959	IRRIGATION	3.12	156.0	
HULTS , JOSEPH; HULTS, KAY A	36-16399	Decreed	08/24/1973	IRRIGATION	0.01	9.0	
HUNT FARM LLC	36-2373	Decreed	01/16/1959	IRRIGATION	3.22	356.0	
HUNT FARM LLC	36-15992	License	07/31/1974	IRRIGATION	0.42	94.0	
HUNT FARM LLC	36-17142	Decreed	07/31/1974	IRRIGATION	1.57	78.3	
HUNT, DUANE W; HUNT, MARGARET	36-7058	Decreed	04/09/1969	IRRIGATION	2.70	163.0	Yes
HUNT, DUANE W; HUNT, MARGARET	36-11079	Decreed	03/15/1973	IRRIGATION	0.05	163.0	Yes
HUNTER, BRANDI; HUNTER, KIP M	35-14643	Decreed	08/28/1961	IRRIGATION	1.57	88.9	
HURTADO FARMS LLC	36-2289K	Decreed	12/02/1955	IRRIGATION	0.01	3.0	
HURTADO FARMS LLC	36-2311H	Decreed	11/23/1956	IRRIGATION	0.01	3.0	
HURTADO FARMS LLC	36-2412A	Decreed	01/22/1960	IRRIGATION	0.61	39.0	
HURTADO FARMS LLC	36-2412D	Decreed	01/22/1960	COMMERCIAL, STOCKWATER	0.65	0.0	
HURTADO FARMS LLC	36-14632	Decreed	03/11/1960	COMMERCIAL, DOMESTIC, STOCKWATER	0.07	0.0	
HURTADO FARMS LLC	36-16096	Decreed	02/06/1961	STOCKWATER	0.02	0.0	

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HURTADO FARMS LLC	36-16409	Decreed	02/06/1961	IRRIGATION	1.13	459.4	
HURTADO FARMS LLC	36-16410	Decreed	02/06/1961	COMMERCIAL, STOCKWATER	0.06	0.0	
HURTADO FARMS LLC	36-17072	Decreed	02/06/1961	COMMERCIAL, STOCKWATER	0.05	0.0	
HURTADO FARMS LLC	36-2500H	Decreed	07/18/1961	IRRIGATION	0.01	3.0	
HURTADO FARMS LLC	36-16762	Decreed	05/23/1962	IRRIGATION	1.75	401.6	
HURTADO FARMS LLC	36-16763	Decreed	05/23/1962	COMMERCIAL, STOCKWATER	0.08	0.0	
HURTADO FARMS LLC	36-2726D	Decreed	05/23/1962	COMMERCIAL, STOCKWATER	0.22	0.0	
HURTADO FARMS LLC	36-15995	Decreed	11/27/1964	COMMERCIAL, STOCKWATER	0.61	0.0	
HURTADO FARMS LLC	36-2614H	Decreed	06/07/1965	IRRIGATION	0.01	3.0	
HURTADO FARMS LLC	36-7049	Decreed	01/10/1969	IRRIGATION	2.41	126.0	
HURTADO FARMS LLC	36-15169H	Decreed	12/11/1969	IRRIGATION	0.02	3.0	
HURTADO FARMS LLC	36-7215	Decreed	01/03/1972	IRRIGATION	0.84	164.0	
HURTADO FARMS LLC	36-7250	Decreed	07/21/1972	COMMERCIAL, DOMESTIC, STOCKWATER	0.25	0.0	
HURTADO FARMS LLC	36-16508	Decreed	09/15/1972	COMMERCIAL, STOCKWATER	0.23	0.0	
HURTADO FARMS LLC	36-7290	Decreed	01/23/1973	IRRIGATION	1.60	80.0	
HURTADO FARMS LLC	36-7307H	Decreed	02/26/1973	IRRIGATION	0.01	3.0	
HURTADO FARMS LLC	36-7329	Decreed	04/18/1973	IRRIGATION	0.80	40.0	
HURTADO FARMS LLC	36-16007	Decreed	06/21/1973	IRRIGATION	3.12	155.7	
HURTADO FARMS LLC	36-16008	Decreed	06/21/1973	COMMERCIAL, STOCKWATER	0.33	0.0	
HURTADO FARMS LLC	36-7362H	Decreed	08/02/1973	IRRIGATION	0.01	3.0	
HURTADO FARMS LLC	36-16510	Decreed	08/16/1973	COMMERCIAL, STOCKWATER	0.08	0.0	
HURTADO FARMS LLC	36-7409A	Decreed	11/21/1973	IRRIGATION	2.19	268.0	
HURTADO FARMS LLC	36-7418	License	12/11/1973	IRRIGATION	2.70	168.4	
HURTADO FARMS LLC	36-7477H	Decreed	05/28/1974	IRRIGATION	0.01	3.0	
HURTADO FARMS LLC	36-7508B	Decreed	11/05/1974	IRRIGATION	2.42	132.0	
HURTADO FARMS LLC	36-15256C	Decreed	03/15/1975	IRRIGATION	0.92	401.6	Yes
HURTADO FARMS LLC	36-15256D	Decreed	03/15/1975	COMMERCIAL, STOCKWATER	0.11	0.0	
HURTADO FARMS LLC	36-16506	Decreed	04/08/1975	COMMERCIAL	0.05	0.0	
HURTADO FARMS LLC	36-7606H	Decreed	02/04/1976	IRRIGATION	0.01	3.0	
HURTADO FARMS LLC	36-7631A	Decreed	06/23/1976	IRRIGATION	3.17	268.0	
HURTADO FARMS LLC	36-7734	Decreed	03/11/1977	COMMERCIAL, DOMESTIC, IRRIGATION, STOCKWATER	1.00	30.0	
HURTADO FARMS LLC	36-7779H	Decreed	02/22/1978	IRRIGATION	0.01	3.0	
HURTADO FARMS LLC	36-7832H	Decreed	12/11/1978	IRRIGATION	0.01	3.0	
HURTADO FARMS LLC	36-7847	Decreed	03/28/1979	COMMERCIAL, STOCKWATER	0.56	0.0	
HURTADO FARMS LLC	36-8169	Decreed	04/06/1983	COMMERCIAL, STOCKWATER	0.26	0.0	
HURTADO FARMS LLC	36-10225H	Decreed	05/01/1985	IRRIGATION	0.01	3.0	Yes
HURTADO FARMS LLC	36-8517	License	04/03/1990	COMMERCIAL, STOCKWATER	0.04	0.0	

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HURTADO FARMS LLC	36-16094	License	03/10/1992	STOCKWATER	0.03	0.0	
HURTADO FARMS LLC	36-16407	License	03/10/1992	IRRIGATION	1.45	459.4	
HURTADO FARMS LLC	36-16408	License	03/10/1992	COMMERCIAL, STOCKWATER	0.08	0.0	
HURTADO FARMS LLC	36-8736	License	05/19/1992	COMMERCIAL, STOCKWATER	0.52	0.0	
HURTADO FARMS LLC	36-8396	License	10/20/1992	COMMERCIAL, STOCKWATER	0.20	0.0	
HURTADO HOLSTEINS LLC	36-8490	License	11/07/1989	COMMERCIAL, DOMESTIC, STOCKWATER	0.27	0.0	
HURTADO LAND & LIVESTOCK LLC	36-2488	Decreed	06/10/1961	IRRIGATION	1.30	65.0	
HURTADO LAND & LIVESTOCK LLC	36-2658	Decreed	09/03/1966	IRRIGATION	1.23	80.0	
HURTADO LAND & LIVESTOCK LLC	36-7714A	Decreed	05/19/1977	IRRIGATION	2.79	188.0	
HURTADO LAND & LIVESTOCK LLC	36-7714B	Decreed	05/19/1977	IRRIGATION	1.44	144.0	
HURTADO LAND & LIVESTOCK LLC	36-8491	License	10/31/1989	COMMERCIAL, STOCKWATER	0.33	0.0	
HURTADO LAND & LIVESTOCK LLC	36-8661	License	05/21/1992	COMMERCIAL, STOCKWATER	0.26	0.0	
HURTADO LAND & LIVESTOCK LLC	36-8388	License	05/08/2003	COMMERCIAL, STOCKWATER	0.17	0.0	
HUTCHINGS, LANE	31-2469	Decreed	10/01/1956	IRRIGATION	4.42	724.0	
HUTCHINGS, LANE	32-7014	Decreed	02/01/1973	IRRIGATION	4.70	724.0	
HUTCHINGS, LANE	31-7521	Decreed	10/12/1973	IRRIGATION	2.14	724.0	
HUTCHINGS, LANE	32-7035	Decreed	05/19/1975	IRRIGATION	3.14	159.0	
HUTCHISON, W JAY	45-7108A	Decreed	07/18/1972	IRRIGATION	0.78	39.0	
HUTCHISON, W JAY	45-7158	Decreed	11/13/1973	IRRIGATION	1.40	70.0	
ID DEPARTMENT OF HEALTH AND WELFARE	27-7084	Decreed	05/09/1977	IRRIGATION	2.68	239.0	
ID DEPARTMENT OF HEALTH AND WELFARE	27-7478	License	05/31/1989	IRRIGATION	1.97	333.0	
ID DEPARTMENT OF TRANSPORTATION	37-7003	Decreed	08/10/1967	MUNICIPAL	0.13	0.0	
ID DEPARTMENT OF TRANSPORTATION	37-20852	Decreed	09/20/1974	IRRIGATION	0.09	0.0	
ID DEPARTMENT OF TRANSPORTATION	37-20853	Decreed	09/20/1974	MUNICIPAL	0.13	0.0	
ID DEPARTMENT OF TRANSPORTATION	37-7457	Decreed	10/01/1975	DOMESTIC	0.05	0.0	
ID DEPARTMENT OF TRANSPORTATION	35-9041	License	02/08/1994	IRRIGATION	0.06	1.9	
ID DIVISION OF VETERANS SERVICES	27-12294	Decreed	05/09/1977	IRRIGATION	0.43	38.0	
ID DIVISION OF VETERANS SERVICES	27-12293	License	05/31/1989	IRRIGATION	0.23	38.0	
IDAHO ACRES DAIRY LLC	36-8412	License	03/01/1989	IRRIGATION	0.46	137.7	
IDAHO AG INC	36-7306	Decreed	02/26/1973	IRRIGATION	3.90	974.0	
IDAHO AG INC	36-7493	Decreed	08/08/1974	IRRIGATION	3.84	974.0	
IDAHO AGRI INVESTMENTS LLC	36-15573	Decreed	12/03/1966	COMMERCIAL, STOCKWATER	0.12	0.0	
IDAHO AGRI INVESTMENTS LLC	36-15571	Decreed	10/18/1968	COMMERCIAL, STOCKWATER	0.16	0.0	
IDAHO AGRI INVESTMENTS LLC	36-15569	Decreed	02/18/1971	COMMERCIAL, STOCKWATER	0.07	0.0	
IDAHO AGRI INVESTMENTS LLC	36-16182	Decreed	01/07/1974	COMMERCIAL, STOCKWATER	0.04	0.0	
IDAHO AGRI INVESTMENTS LLC	37-21134	Decreed	01/07/1974	IRRIGATION, MITIGATION	0.31	18.9	
IDAHO AGRI INVESTMENTS LLC	36-10640	Decreed	06/01/1978	DOMESTIC, STOCKWATER	0.04	0.0	
IDAHO FALLS FARMS LLC	35-14165	Decreed	04/24/1959	IRRIGATION	0.13	312.0	

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IDAHO FALLS FARMS LLC	35-13854	Decreed	02/14/1961	IRRIGATION	5.16	1112.0	
IDAHO FALLS FARMS LLC	35-14173	Decreed	01/19/1962	IRRIGATION	1.06	312.0	
IDAHO FALLS FARMS LLC	35-14171	Decreed	02/23/1962	IRRIGATION	0.34	312.0	
IDAHO FALLS FARMS LLC	35-14169	Decreed	01/31/1967	IRRIGATION	0.33	312.0	
IDAHO FALLS FARMS LLC	35-2877	Decreed	04/27/1967	IRRIGATION	4.72	270.0	
IDAHO FALLS FARMS LLC	35-7192A	Decreed	11/29/1971	IRRIGATION	4.55	494.1	
IDAHO FALLS FARMS LLC	35-9069	Decreed	11/29/1971	IRRIGATION	0.48	494.1	
IDAHO FALLS FARMS LLC	35-7199	Decreed	01/04/1972	IRRIGATION	4.73	320.0	
IDAHO FALLS FARMS LLC	35-7200	Decreed	01/04/1972	IRRIGATION	4.06	320.0	
IDAHO FALLS FARMS LLC	35-7203	Decreed	01/13/1972	IRRIGATION	8.00	1112.0	
IDAHO FALLS FARMS LLC	35-7216B	Decreed	03/20/1972	IRRIGATION	5.67	410.2	
IDAHO FALLS FARMS LLC	35-13933	Decreed	09/25/1973	IRRIGATION	4.96	759.5	
IDAHO FALLS FARMS LLC	35-13935	Decreed	09/25/1973	IRRIGATION	4.90	759.5	
IDAHO FALLS FARMS LLC	35-13951	Decreed	10/10/1973	IRRIGATION	0.39	759.5	
IDAHO FALLS FARMS LLC	35-14167	Decreed	12/24/1973	IRRIGATION	0.71	312.0	
IDAHO FALLS FARMS LLC	35-13403	Decreed	04/18/1974	IRRIGATION	0.28	759.5	
IDAHO FALLS FARMS LLC	35-13937	Decreed	04/08/1975	IRRIGATION	4.96	759.5	
IDAHO FALLS FARMS LLC	35-13939	Decreed	05/23/1975	IRRIGATION	2.48	759.5	
IDAHO FALLS FARMS LLC	35-13949	Decreed	05/23/1975	IRRIGATION	0.54	759.5	
IDAHO FALLS FARMS LLC	35-13941	Decreed	07/27/1976	IRRIGATION	0.64	759.5	
IDAHO FALLS FARMS LLC	35-13857	License	01/14/1983	IRRIGATION	1.86	1112.0	
IDAHO FRESH PAK LLC	36-15553	Decreed	03/15/1974	COMMERCIAL	0.06	0.0	Yes
IDAHO FRESH PAK LLC	36-8456	License	09/21/1989	COMMERCIAL	0.27	0.0	
IDAHO JERSEY GIRLS JEROME DAIRY LLC	36-2586D	Decreed	01/28/1964	COMMERCIAL, STOCKWATER	0.14	0.0	
IDAHO JERSEY GIRLS JEROME DAIRY LLC	36-14035D	Decreed	05/26/1976	COMMERCIAL	0.14	0.0	
IDAHO SUPREME POTATOES LLC	27-2152	Decreed	10/03/1966	INDUSTRIAL	1.07	0.0	
IDAHO SUPREME POTATOES LLC	27-7446	License	11/07/1988	INDUSTRIAL, IRRIGATION	4.34	474.2	
IDAHO SUPREME POTATOES LLC	27-7447	License	11/07/1988	IRRIGATION	2.94	474.2	
IDAHO WATER CO LLC	36-16909	Decreed	09/12/1973	IRRIGATION	0.06	485.0	
IDAHO WATER CO LLC	36-16911	Decreed	09/12/1973	IRRIGATION	0.10	485.0	
IDAHO WATER CO LLC	37-22452	Decreed	09/12/1973	COMMERCIAL, STOCKWATER	0.12	0.0	
IDAHO WATER COMPANY LLC	31-12529	Decreed	11/09/1959	IRRIGATION	0.14	12.0	
IDAHOAN FOODS INC	35-8852	License	09/14/1989	COMMERCIAL	0.89	0.0	
IDAHOAN FOODS LLC	31-7128	Decreed	07/30/1974	COMMERCIAL, DOMESTIC	0.20	0.0	
IDAHOAN FOODS LLC	31-7489	License	11/06/1987	COMMERCIAL	0.80	0.0	
INFANGER, DEBRA A; INFANGER, JOHN N	37-20800	License	09/10/2002	DOMESTIC	0.12	0.0	
INFANGER, DEBRA A; INFANGER, JOHN N	37-23224		03/17/2020	DOMESTIC	0.15	0.0	
IONA CEMETERY DISTRICT	25-14480	Decreed	07/11/1960	IRRIGATION	0.14	10.0	

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IRA RESOURCES INC	35-13642	Decreed	09/15/1989	IRRIGATION	0.43	21.5	
J & K ESTATES WATER CO INC	25-7242	Decreed	02/19/1981	DOMESTIC, IRRIGATION	0.63	20.0	
J & MS PARKS LLC	36-8232	Decreed	09/27/1983	COMMERCIAL, DOMESTIC, IRRIGATION	0.09	1.0	
J & MS PARKS LLC	36-8233	License	12/17/1991	HEATING, RECREATION	0.06	0.0	
J & R LAND & CATTLE LLC	35-7057	Decreed	09/04/1968	IRRIGATION	1.88	94.0	
J & R LAND & CATTLE LLC	35-7122	Decreed	02/06/1970	IRRIGATION	1.44	72.0	
J BERKELEY LARSEN FARM LLC	27-7398	License	02/06/1985	IRRIGATION	4.04	226.0	
J D HEISKELL HOLDINGS LLC	37-22666	Decreed	09/12/1973	COMMERCIAL	0.02	0.0	
J D HEISKELL HOLDINGS LLC	37-7380D	Decreed	09/05/1974	COMMERCIAL	0.05	0.0	
J K MERRILL & SONS INC	35-2665	Decreed	06/14/1961	IRRIGATION	0.84	21.0	
J R SIMPLOT CO	36-7636	Decreed	07/27/1976	INDUSTRIAL	0.49	0.0	
J R SIMPLOT CO	36-8469	License	10/12/1989	IRRIGATION	0.28	16.0	
J T LAND LLC	36-16303	Decreed	05/11/1957	COMMERCIAL, STOCKWATER	0.05	0.0	
J T LAND LLC	36-8507	License	02/01/1990	COMMERCIAL, STOCKWATER	0.06	0.0	
JACK C BROWN LIVING TRUST; PATRICIA BROWN LIVING TRUST	35-9072	License	12/07/1998	DOMESTIC	0.18	0.0	
JACKSON FARMS INC	45-2616E	Decreed	04/17/1960	IRRIGATION	1.59	294.0	
JACKSON FARMS INC	45-2616F	Decreed	04/17/1960	IRRIGATION	0.26	154.0	
JACKSON FARMS INC	45-4241A	Decreed	08/20/1976	IRRIGATION	0.30	294.0	Yes
JACKSON, DARLENE B; JACKSON, R DAVID	35-7170	Decreed	03/17/1971	IRRIGATION	3.10	155.0	
JACKSON, JAMES EARL	36-8605	License	05/23/1991	IRRIGATION	0.04	1.4	
JACKSON, LAVAR R	36-8101	Decreed	07/13/1982	IRRIGATION	0.80	40.0	
JACKSON, PHILLIP RAY	35-7148	Decreed	06/16/1970	IRRIGATION	1.56	83.0	
JACKSON, ROGER; JACKSON, SANDRA	31-2334F	Decreed	09/04/1954	IRRIGATION	0.72	106.0	
JACKSON, ROGER; JACKSON, SANDRA	31-10660D	Decreed	04/01/1962	IRRIGATION	1.84	106.0	
JACKSON, SANDRA	31-2334D	Decreed	09/04/1954	IRRIGATION	1.45	212.0	
JACKSON, SANDRA	31-10660E	Decreed	04/01/1962	IRRIGATION	3.68	212.0	
JACOBS LAND LLC	31-2430	Decreed	08/25/1966	IRRIGATION	5.88	330.0	
JACOBS LAND LLC	31-2429	Decreed	08/29/1966	IRRIGATION	7.35	430.0	
JACOBS LAND LLC	31-12464	Decreed	04/06/1967	IRRIGATION	3.35	262.0	
JACOBS LAND LLC	31-12343	Decreed	03/09/1970	IRRIGATION	0.17	37.0	
JACOBS LAND LLC	31-12344	Decreed	03/09/1970	IRRIGATION	0.54	37.0	
JACOBS LAND LLC	31-11781	Decreed	01/08/1973	IRRIGATION	0.49	72.1	
JACOBS LAND LLC	31-12465	Decreed	09/11/1974	IRRIGATION	0.68	262.0	
JACOBS LAND LLC	31-12358	Decreed	12/01/1975	IRRIGATION	0.96	48.0	
JACOBS LAND LLC	31-11785	Decreed	07/29/1976	IRRIGATION	0.50	72.1	
JACOBS LAND LLC	31-12320	Decreed	11/12/1976	IRRIGATION	0.63	40.0	
JACOBS LAND LLC	31-7268	Decreed	09/07/1977	IRRIGATION	2.20	189.3	
JACOBS LAND LLC	31-12081	Decreed	02/27/1978	IRRIGATION	0.21	13.3	

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JACOBS LAND LLC	31-7303	Decreed	06/28/1978	IRRIGATION	1.80	189.3	
JACOBS LAND LLC	31-11783	Decreed	12/22/1978	IRRIGATION	0.32	72.1	
JACOBS LAND LLC	31-7316	Decreed	05/10/1979	IRRIGATION	5.46	308.0	
JACOBS LAND LLC	31-11992	Decreed	03/05/1980	IRRIGATION	2.58	174.0	
JACOBS LAND LLC	31-12466	Decreed	05/01/1981	IRRIGATION	0.61	262.0	Yes
JACOBS LAND LLC	31-7414	License	01/16/1984	IRRIGATION	1.28	64.0	
JACOBS LAND LLC	31-7415	License	01/16/1984	IRRIGATION	1.38	79.0	
JACOBS LAND LLC	31-7416	License	01/16/1984	IRRIGATION	2.29	131.0	
JACOBS, CONNER; JACOBS, KIMBERLY	31-7026	Decreed	07/22/1969	IRRIGATION	2.60	130.0	
JACOBS, FRANK H; JACOBS, GERALDINE M	31-7288	Decreed	01/24/1978	IRRIGATION	2.46	123.0	
JACOBS, GERALDINE M	31-11431	Decreed	01/24/1978	IRRIGATION	0.21	10.3	Yes
JACOBS, KIRK M	31-12456	Decreed	03/29/1966	IRRIGATION	0.22	430.0	
JACOBS, KIRK M	31-2427A	Decreed	03/29/1966	IRRIGATION	5.11	284.0	
JACOBS, KIRK M	31-7015B	Decreed	04/03/1969	IRRIGATION	5.35	277.0	
JACOBS, KIRK M	31-7024B	Decreed	06/20/1969	IRRIGATION	2.17	136.7	
JACOBS, KIRK M	31-7291	Decreed	02/24/1978	IRRIGATION	2.34	132.0	
JACOBS, KIRK M	31-7292	Decreed	02/24/1978	IRRIGATION	2.18	136.0	
JACOBS, KIRK M	31-11344	Decreed	04/01/1982	IRRIGATION	0.16	136.0	Yes
JACOBS, KIRK M; JACOBS, LINDA	31-12455	Decreed	03/29/1966	IRRIGATION	0.18	10.0	
JACOBS, KIRK M; JACOBS, LINDA	31-12457	Decreed	03/29/1966	IRRIGATION	0.20	330.0	
JACOBS, KIRK M; JACOBS, LINDA	31-2427B	Decreed	03/29/1966	IRRIGATION	4.95	275.0	
JACOBS, KIRK M; JACOBS, LINDA	31-12229	Decreed	08/11/1966	IRRIGATION	0.35	132.3	
JACOBS, KIRK M; JACOBS, LINDA	31-2426A	Decreed	08/11/1966	IRRIGATION	1.90	132.3	
JACOBS, KIRK M; JACOBS, LINDA	31-7014	Decreed	10/21/1968	IRRIGATION	4.88	295.0	
JACOBS, KIRK M; JACOBS, LINDA	31-12227	Decreed	06/20/1969	IRRIGATION	0.13	132.3	
JACOBS, KIRK M; JACOBS, LINDA	31-11443	Decreed	05/14/1976	IRRIGATION	0.66	295.0	
JACOBS, KIRK M; JACOBS, LINDA	31-7361	Decreed	04/13/1981	IRRIGATION	2.29	132.0	
JACOBS, KIRK M; JACOBS, LINDA	31-7362	Decreed	04/13/1981	IRRIGATION	2.29	132.0	
JACOBS, MITCH	31-7404	License	08/04/1983	DOMESTIC, IRRIGATION, STOCKWATER	0.13	2.5	
JACOBS, MITCH; JACOBS, VALYNN H	31-12228	Decreed	08/11/1966	IRRIGATION	0.10	5.4	
JACOBS, MITCH; JACOBS, VALYNN H	31-11673	Decreed	06/20/1969	IRRIGATION	0.12	9.0	
JACOBS, MITCH; JACOBS, VALYNN H	31-12226	Decreed	06/20/1969	IRRIGATION	1.72	129.3	
JADE INVESTMENTS LTD PARTNERSHIP	45-7232E	Decreed	03/13/1975	IRRIGATION	1.36	68.0	
JANA L ASHCRAFT FAMILY LTD PARTNERSHIP; SIDNEY G ASHCRAFT FAMILY LTD PARTNERSHIP	31-2410	Decreed	02/22/1964	IRRIGATION	3.16	257.0	
JANA L ASHCRAFT FAMILY LTD PARTNERSHIP; SIDNEY G ASHCRAFT FAMILY LTD PARTNERSHIP	31-11463	Decreed	04/03/1973	IRRIGATION	0.65	134.6	

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JANA L ASHCRAFT FAMILY LTD PARTNERSHIP; SIDNEY G ASHCRAFT FAMILY LTD PARTNERSHIP	31-11464	Decreed	04/03/1973	IRRIGATION	1.53	257.0	
JANA L ASHCRAFT FAMILY LTD PARTNERSHIP; SIDNEY G ASHCRAFT FAMILY LTD PARTNERSHIP	31-7359	Decreed	03/11/1981	IRRIGATION	1.83	135.6	
JANSS FARMS	36-2429	Decreed	04/11/1960	IRRIGATION	2.44	155.0	
JANSS FARMS	36-2505	Decreed	08/08/1961	IRRIGATION	1.82	109.0	
JANSS FARMS	36-16705	Decreed	03/25/1974	IRRIGATION	5.72	321.0	
JDAWS RENTALS LLC	25-4187	Decreed	06/18/1962	IRRIGATION	1.74	86.9	
JEFFERSON FARMS LLC	35-7744	Decreed	09/15/1989	IRRIGATION	6.15	345.5	
JEFFERSON GREENS ESTATES HOMEOWNERS ASSOCIATION INC	25-14493	Decreed	04/22/1979	IRRIGATION	0.09	4.6	
JEFFERSON GREENS ESTATES HOMEOWNERS ASSOCIATION INC	25-14162	License	12/30/2004	DOMESTIC	0.50	0.0	
JEFFERSON HILLS GOLF & RECREATION	25-7456	License	11/09/1988	COMMERCIAL	0.04	0.0	
JEFFERSON HILLS GOLF & RECREATION	25-7460	License	11/09/1988	IRRIGATION	1.07	65.0	
JEFFERSON IRRIGATION CO LTD	31-2451	Decreed	05/02/1960	IRRIGATION	10.00	10740.0	
JEFFERSON IRRIGATION CO LTD	31-7113	Decreed	02/22/1974	IRRIGATION	13.54	10740.0	
JEFFERSON IRRIGATION CO LTD	31-7327	Decreed	02/06/1980	IRRIGATION	29.52	10740.0	
JEFFERSON SCHOOL DISTRICT #251	25-7469	License	01/22/1989	IRRIGATION	0.14	7.0	
JEFFERSON SOUTH FARM LLC	35-2451D	Decreed	02/08/1956	IRRIGATION	0.37	38.0	
JEFFERSON SOUTH FARM LLC	35-2732	Decreed	02/04/1964	IRRIGATION	5.68	410.0	
JEFFERSON SOUTH FARM LLC	35-13931	Decreed	05/26/1967	IRRIGATION	2.82	749.0	
JEFFERSON SOUTH FARM LLC	35-13932	Decreed	05/26/1967	IRRIGATION	5.64	749.0	
JEFFERSON SOUTH FARM LLC	35-14099	Decreed	09/25/1973	IRRIGATION	0.83	749.0	
JEFFERSON SOUTH FARM LLC	35-14101	Decreed	09/25/1973	IRRIGATION	0.82	749.0	
JEFFERSON SOUTH FARM LLC	35-14112	Decreed	09/25/1973	IRRIGATION	3.31	528.0	
JEFFERSON SOUTH FARM LLC	35-14114	Decreed	09/25/1973	IRRIGATION	3.27	528.0	
JEFFERSON SOUTH FARM LLC	35-14111	Decreed	10/10/1973	IRRIGATION	0.07	749.0	
JEFFERSON SOUTH FARM LLC	35-14124	Decreed	10/10/1973	IRRIGATION	0.26	528.0	
JEFFERSON SOUTH FARM LLC	35-7335A	Decreed	10/10/1973	IRRIGATION	7.09	556.0	
JEFFERSON SOUTH FARM LLC	35-14103	Decreed	04/08/1975	IRRIGATION	0.83	749.0	
JEFFERSON SOUTH FARM LLC	35-14116	Decreed	04/08/1975	IRRIGATION	3.31	528.0	
JEFFERSON SOUTH FARM LLC	35-14105	Decreed	05/23/1975	IRRIGATION	0.41	749.0	
JEFFERSON SOUTH FARM LLC	35-14109	Decreed	05/23/1975	IRRIGATION	0.09	749.0	
JEFFERSON SOUTH FARM LLC	35-14118	Decreed	05/23/1975	IRRIGATION	1.66	528.0	
JEFFERSON SOUTH FARM LLC	35-14122	Decreed	05/23/1975	IRRIGATION	0.35	528.0	
JEFFERSON SOUTH FARM LLC	35-14107	Decreed	07/27/1976	IRRIGATION	0.11	749.0	
JEFFERSON SOUTH FARM LLC	35-14120	Decreed	07/27/1976	IRRIGATION	0.42	528.0	
JEFFERSON SOUTH FARM LLC	35-7933	Decreed	12/23/1980	IRRIGATION	4.01	337.0	
JEFFERSON SOUTH FARM LLC	35-13707	License	06/19/1985	IRRIGATION	0.12	40.0	

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JEFFREY LEO WEBER FAMILY TRUST	36-16795	Decreed	01/21/1957	IRRIGATION	0.54	58.9	
JEFFREY LEO WEBER FAMILY TRUST	36-8256	License	12/06/1984	DOMESTIC, IRRIGATION, STOCKWATER	0.55	58.9	
JEFFRIES, DAVID A; JEFFRIES, SARA E	37-23214	Decreed	09/20/1974	IRRIGATION	0.02	2.0	
JENSEN, ALFRED N	35-13442	Decreed	10/23/1973	IRRIGATION	2.58	152.5	
JENSEN, ALLOY O; JENSEN, DELL R	27-7122	Decreed	02/27/1978	IRRIGATION	0.63	36.0	
JENSEN, AMBROSE P	27-7493	License	02/27/1990	IRRIGATION	1.16	58.0	
JENSEN, ANN; JENSEN, WAYNE A	35-13294	Decreed	04/27/1956	IRRIGATION	0.07	20.0	
JENSEN, BRETT W; JENSEN, KRISTY L	35-2532	Decreed	03/26/1958	IRRIGATION	4.66	304.0	
JENSEN, BRETT WAYNE; JENSEN, KRISTY	35-14328	Decreed	04/27/1956	IRRIGATION	0.46	315.0	
JENSEN, BRETT WAYNE; JENSEN, KRISTY	35-14329	Decreed	08/26/1957	IRRIGATION	3.60	315.0	
JENSEN, CHRIS L	35-7411B	Decreed	04/03/1974	IRRIGATION	0.01	1.0	
JENSEN, DON L; JENSEN, LEOLA F	35-13030	Decreed	04/01/1980	IRRIGATION	1.25	295.0	Yes
JENSEN, J DUANE; JENSEN, JANEAL C	35-11643	Decreed	04/18/1958	IRRIGATION	0.22	11.0	
JENSEN, NOLLENE; JENSEN, RONALD DREW	27-12255	License	03/30/1984	IRRIGATION	2.90	146.0	
JENSEN, TERRY	35-2570	Decreed	04/07/1959	IRRIGATION	0.03	3.2	
JENSEN, TERRY	35-7047A	Decreed	09/04/1968	IRRIGATION	0.03	3.2	
JENSEN, TERRY	35-7526A	Decreed	08/12/1975	IRRIGATION	0.01	3.2	
JENSEN, WAYNE A	35-12467B	Decreed	08/26/1957	IRRIGATION	0.19	20.0	
JENTZSCH, RODNEY A	36-196	Decreed	06/22/1960	IRRIGATION	6.00	1201.0	
JENTZSCH, RODNEY A	36-16555	Decreed	03/15/1962	IRRIGATION	0.42	1201.0	
JENTZSCH, RODNEY A	36-11328	Decreed	03/19/1963	IRRIGATION	1.46	634.0	
JENTZSCH, RODNEY A	36-15536	Decreed	04/01/1964	IRRIGATION	3.44	1201.0	Yes
JENTZSCH, RODNEY A	36-2635	Decreed	01/27/1966	IRRIGATION	5.56	634.0	
JENTZSCH, RODNEY A	36-15170A	Decreed	06/29/1971	IRRIGATION	1.81	1201.0	
JENTZSCH, RODNEY A	36-7216	Decreed	01/05/1972	IRRIGATION	3.58	634.0	
JENTZSCH, RODNEY A	36-16925	Decreed	07/25/1987	COMMERCIAL	0.03	0.0	
JENTZSCH, RODNEY A	36-16554	License	03/21/1989	IRRIGATION	0.34	1201.0	
JEROME CHEESE CO	36-2461B	Decreed	01/12/1961	COMMERCIAL	0.82	0.0	
JEROME CHEESE CO	36-2554B	Decreed	08/31/1962	COMMERCIAL	1.88	0.0	
JEROME CHEESE CO	36-16907	Decreed	07/18/1973	COMMERCIAL, MITIGATION	0.91	0.0	
JEROME CHEESE CO	36-16380	Decreed	09/12/1973	MITIGATION	0.11	0.0	
JEROME CHEESE CO	36-7337F	Decreed	11/25/1977	COMMERCIAL	0.66	0.0	
JEROME COUNTRY CLUB INC	36-8344	License	02/12/1988	IRRIGATION	0.41	104.0	
JEROME HOLDING CO INC	36-7202	Decreed	08/06/1971	DOMESTIC, FIRE PROTECTION, INDUSTRIAL, IRRIGATION	0.06	1.0	
JEROME RECREATION DISTRICT	36-7525	Decreed	03/20/1975	DOMESTIC, RECREATION	0.20	0.0	
JJS CABO LLC	35-13285	License	01/29/2001	DOMESTIC	0.84	0.0	
JK POTATOES LLC	36-7494	Decreed	08/12/1974	IRRIGATION	3.20	160.0	

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JK POTATOES LLC	36-8144	License	02/02/1983	IRRIGATION	0.84	42.0	
JLP TRUST	35-7639	Decreed	09/03/1976	DOMESTIC	0.25	0.0	
JLP TRUST	35-9067	License	08/18/1997	DOMESTIC	0.16	0.0	
JMW HOLDINGS LLC	35-11918	Decreed	04/01/1963	IRRIGATION	1.54	176.0	
JMW HOLDINGS LLC	35-14568	Decreed	04/01/1963	IRRIGATION	0.08	44.0	
JMW HOLDINGS LLC	35-13322	Decreed	12/04/1975	IRRIGATION	1.24	70.0	
JMW HOLDINGS LLC	35-7550	Decreed	12/04/1975	IRRIGATION	2.77	208.0	
JMW HOLDINGS LLC	35-7906	Decreed	07/10/1980	IRRIGATION	0.65	176.0	
JMW HOLDINGS LLC	35-14352	Decreed	04/02/1982	IRRIGATION	0.60	44.0	
JMW HOLDINGS LLC	35-14567	Decreed	04/02/1982	IRRIGATION	0.05	44.0	Yes
JMW HOLDINGS LLC	35-8753	License	05/15/1989	STOCKWATER	0.39	0.0	
JOHN & DEBORAH BENDER TRUST	35-2420	Decreed	04/22/1955	IRRIGATION	5.45	588.0	
JOHN & DEBORAH BENDER TRUST	35-7768	Decreed	01/24/1978	IRRIGATION	1.63	588.0	
JOHN & DEBORAH BENDER TRUST	35-11213	Decreed	06/01/1980	IRRIGATION	0.30	588.0	Yes
JOHN & DEBORAH BENDER TRUST	35-8926	License	12/17/1990	IRRIGATION	5.19	588.0	
JOHN A STEVENSON & ELAINE G STEVENSON TRUST	36-7529G	Decreed	03/28/1975	IRRIGATION	2.18	946.0	
JOHNSON JR, ELMER F; JOHNSON, JUDY	36-7342	Decreed	06/20/1973	IRRIGATION	2.23	151.0	
JOHNSON JR, ELMER F; JOHNSON, JUDY	36-7462	Decreed	04/03/1974	IRRIGATION	0.89	80.0	
JOHNSON, BECKY; JOHNSON, CHARLES; NELSON, JACK; NELSON, KATHY	37-21644	License	02/02/2006	DOMESTIC	0.12	0.0	
JOHNSON, BURTON E	25-7533	License	07/13/1989	DOMESTIC, STOCKWATER	0.10	0.0	
JOHNSON, GARY ALAN; JOHNSON, JODEE M; JOHNSON, RHONDA M; JOHNSON, ROBERT WAYNE	35-2805	Decreed	01/06/1966	IRRIGATION	2.82	141.0	
JOHNSON, GARY ALAN; JOHNSON, JODEE M; JOHNSON, ROBERT WAYNE	35-7327	Decreed	09/21/1973	IRRIGATION	1.78	91.0	
JOHNSON, GARY; JOHNSON, ROBERT	35-2585A	Decreed	01/04/1960	IRRIGATION	2.76	215.0	
JOHNSON, GARY; JOHNSON, ROBERT	35-2585B	Decreed	01/04/1960	STOCKWATER	0.86	0.0	
JOHNSON, GARY; JOHNSON, ROBERT	35-7593A	Decreed	03/22/1976	IRRIGATION	0.74	215.0	
JOHNSON, GARY; JOHNSON, ROBERT	35-8831	License	08/15/1989	DOMESTIC, STOCKWATER	0.09	0.0	
JOHNSON, GARY; JOHNSON, ROBERT; MACGREGOR, JANET	35-2611A	Decreed	09/16/1960	IRRIGATION	4.56	312.0	
JOHNSON, GARY; JOHNSON, ROBERT; MACGREGOR, JANET	35-7645A	Decreed	12/11/1976	IRRIGATION	1.68	312.0	
JOHNSON, L DEAN	35-14216	License	05/26/1989	IRRIGATION	0.04	2.0	
JOHNSON, MARY ANN; JOHNSON, RUSSELL	35-13519	License	06/11/1985	IRRIGATION	0.10	8.0	
JOHNSON, MICHAEL ORSON	35-14817	License	06/11/1985	IRRIGATION	0.02	1.3	
JOHNSON, RUSSELL STUART	35-14816	License	06/11/1985	IRRIGATION	0.02	1.3	
JOLLEY, BRYAN D; JOLLEY, TAMERA	35-4227B	Decreed	05/01/1959	IRRIGATION	0.02	1.0	
JOLLEY, LARRY	36-16788	Decreed	11/01/1967	IRRIGATION	1.88	99.0	
JOLLEY, O BOYD	27-7408	License	05/28/1985	IRRIGATION	0.72	36.0	

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JONAK, ALVINA; JONAK, DAVID R; JONAK, ROBERT R	35-2661D	Decreed	02/21/1961	IRRIGATION	1.24	81.0	
JONES, KLEAL H	27-7492	License	01/31/1990	IRRIGATION	1.54	119.0	
JONES, OMA W	35-2690B	Decreed	09/08/1961	IRRIGATION	0.42	10.5	
JONES, RONALD S ; JONES, TAMMY	36-8056A	Decreed	01/21/1982	IRRIGATION	4.79	312.0	
JONES, RONALD S ; JONES, TAMMY	36-8110A	Decreed	08/19/1982	IRRIGATION	0.80	312.0	
K & S PROPERTIES LLC	35-8204	License	06/30/1983	IRRIGATION	0.92	97.0	
K & W DAIRY	36-8175	Decreed	04/01/1984	COMMERCIAL, STOCKWATER	0.17	0.0	
KAMA AINA FARMS LLC	36-16821	Decreed	06/21/1960	IRRIGATION	0.31	305.0	
KAMA AINA FARMS LLC	36-16549	License	04/21/1989	IRRIGATION	0.16	16.1	
KAMA AINA FARMS LLC	36-16801	License	04/21/1989	IRRIGATION	0.07	305.0	
KAUER, PATRICIA A; KAUER, STEVEN L	35-13430	Decreed	03/20/1956	IRRIGATION	0.04	6.0	
KAUER, PATRICIA A; KAUER, STEVEN L	35-13766	Decreed	03/20/1956	IRRIGATION	0.01	1.4	
KAUER, PATRICIA A; KAUER, STEVEN L	35-13431	Decreed	03/20/1959	IRRIGATION	0.01	1.4	
KAUER, PATRICIA A; KAUER, STEVEN L	35-13432	Decreed	03/20/1959	IRRIGATION	0.01	6.0	
KAWECK, DAVID A; KAWECK, PATRICIA C	36-17199	Decreed	06/07/1968	IRRIGATION	0.09	4.5	
KEARL, JOSEPH N; KEARL, MELYNDA	36-16781	Decreed	02/21/1958	IRRIGATION	4.09	2508.5	
KEARL, JOSEPH N; KEARL, MELYNDA	36-16775	Decreed	02/12/1960	IRRIGATION	4.06	2508.5	
KEARL, JOSEPH N; KEARL, MELYNDA	36-17065	Decreed	07/26/1960	IRRIGATION	4.23	660.0	
KEARL, JOSEPH N; KEARL, MELYNDA	36-16783	Decreed	06/01/1962	IRRIGATION	4.05	2508.5	
KEARL, JOSEPH N; KEARL, MELYNDA	36-2593	Decreed	06/05/1964	IRRIGATION	3.63	2508.5	
KEARL, JOSEPH N; KEARL, MELYNDA	36-16777	Decreed	03/07/1966	IRRIGATION	5.97	2508.5	
KEARL, JOSEPH N; KEARL, MELYNDA	36-2693	Decreed	06/17/1967	IRRIGATION	0.67	2508.5	
KEARL, JOSEPH N; KEARL, MELYNDA	36-16785	Decreed	09/27/1968	IRRIGATION	4.51	2508.5	
KEARL, JOSEPH N; KEARL, MELYNDA	36-7042	Decreed	10/15/1968	IRRIGATION	5.12	555.0	
KEARL, JOSEPH N; KEARL, MELYNDA	36-7523	Decreed	02/26/1975	DOMESTIC, IRRIGATION	2.68	660.0	
KEARL, JOSEPH N; KEARL, MELYNDA	36-16787	Decreed	04/06/1978	IRRIGATION	0.63	2508.5	
KEARL, JOSEPH N; KEARL, MELYNDA	36-7835	Decreed	12/22/1978	IRRIGATION	3.13	660.0	
KEARL, JOSEPH N; KEARL, MELYNDA	36-7934	License	08/19/1980	IRRIGATION	2.68	660.0	
KEARL, JOSEPH N; KEARL, MELYNDA	36-16779	Decreed	07/13/1987	IRRIGATION	1.30	2508.5	Yes
KEARL, JOSEPH N; KEARL, MELYNDA	36-16773	License	03/13/1989	IRRIGATION	4.93	2508.5	
KEARL, JOSEPH; KEARL, MELYNDA	36-7171	Decreed	03/22/1971	IRRIGATION	1.78	95.0	
KEARL, JOSEPH; KEARL, MELYNDA	36-8205	License	06/15/1983	IRRIGATION	0.60	30.0	
KEARL, JOSEPH; KEARL, MELYNDA	36-16553	License	03/21/1989	IRRIGATION	0.48	160.0	
KEARL, JOSEPH; KEARL, MELYNDA	36-8595	License	07/10/1991	IRRIGATION	0.11	5.3	
KEARL, JOSEPH; KEARL, MELYNDA	36-8624	License	12/10/1991	IRRIGATION	0.21	160.0	
KEARSLEY, BENJAMIN; KEARSLEY, SHAYLEE	37-21118	Decreed	12/03/1966	COMMERCIAL	0.05	0.0	
KEARSLEY, BENJAMIN; KEARSLEY, SHAYLEE	37-21117	Decreed	10/18/1968	COMMERCIAL	0.06	0.0	
KELLER, ARTHUR J; KELLER, EMMA E	35-2683A	Decreed	09/16/1961	IRRIGATION	3.61	306.0	

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KENT SEARLE A PARTNERSHIP; STANLEY SEARLE A PARTNERSHIP	35-7000D	Decreed	07/28/1967	IRRIGATION	5.82	364.0	
KENT SEARLE A PARTNERSHIP; STANLEY SEARLE A PARTNERSHIP	35-7368D	Decreed	01/11/1974	IRRIGATION	1.46	364.0	
KESLER II, DAVID O	31-7042	Decreed	01/13/1971	IRRIGATION	2.50	61.0	
KESLER II, DAVID O	31-10306	Decreed	04/01/1975	IRRIGATION	0.55	61.0	Yes
KESLER II, DAVID O	31-11420	Decreed	05/01/1982	IRRIGATION	0.30	345.2	Yes
KESLER II, DAVID O; KESLER, DARENE D	31-2454D	Decreed	09/02/1961	IRRIGATION	1.00	40.0	
KEVICKI, BONNIE; KEVICKI, JESS L	35-8746	License	04/12/1989	DOMESTIC, IRRIGATION, STOCKWATER	0.04	5.0	
KINNEY RANCH LLC	35-14529	Decreed	06/07/1957	IRRIGATION	0.92	258.2	
KINNEY RANCH LLC	27-7095	Decreed	07/20/1977	IRRIGATION	1.77	96.0	
KINNEY RANCH LLC	35-14527	Decreed	08/04/1979	IRRIGATION	2.16	258.2	
KIRK & JUDY FARMS LIMITED PARTNERSHIP	35-2577	Decreed	07/13/1959	IRRIGATION	2.10	140.0	
KIRK & JUDY FARMS LIMITED PARTNERSHIP	35-7441	Decreed	08/20/1974	IRRIGATION	1.60	134.0	
KLEVMOEN FARMS LLC	36-2380	Decreed	04/03/1959	IRRIGATION	1.80	94.0	
KLINGLER, DEL MAR; KLINGLER, ILENE	25-7444	License	10/01/1988	IRRIGATION	0.09	3.0	
KLOEPFER INC; KLOEPFER, JOHN F	36-15262	Decreed	05/01/1954	COMMERCIAL	0.40	0.0	
KLOSTERMAN, KENT L	36-7974	License	03/25/1981	IRRIGATION	2.60	201.0	
KLOSTERMAN, KENT L	36-8432	License	06/22/1989	IRRIGATION	4.01	277.0	
KNIFE RIVER CORPORATION MOUNTAIN WEST	25-14344	License	06/09/2011	COMMERCIAL, INDUSTRIAL	0.20	0.0	
KNIGHT, ARLIN D; KNIGHT, CORALLE M	31-7277	Decreed	11/22/1977	IRRIGATION	1.87	199.0	
KNUDSEN SR, LESLIE R; KNUDSEN, BONITA I	35-2631	Decreed	01/16/1961	IRRIGATION	1.54	77.0	
KNUDSEN SR, LESLIE R; KNUDSEN, BONITA I	35-7112A	Decreed	01/22/1970	IRRIGATION	1.31	79.0	
KOCH AGRI SERVICE	36-8477	License	11/06/1989	COMMERCIAL	0.06	0.0	
KOENIG, PATRICIA; KOENIG, TERRY	35-8101A	Decreed	02/15/1983	IRRIGATION	0.01	0.5	
KOWITZ FARMS LLC	45-7136	Decreed	05/14/1973	IRRIGATION	0.20	10.0	
KOWITZ FARMS LLC	45-7200	Decreed	11/19/1974	IRRIGATION	0.33	29.0	
KROFF, SHON	35-8752	License	05/03/1989	DOMESTIC, IRRIGATION	0.06	1.5	
KULHANEK, DENNIS; KULHANEK, MAXINE	36-8503	License	02/21/1990	IRRIGATION	0.04	2.0	
KUNSMAN, SHIRLEY	36-8249	License	07/12/1984	DOMESTIC, IRRIGATION	0.09	2.5	
KUNSMAN, SHIRLEY	36-8306	License	02/26/1986	IRRIGATION	0.08	2.5	
L & M CATTLE CO INC	31-7360	Decreed	03/12/1981	IRRIGATION	2.22	131.0	
L & S FARMS INC	25-10900	Decreed	04/01/1985	IRRIGATION	1.16	61.0	Yes
L & S LAND HOLDINGS LLC	36-4050	Decreed	07/01/1954	IRRIGATION	0.74	54.0	
L & S LAND HOLDINGS LLC	36-4001	Decreed	08/01/1954	IRRIGATION	1.50	220.0	
L & S LAND HOLDINGS LLC	36-4151A	Decreed	08/15/1954	IRRIGATION	0.36	18.0	
L & S LAND HOLDINGS LLC	36-4151B	Decreed	08/15/1954	COMMERCIAL, STOCKWATER	1.04	0.0	
L & S LAND HOLDINGS LLC	36-4117	Decreed	03/15/1955	IRRIGATION	0.50	25.0	
L & S LAND HOLDINGS LLC	36-16262	Decreed	12/02/1955	IRRIGATION	0.10	444.0	
L & S LAND HOLDINGS LLC	36-16264	Decreed	11/23/1956	IRRIGATION	0.54	444.0	

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L & S LAND HOLDINGS LLC	36-16653	Decreed	11/26/1956	IRRIGATION	0.06	33.7	
L & S LAND HOLDINGS LLC	36-2312D	Decreed	11/26/1956	COMMERCIAL, STOCKWATER	0.12	0.0	
L & S LAND HOLDINGS LLC	36-2374A	Decreed	01/29/1959	IRRIGATION	2.88	144.0	
L & S LAND HOLDINGS LLC	36-2426	Decreed	03/14/1960	IRRIGATION	1.47	124.0	
L & S LAND HOLDINGS LLC	36-2495A	Decreed	07/05/1961	IRRIGATION	0.30	15.0	
L & S LAND HOLDINGS LLC	36-2495B	Decreed	07/05/1961	IRRIGATION	1.12	97.0	
L & S LAND HOLDINGS LLC	36-16266	Decreed	07/18/1961	IRRIGATION	0.36	444.0	
L & S LAND HOLDINGS LLC	36-2524	Decreed	10/16/1961	IRRIGATION	1.50	128.0	
L & S LAND HOLDINGS LLC	36-2545	Decreed	08/20/1962	IRRIGATION, STOCKWATER	0.55	69.5	
L & S LAND HOLDINGS LLC	36-2610	Decreed	03/22/1965	IRRIGATION	2.00	220.0	
L & S LAND HOLDINGS LLC	36-16268	Decreed	06/07/1965	IRRIGATION	0.75	444.0	
L & S LAND HOLDINGS LLC	36-2666	Decreed	10/11/1966	IRRIGATION	3.00	168.0	
L & S LAND HOLDINGS LLC	36-15668	Decreed	12/03/1966	COMMERCIAL, STOCKWATER	0.16	0.0	
L & S LAND HOLDINGS LLC	36-15674	Decreed	12/03/1966	COMMERCIAL, STOCKWATER	0.07	0.0	
L & S LAND HOLDINGS LLC	36-15692	Decreed	12/03/1966	COMMERCIAL, STOCKWATER	0.08	0.0	
L & S LAND HOLDINGS LLC	36-15704	Decreed	12/03/1966	COMMERCIAL, STOCKWATER	0.21	0.0	
L & S LAND HOLDINGS LLC	36-15739	Decreed	12/03/1966	COMMERCIAL, STOCKWATER	0.10	0.0	
L & S LAND HOLDINGS LLC	36-15666	Decreed	10/18/1968	COMMERCIAL, STOCKWATER	0.20	0.0	
L & S LAND HOLDINGS LLC	36-15672	Decreed	10/18/1968	COMMERCIAL, STOCKWATER	0.10	0.0	
L & S LAND HOLDINGS LLC	36-15690	Decreed	10/18/1968	COMMERCIAL, STOCKWATER	0.11	0.0	
L & S LAND HOLDINGS LLC	36-15702	Decreed	10/18/1968	COMMERCIAL, STOCKWATER	0.27	0.0	
L & S LAND HOLDINGS LLC	36-15741	Decreed	10/18/1968	COMMERCIAL, STOCKWATER	0.13	0.0	
L & S LAND HOLDINGS LLC	36-15679	Decreed	03/26/1969	STOCKWATER	0.45	0.0	
L & S LAND HOLDINGS LLC	36-16479	Decreed	03/26/1969	IRRIGATION	1.39	449.3	
L & S LAND HOLDINGS LLC	36-16480	Decreed	03/26/1969	COMMERCIAL, STOCKWATER	0.77	0.0	
L & S LAND HOLDINGS LLC	36-7054B	Decreed	03/26/1969	COMMERCIAL, STOCKWATER	2.73	0.0	
L & S LAND HOLDINGS LLC	36-16284	Decreed	12/11/1969	IRRIGATION	2.54	444.0	
L & S LAND HOLDINGS LLC	36-7103	Decreed	12/23/1969	IRRIGATION	1.60	80.0	
L & S LAND HOLDINGS LLC	36-7116C	Decreed	02/18/1970	IRRIGATION	3.40	170.0	
L & S LAND HOLDINGS LLC	36-7116D	Decreed	02/18/1970	COMMERCIAL, STOCKWATER	0.72	0.0	
L & S LAND HOLDINGS LLC	36-15670	Decreed	02/18/1971	COMMERCIAL, STOCKWATER	0.09	0.0	
L & S LAND HOLDINGS LLC	36-15676	Decreed	02/18/1971	COMMERCIAL, STOCKWATER	0.04	0.0	
L & S LAND HOLDINGS LLC	36-15694	Decreed	02/18/1971	COMMERCIAL, STOCKWATER	0.04	0.0	
L & S LAND HOLDINGS LLC	36-15706	Decreed	02/18/1971	COMMERCIAL, STOCKWATER	0.11	0.0	
L & S LAND HOLDINGS LLC	36-15743	Decreed	02/18/1971	COMMERCIAL, STOCKWATER	0.05	0.0	
L & S LAND HOLDINGS LLC	36-16159	Decreed	01/24/1972	COMMERCIAL, STOCKWATER	0.01	0.0	
L & S LAND HOLDINGS LLC	36-7260B	Decreed	09/15/1972	COMMERCIAL, STOCKWATER	0.10	0.0	
L & S LAND HOLDINGS LLC	36-7291C	Decreed	01/23/1973	IRRIGATION	1.04	51.8	

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L & S LAND HOLDINGS LLC	36-7291D	Decreed	01/23/1973	COMMERCIAL, STOCKWATER	0.15	0.0	
L & S LAND HOLDINGS LLC	36-16270	Decreed	02/26/1973	IRRIGATION	0.59	444.0	
L & S LAND HOLDINGS LLC	36-7288A	Decreed	02/28/1973	IRRIGATION	4.58	229.0	
L & S LAND HOLDINGS LLC	36-7288C	Decreed	02/28/1973	IRRIGATION	4.38	219.0	
L & S LAND HOLDINGS LLC	36-7288D	Decreed	02/28/1973	COMMERCIAL, STOCKWATER	2.24	0.0	
L & S LAND HOLDINGS LLC	36-7324	Decreed	03/29/1973	IRRIGATION	3.20	160.0	
L & S LAND HOLDINGS LLC	36-7345B	Decreed	06/21/1973	COMMERCIAL, STOCKWATER	0.12	0.0	
L & S LAND HOLDINGS LLC	36-16272	Decreed	08/02/1973	IRRIGATION	0.91	444.0	
L & S LAND HOLDINGS LLC	36-7361	Decreed	08/02/1973	IRRIGATION	3.00	150.0	
L & S LAND HOLDINGS LLC	36-7363A	Decreed	08/07/1973	IRRIGATION	1.17	105.0	
L & S LAND HOLDINGS LLC	36-7368B	Decreed	08/16/1973	COMMERCIAL, STOCKWATER	0.04	0.0	
L & S LAND HOLDINGS LLC	36-7373	Decreed	08/31/1973	IRRIGATION	4.46	258.0	
L & S LAND HOLDINGS LLC	36-17034	Decreed	09/07/1973	COMMERCIAL, STOCKWATER	0.05	0.0	
L & S LAND HOLDINGS LLC	36-7387A	Decreed	10/27/1973	IRRIGATION	0.44	33.7	
L & S LAND HOLDINGS LLC	36-7387C	Decreed	10/27/1973	IRRIGATION	0.17	33.7	
L & S LAND HOLDINGS LLC	36-7387D	Decreed	10/27/1973	COMMERCIAL, STOCKWATER	0.07	0.0	
L & S LAND HOLDINGS LLC	36-15174A	Decreed	11/21/1973	IRRIGATION	3.08	154.0	
L & S LAND HOLDINGS LLC	36-15174B	Decreed	11/21/1973	IRRIGATION	0.12	128.0	
L & S LAND HOLDINGS LLC	36-7450A	Decreed	03/06/1974	IRRIGATION	5.20	261.0	
L & S LAND HOLDINGS LLC	36-7460AB	Decreed	03/25/1974	COMMERCIAL, DOMESTIC, STOCKWATER	0.60	0.0	
L & S LAND HOLDINGS LLC	36-16274	Decreed	05/28/1974	IRRIGATION	0.29	444.0	
L & S LAND HOLDINGS LLC	36-7499A	Decreed	09/04/1974	IRRIGATION	2.26	113.0	
L & S LAND HOLDINGS LLC	36-7499B	Decreed	09/04/1974	IRRIGATION	0.12	128.0	
L & S LAND HOLDINGS LLC	36-15354	Decreed	01/06/1975	IRRIGATION	2.30	193.4	
L & S LAND HOLDINGS LLC	36-13875	Decreed	03/01/1975	DOMESTIC, STOCKWATER	0.14	0.0	
L & S LAND HOLDINGS LLC	36-17036	Decreed	05/13/1975	COMMERCIAL, STOCKWATER	0.06	0.0	
L & S LAND HOLDINGS LLC	36-7539	Decreed	06/10/1975	IRRIGATION	7.60	449.3	
L & S LAND HOLDINGS LLC	36-16162	Decreed	08/09/1975	COMMERCIAL, STOCKWATER	0.01	0.0	
L & S LAND HOLDINGS LLC	36-7585	Decreed	12/09/1975	IRRIGATION	0.52	97.0	
L & S LAND HOLDINGS LLC	36-7591D	Decreed	12/29/1975	IRRIGATION	5.54	414.8	
L & S LAND HOLDINGS LLC	36-7591E	Decreed	12/29/1975	COMMERCIAL, STOCKWATER	0.52	0.0	
L & S LAND HOLDINGS LLC	36-7592	Decreed	01/06/1976	IRRIGATION	2.44	178.0	
L & S LAND HOLDINGS LLC	36-16276	Decreed	02/04/1976	IRRIGATION	0.29	444.0	
L & S LAND HOLDINGS LLC	36-7605	Decreed	02/04/1976	IRRIGATION, MITIGATION	1.04	29.6	
L & S LAND HOLDINGS LLC	36-7608	Decreed	02/24/1976	IRRIGATION	0.82	128.0	
L & S LAND HOLDINGS LLC	36-7650A	Decreed	07/30/1976	IRRIGATION	1.22	220.0	
L & S LAND HOLDINGS LLC	36-15161	Decreed	03/15/1977	IRRIGATION	0.14	258.0	Yes
L & S LAND HOLDINGS LLC	36-7713A	Decreed	08/13/1977	IRRIGATION	0.85	107.0	

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L & S LAND HOLDINGS LLC	36-7713B	Decreed	08/13/1977	COMMERCIAL, STOCKWATER	0.13	0.0	
L & S LAND HOLDINGS LLC	36-16278	Decreed	02/22/1978	IRRIGATION	0.86	444.0	
L & S LAND HOLDINGS LLC	36-14595A	Decreed	05/01/1978	IRRIGATION	1.31	414.8	Yes
L & S LAND HOLDINGS LLC	36-14595B	Decreed	05/01/1978	COMMERCIAL, STOCKWATER	0.10	0.0	Yes
L & S LAND HOLDINGS LLC	36-16280	Decreed	12/11/1978	IRRIGATION	0.08	444.0	
L & S LAND HOLDINGS LLC	36-10821A	Decreed	06/01/1979	IRRIGATION	2.45	138.0	
L & S LAND HOLDINGS LLC	36-10821B	Decreed	06/09/1979	IRRIGATION	10.20	626.5	
L & S LAND HOLDINGS LLC	36-7871	License	09/24/1979	COMMERCIAL, IRRIGATION, STOCKWATER	0.80	40.0	
L & S LAND HOLDINGS LLC	36-7939A	Decreed	11/29/1980	IRRIGATION	0.84	69.5	
L & S LAND HOLDINGS LLC	36-7939B	Decreed	11/29/1980	COMMERCIAL, DOMESTIC, IRRIGATION, STOCKWATER	0.05	0.5	
L & S LAND HOLDINGS LLC	36-8062	Decreed	02/09/1982	COMMERCIAL, DOMESTIC, STOCKWATER	0.05	0.0	
L & S LAND HOLDINGS LLC	36-15181	Decreed	03/15/1982	IRRIGATION	0.23	54.0	Yes
L & S LAND HOLDINGS LLC	36-8081	Decreed	03/07/1983	IRRIGATION	0.42	22.0	
L & S LAND HOLDINGS LLC	36-8135	Decreed	11/05/1983	COMMERCIAL, STOCKWATER	0.06	0.0	
L & S LAND HOLDINGS LLC	36-10044	Decreed	03/01/1984	IRRIGATION	0.55	124.0	Yes
L & S LAND HOLDINGS LLC	36-16282	Decreed	05/01/1985	IRRIGATION	0.26	444.0	Yes
L & S LAND HOLDINGS LLC	36-8302	License	11/14/1985	IRRIGATION	0.96	193.4	
L & S LAND HOLDINGS LLC	36-8305	License	02/14/1986	IRRIGATION	1.90	95.0	
L & S LAND HOLDINGS LLC	36-8362	License	06/03/1988	COMMERCIAL, STOCKWATER	1.00	0.0	
L & S LAND HOLDINGS LLC	36-8367	License	06/21/1988	COMMERCIAL, STOCKWATER	0.11	0.0	
L & S LAND HOLDINGS LLC	36-8382	License	08/16/1988	COMMERCIAL, DOMESTIC, STOCKWATER	0.67	0.0	
L & S LAND HOLDINGS LLC	36-8379	License	08/19/1988	COMMERCIAL, DOMESTIC, STOCKWATER	0.38	0.0	
L & S LAND HOLDINGS LLC	36-8411	License	04/18/1989	COMMERCIAL, STOCKWATER	0.50	0.0	
L & S LAND HOLDINGS LLC	36-8505	License	02/23/1990	COMMERCIAL, DOMESTIC, STOCKWATER	0.08	0.0	
L & S LAND HOLDINGS LLC	36-8713	License	08/06/1993	STOCKWATER	0.04	0.0	
L & S LAND HOLDINGS LLC	36-8739	License	05/10/1995	IRRIGATION	1.00	108.6	
L & S LAND HOLDINGS LLC	36-8740	License	05/10/1995	IRRIGATION	0.53	126.5	
L & S LAND HOLDINGS LLC	36-8803	License	07/13/2000	COMMERCIAL, STOCKWATER	0.13	0.0	
L & S LAND HOLDINGS LLC	36-17131	License	06/18/2018	DOMESTIC	0.08	0.0	
L 3 LTD PARTNERSHIP	31-12001	Decreed	02/03/1955	IRRIGATION	0.13	387.0	
L 3 LTD PARTNERSHIP	31-12157	Decreed	07/25/1955	IRRIGATION	0.51	156.0	
L 3 LTD PARTNERSHIP	31-11887	Decreed	08/22/1955	IRRIGATION	0.52	160.0	
L 3 LTD PARTNERSHIP	31-12003	Decreed	11/29/1960	IRRIGATION	0.09	387.0	
L 3 LTD PARTNERSHIP	31-2386A	Decreed	12/23/1960	IRRIGATION	4.80	387.0	
L 3 LTD PARTNERSHIP	31-12162	Decreed	07/26/1961	IRRIGATION	0.32	156.0	
L 3 LTD PARTNERSHIP	31-11987	Decreed	01/31/1963	IRRIGATION	5.49	380.0	
L 3 LTD PARTNERSHIP	31-11988	Decreed	01/31/1963	IRRIGATION	0.05	5.0	

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L 3 LTD PARTNERSHIP	31-12527	Decreed	01/31/1963	IRRIGATION	0.17	12.0	
L 3 LTD PARTNERSHIP	31-2464A	Decreed	02/12/1963	IRRIGATION	1.30	387.0	
L 3 LTD PARTNERSHIP	31-11984	Decreed	02/10/1966	IRRIGATION	0.02	5.0	
L 3 LTD PARTNERSHIP	31-12525	Decreed	02/10/1966	IRRIGATION	0.07	12.0	
L 3 LTD PARTNERSHIP	31-11985	Decreed	04/01/1968	IRRIGATION	0.11	380.0	Yes
L 3 LTD PARTNERSHIP	31-11986	Decreed	04/01/1968	IRRIGATION	0.01	5.0	Yes
L 3 LTD PARTNERSHIP	31-12526	Decreed	04/01/1968	IRRIGATION	0.01	12.0	Yes
L 3 LTD PARTNERSHIP	31-11999	License	05/04/1983	IRRIGATION	0.04	387.0	
L 3 LTD PARTNERSHIP	31-12007	Decreed	07/05/1983	IRRIGATION	0.03	387.0	
L 3 LTD PARTNERSHIP	31-10238	Decreed	04/01/1984	IRRIGATION	0.07	387.0	Yes
L1 LTD PARTNERSHIP	31-2404	Decreed	01/31/1963	IRRIGATION	2.31	154.0	
L1 LTD PARTNERSHIP	31-12006	Decreed	07/05/1983	IRRIGATION	0.90	144.8	
L1 LTD PARTNERSHIP	31-12452	Decreed	07/05/1983	IRRIGATION	0.03	8.7	
L2 LIMITED PARTNERSHIP	31-12000	Decreed	02/03/1955	IRRIGATION	3.07	446.0	
L2 LIMITED PARTNERSHIP	31-12002	Decreed	11/29/1960	IRRIGATION	2.13	446.0	
L2 LIMITED PARTNERSHIP	31-11998	License	05/04/1983	IRRIGATION	3.72	446.0	
L2 LTD PARTNERSHIP	31-12473	Decreed	07/25/1955	IRRIGATION	1.63	467.0	
L2 LTD PARTNERSHIP	31-12496	Decreed	07/25/1955	IRRIGATION	0.01	5.5	
L2 LTD PARTNERSHIP	31-12450	Decreed	11/18/1960	IRRIGATION	0.04	8.7	
L2 LTD PARTNERSHIP	31-12453	Decreed	11/18/1960	IRRIGATION	0.05	8.9	
L2 LTD PARTNERSHIP	31-2380	Decreed	11/18/1960	IRRIGATION	1.83	152.7	
L2 LTD PARTNERSHIP	31-12475	Decreed	07/26/1961	IRRIGATION	1.02	467.0	
L2 LTD PARTNERSHIP	31-12498	Decreed	07/26/1961	IRRIGATION	0.01	5.5	
L2 LTD PARTNERSHIP	31-12479	Decreed	08/07/1962	IRRIGATION	2.99	467.0	
L2 LTD PARTNERSHIP	31-12502	Decreed	08/07/1962	IRRIGATION	0.01	5.5	
L2 LTD PARTNERSHIP	31-2413C	Decreed	03/24/1964	IRRIGATION	4.32	644.0	
L2 LTD PARTNERSHIP	32-7262	Decreed	03/24/1964	IRRIGATION	1.28	224.0	
L2 LTD PARTNERSHIP	31-7078A	Decreed	12/10/1968	IRRIGATION	2.18	644.0	
L2 LTD PARTNERSHIP	32-7263	Decreed	12/10/1968	IRRIGATION	0.64	224.0	
L2 LTD PARTNERSHIP	31-7101A	Decreed	01/23/1974	IRRIGATION	5.90	644.0	
L2 LTD PARTNERSHIP	32-7264	Decreed	01/23/1974	IRRIGATION	2.38	224.0	
L2 LTD PARTNERSHIP; L3 LTD PARTNERSHIP	31-11888	Decreed	08/22/1955	IRRIGATION	1.04	320.0	
L2 LTD PARTNERSHIP; L3 LTD PARTNERSHIP	32-2100	Decreed	03/12/1957	IRRIGATION	5.42	680.0	
L2 LTD PARTNERSHIP; L3 LTD PARTNERSHIP	32-2114	Decreed	09/14/1962	IRRIGATION	3.20	316.0	
L2 LTD PARTNERSHIP; L3 LTD PARTNERSHIP	32-10154	Decreed	10/31/1975	IRRIGATION	3.20	680.0	Yes
L2 LTD PARTNERSHIP; L3 LTD PARTNERSHIP	31-7257	Decreed	05/12/1977	IRRIGATION	2.60	132.0	
L2 LTD PARTNERSHIP; L3 LTD PARTNERSHIP	32-7074	Decreed	11/18/1979	IRRIGATION	2.23	316.0	
L3 LTD PARTNERSHIP	31-12474	Decreed	07/25/1955	IRRIGATION	0.53	151.5	

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L3 LTD PARTNERSHIP	31-12497	Decreed	07/25/1955	IRRIGATION	0.02	5.5	
L3 LTD PARTNERSHIP	32-7265	Decreed	12/23/1960	IRRIGATION	1.38	246.0	
L3 LTD PARTNERSHIP	31-12448	Decreed	02/09/1961	IRRIGATION	0.17	11.2	
L3 LTD PARTNERSHIP	31-12449	Decreed	02/09/1961	IRRIGATION	0.16	10.4	
L3 LTD PARTNERSHIP	31-12454	Decreed	02/09/1961	IRRIGATION	0.02	8.9	
L3 LTD PARTNERSHIP	31-2465	Decreed	02/09/1961	IRRIGATION	2.07	137.3	
L3 LTD PARTNERSHIP	31-12476	Decreed	07/26/1961	IRRIGATION	0.33	151.5	
L3 LTD PARTNERSHIP	31-12499	Decreed	07/26/1961	IRRIGATION	0.01	5.5	
L3 LTD PARTNERSHIP	31-12480	Decreed	08/07/1962	IRRIGATION	0.97	151.5	
L3 LTD PARTNERSHIP	31-12503	Decreed	08/07/1962	IRRIGATION	0.03	5.5	
L3 LTD PARTNERSHIP	32-7266	Decreed	01/31/1963	IRRIGATION	0.33	246.0	
L3 LTD PARTNERSHIP	32-7271	Decreed	02/12/1963	IRRIGATION	0.38	246.0	
L3 LTD PARTNERSHIP	32-7267	Decreed	03/24/1964	IRRIGATION	0.22	246.0	
L3 LTD PARTNERSHIP	31-2458A	Decreed	01/30/1966	IRRIGATION	0.39	230.0	
L3 LTD PARTNERSHIP	32-7270	Decreed	01/30/1966	IRRIGATION	0.11	246.0	
L3 LTD PARTNERSHIP	31-11983	Decreed	02/10/1966	IRRIGATION	2.07	380.0	
L3 LTD PARTNERSHIP	32-7269	Decreed	02/10/1966	IRRIGATION	0.72	246.0	
L3 LTD PARTNERSHIP	31-2439A	Decreed	04/03/1967	IRRIGATION	3.46	230.0	
L3 LTD PARTNERSHIP	32-7268	Decreed	04/03/1967	IRRIGATION	1.15	246.0	
LACEY, TRENTON; NICKELS, JAN	35-8199	Decreed	06/29/1983	DOMESTIC, IRRIGATION, STOCKWATER	0.09	1.0	
LAKE, DENNIS M; LAKE, LUANN L	35-7064B	Decreed	01/24/1969	IRRIGATION	3.38	773.5	
LAKE, DENNIS M; LAKE, LUANN L	35-7065	Decreed	01/24/1969	IRRIGATION	6.20	773.5	
LAKE, DENNIS M; LAKE, LUANN L	35-13069	Decreed	04/01/1980	IRRIGATION	2.20	773.5	Yes
LAKE, JANALYN; LAKE, ROSCOE	35-7895	Decreed	04/07/1980	IRRIGATION	0.66	37.0	
LAKESHORE FARMS 2 LLC	31-7004	Decreed	01/30/1968	IRRIGATION	2.61	256.0	
LAKESHORE FARMS 2 LLC	31-12218	Decreed	04/11/1968	IRRIGATION	1.11	145.1	
LAKESHORE FARMS 2 LLC	31-7087	Decreed	04/06/1973	IRRIGATION	4.63	268.0	
LAKESHORE FARMS 2 LLC	31-7253	Decreed	05/23/1977	IRRIGATION	4.63	263.0	
LAKESHORE FARMS 2 LLC	31-12216	Decreed	12/27/1977	IRRIGATION	2.42	145.1	
LAKESHORE FARMS 2 LLC	31-7284	Decreed	12/27/1977	IRRIGATION	2.58	129.0	
LANDON FAMILY FARM LC	35-2704	Decreed	03/13/1962	IRRIGATION	1.32	94.0	
LANDON FAMILY FARM LC	35-13011	Decreed	05/01/1980	IRRIGATION	0.22	94.0	Yes
LANDON, BRAD J	35-14563	Decreed	11/03/1972	IRRIGATION	0.02	1.2	
LANDON, GREGG W; LANDON, WANDA	35-14564	Decreed	11/03/1972	IRRIGATION	0.02	0.8	
LANDON, JEANINE	35-7261A	Decreed	11/03/1972	IRRIGATION	0.07	2.7	
LANIER, BLANCHE; LANIER, MELVIN	36-8501	License	02/21/1990	DOMESTIC, IRRIGATION	0.07	1.5	
LARICK, JOHN A	31-2397	Decreed	11/17/1961	IRRIGATION, STOCKWATER	0.85	116.0	
LARSEN HOLDINGS LLC	31-2387	Decreed	02/15/1961	IRRIGATION	4.46	276.0	

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LARSEN HOLDINGS LLC	32-7052G	Decreed	04/23/1983	IRRIGATION	3.67	265.4	
LARSEN, BLAINE L; LARSEN, CONNIE L	31-7220E	Decreed	03/10/1977	IRRIGATION, STOCKWATER	0.38	37.0	
LARSEN, BLAINE L; LARSEN, CONNIE L	31-11932	Decreed	08/12/1981	IRRIGATION	0.08	48.5	
LARSEN, BLAINE L; LARSEN, CONNIE L	31-11934	Decreed	08/17/1981	IRRIGATION	0.51	48.5	
LARSEN, BLAINE L; LARSEN, CONNIE L	31-11799	Decreed	04/23/1983	IRRIGATION	0.01	48.5	
LARSEN, BLAINE L; LARSEN, CONNIE L	31-11801	Decreed	04/23/1983	IRRIGATION	0.13	48.5	
LARSEN, BLAINE L; LARSEN, CONNIE L	31-11803	Decreed	04/23/1983	IRRIGATION	0.02	48.5	
LARSEN, BRAEDEN J; LARSEN, INDEE ELLE	31-7302A	Decreed	06/23/1978	IRRIGATION	4.40	269.0	
LARSEN, CHAD	31-12069	Decreed	02/17/1969	IRRIGATION	2.33	179.3	
LARSEN, CHAD	31-12201	Decreed	02/17/1969	IRRIGATION	2.33	179.1	
LARSEN, CHAD	31-12326	Decreed	02/17/1969	IRRIGATION	9.14	701.9	
LARSEN, CHAD	32-7094G	Decreed	05/02/1978	IRRIGATION	2.16	260.8	
LARSEN, CHAD	32-7057G	Decreed	06/01/1987	IRRIGATION	2.04	260.8	
LARSEN, CHAD R	31-12070	Decreed	02/17/1969	IRRIGATION	15.97	1227.6	
LARSEN, CHAD R	31-11738	Decreed	07/29/1971	IRRIGATION	1.08	54.0	
LARSEN, CHAD R	31-12333	Decreed	07/29/1971	IRRIGATION	0.11	153.8	
LARSEN, CHAD R	31-12399	Decreed	07/29/1971	IRRIGATION	0.16	8.0	
LARSEN, CHAD R	31-7052L	Decreed	07/29/1971	IRRIGATION	1.52	76.0	
LARSEN, CHAD; LARSEN, JESSICA	31-12126	Decreed	08/11/1966	IRRIGATION	4.14	237.7	
LARSEN, CHAD; LARSEN, JESSICA	31-12104	Decreed	04/03/1969	IRRIGATION	3.18	240.4	
LARSEN, CHAD; LARSEN, JESSICA	31-12338	Decreed	06/20/1969	IRRIGATION	1.57	117.9	
LARSEN, CHAD; LARSEN, JESSICA	31-12348	Decreed	06/20/1969	IRRIGATION	0.05	3.3	
LARSEN, CHAD; LARSEN, JESSICA	31-11921	Decreed	07/29/1971	IRRIGATION	2.41	153.8	
LARSEN, CHAD; LARSEN, JESSICA	31-7052C	Decreed	07/29/1971	IRRIGATION	1.61	136.6	
LARSEN, CHAD; LARSEN, JESSICA	31-7052H	Decreed	07/29/1971	IRRIGATION	3.16	207.0	
LARSEN, CHAD; LARSEN, JESSICA	31-7052N	Decreed	07/29/1971	IRRIGATION	0.51	136.6	
LARSEN, CORINNE; LARSEN, SPENCER	35-13713	Decreed	04/02/1968	IRRIGATION	1.57	229.4	
LARSEN, CORINNE; LARSEN, SPENCER	35-13711	Decreed	04/28/1972	IRRIGATION	1.08	229.4	
LARSEN, KATIE; LARSEN, PAUL	32-2095A	Decreed	05/17/1955	IRRIGATION	1.85	125.8	
LARSEN, KATIE; LARSEN, PAUL	32-2096A	Decreed	05/17/1955	IRRIGATION	2.02	125.8	
LARSEN, KATIE; LARSEN, PAUL	32-13335	Decreed	11/05/1965	IRRIGATION	0.29	125.8	
LARSEN, KATIE; LARSEN, PAUL	32-13336	Decreed	11/05/1965	IRRIGATION	0.50	125.8	
LARSEN, KATIE; LARSEN, PAUL	32-13354	Decreed	11/05/1965	IRRIGATION	0.15	61.9	
LARSEN, KATIE; LARSEN, PAUL	32-13355	Decreed	11/05/1965	IRRIGATION	0.26	61.9	
LARSEN, KATIE; LARSEN, PAUL	32-13239	Decreed	09/28/1973	IRRIGATION	0.88	61.0	
LARSEN, KATIE; LARSEN, PAUL	32-13339	Decreed	03/28/1977	IRRIGATION	1.01	125.8	
LARSEN, KATIE; LARSEN, PAUL	32-13358	Decreed	03/28/1977	IRRIGATION	0.53	61.9	
LARSEN, KATIE; LARSEN, PAUL	32-13340	Decreed	05/02/1978	IRRIGATION	0.02	125.8	

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LARSEN, KATIE; LARSEN, PAUL	32-13359	Decreed	05/02/1978	IRRIGATION	0.01	61.9	
LARSEN, KATIE; LARSEN, PAUL	32-7053C	Decreed	04/23/1983	IRRIGATION	0.28	125.8	
LARSEN, KATIE; LARSEN, PAUL	32-7053D	Decreed	04/23/1983	IRRIGATION	0.15	125.8	
LARSEN, KATIE; LARSEN, PAUL	32-13337	Decreed	03/29/1984	IRRIGATION	0.38	125.8	
LARSEN, KATIE; LARSEN, PAUL	32-13356	Decreed	03/29/1984	IRRIGATION	0.20	61.9	
LARSEN, KATIE; LARSEN, PAUL	32-13338	Decreed	06/01/1987	IRRIGATION	0.02	125.8	
LARSEN, KATIE; LARSEN, PAUL	32-13357	Decreed	06/01/1987	IRRIGATION	0.01	61.9	
LARSEN, KATIE; LARSEN, PAUL	32-13350	License	01/02/1996	IRRIGATION	0.07	125.8	
LARSEN, KELLI; LARSEN, ZACHARY THOMAS	27-7319	Decreed	05/26/1982	IRRIGATION	0.54	27.0	
LARSEN, KRISTINE	32-7095C	Decreed	05/02/1978	IRRIGATION	2.79	272.7	
LARSEN, LANDEN J; LARSEN, SYDNEY JO	31-7034Y	Decreed	05/11/1970	IRRIGATION	3.96	269.0	
LARSEN, MICHAEL G	35-13467	License	05/29/1985	IRRIGATION	1.47	73.5	
LARSEN, PEGGY A; LARSEN, RICHARD J	31-2335D	Decreed	10/25/1954	IRRIGATION	0.16	66.0	
LARSEN, PEGGY A; LARSEN, RICHARD J	32-2095B	Decreed	05/17/1955	IRRIGATION	0.75	251.6	
LARSEN, PEGGY A; LARSEN, RICHARD J	31-2365D	Decreed	04/18/1958	IRRIGATION	0.20	66.0	
LARSEN, PEGGY A; LARSEN, RICHARD J	32-2120A	Decreed	11/05/1965	IRRIGATION	0.29	126.2	
LARSEN, PEGGY A; LARSEN, RICHARD J	32-2120B	Decreed	11/05/1965	IRRIGATION	0.48	126.2	
LARSEN, PEGGY A; LARSEN, RICHARD J	32-2120C	Decreed	11/05/1965	IRRIGATION	1.23	251.6	
LARSEN, PEGGY A; LARSEN, RICHARD J	31-7013B	Decreed	08/05/1968	IRRIGATION	1.37	132.0	
LARSEN, PEGGY A; LARSEN, RICHARD J	31-7013D	Decreed	08/05/1968	IRRIGATION	1.37	132.0	
LARSEN, PEGGY A; LARSEN, RICHARD J	31-7013F	Decreed	08/05/1968	IRRIGATION	0.94	132.0	
LARSEN, PEGGY A; LARSEN, RICHARD J	31-7641	Decreed	08/05/1968	IRRIGATION	0.54	132.0	
LARSEN, PEGGY A; LARSEN, RICHARD J	32-7247	Decreed	08/05/1968	IRRIGATION	0.31	251.6	
LARSEN, PEGGY A; LARSEN, RICHARD J	32-7248	Decreed	08/05/1968	IRRIGATION	0.08	260.7	
LARSEN, PEGGY A; LARSEN, RICHARD J	31-12071	Decreed	02/17/1969	IRRIGATION	6.77	520.7	
LARSEN, PEGGY A; LARSEN, RICHARD J	31-7034T	Decreed	05/11/1970	IRRIGATION	0.29	66.0	
LARSEN, PEGGY A; LARSEN, RICHARD J	31-7034U	Decreed	05/11/1970	IRRIGATION	1.64	111.0	
LARSEN, PEGGY A; LARSEN, RICHARD J	32-7005B	Decreed	12/28/1970	IRRIGATION	0.80	251.6	
LARSEN, PEGGY A; LARSEN, RICHARD J	31-11917	Decreed	07/29/1971	IRRIGATION	1.79	116.5	
LARSEN, PEGGY A; LARSEN, RICHARD J	31-11919	Decreed	07/29/1971	IRRIGATION	1.81	116.7	
LARSEN, PEGGY A; LARSEN, RICHARD J	31-7052A	Decreed	07/29/1971	IRRIGATION	2.50	186.0	
LARSEN, PEGGY A; LARSEN, RICHARD J	31-7052B	Decreed	07/29/1971	IRRIGATION	3.00	171.0	
LARSEN, PEGGY A; LARSEN, RICHARD J	31-7052D	Decreed	07/29/1971	IRRIGATION	2.34	153.0	
LARSEN, PEGGY A; LARSEN, RICHARD J	31-7052F	Decreed	07/29/1971	IRRIGATION	1.91	138.0	
LARSEN, PEGGY A; LARSEN, RICHARD J	32-7018B	Decreed	09/28/1973	IRRIGATION	0.49	260.7	
LARSEN, PEGGY A; LARSEN, RICHARD J	31-7178C	Decreed	06/06/1975	IRRIGATION	1.85	132.0	
LARSEN, PEGGY A; LARSEN, RICHARD J	31-7178D	Decreed	06/06/1975	IRRIGATION	1.84	132.0	
LARSEN, PEGGY A; LARSEN, RICHARD J	31-7178E	Decreed	06/06/1975	IRRIGATION	1.82	132.0	

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LARSEN, PEGGY A; LARSEN, RICHARD J	31-7178F	Decreed	06/06/1975	IRRIGATION	1.81	132.0	
LARSEN, PEGGY A; LARSEN, RICHARD J	32-7072A	Decreed	03/28/1977	IRRIGATION	0.68	251.6	
LARSEN, PEGGY A; LARSEN, RICHARD J	32-7072B	Decreed	03/28/1977	IRRIGATION	0.98	126.2	
LARSEN, PEGGY A; LARSEN, RICHARD J	31-7293K	Decreed	02/27/1978	IRRIGATION	0.30	66.0	
LARSEN, PEGGY A; LARSEN, RICHARD J	32-7092B	Decreed	05/02/1978	IRRIGATION	0.52	260.7	
LARSEN, PEGGY A; LARSEN, RICHARD J	32-7094E	Decreed	05/02/1978	IRRIGATION	0.02	126.2	
LARSEN, PEGGY A; LARSEN, RICHARD J	32-7095D	Decreed	05/02/1978	IRRIGATION	1.16	260.7	
LARSEN, PEGGY A; LARSEN, RICHARD J	31-7642	Decreed	03/29/1984	IRRIGATION	0.42	132.0	
LARSEN, PEGGY A; LARSEN, RICHARD J	31-7643	Decreed	03/29/1984	IRRIGATION	0.36	132.0	
LARSEN, PEGGY A; LARSEN, RICHARD J	31-7644	Decreed	03/29/1984	IRRIGATION	0.62	132.0	
LARSEN, PEGGY A; LARSEN, RICHARD J	31-7645	Decreed	03/29/1984	IRRIGATION	0.40	132.0	
LARSEN, PEGGY A; LARSEN, RICHARD J	32-7022AF	Decreed	03/29/1984	IRRIGATION	0.36	126.2	
LARSEN, PEGGY A; LARSEN, RICHARD J	32-7022W	Decreed	03/29/1984	IRRIGATION	0.30	260.7	
LARSEN, PEGGY A; LARSEN, RICHARD J	32-7057E	Decreed	06/01/1987	IRRIGATION	0.03	126.2	
LARSEN, PEGGY A; LARSEN, RICHARD J	32-7058B	Decreed	06/01/1987	IRRIGATION	0.70	260.7	
LARSEN, PEGGY A; LARSEN, RICHARD J	32-7034E	License	01/02/1996	IRRIGATION	0.11	126.2	
LARSEN, PEGGY; LARSEN, RICHARD	31-12325	Decreed	02/17/1969	IRRIGATION	2.39	184.0	
LARSEN, PEGGY; LARSEN, RICHARD	31-12414	Decreed	05/02/1978	IRRIGATION	0.10	186.0	
LARSEN, PEGGY; LARSEN, RICHARD	32-7092A	Decreed	05/02/1978	IRRIGATION	2.30	377.1	
LARSEN, PEGGY; LARSEN, RICHARD	32-7022P	Decreed	03/29/1984	IRRIGATION	5.13	265.8	
LARSEN, PEGGY; LARSEN, RICHARD	32-7022R	Decreed	03/29/1984	IRRIGATION	3.85	257.8	
LARSEN, PEGGY; LARSEN, RICHARD	31-12413	Decreed	06/01/1987	IRRIGATION	0.14	186.0	
LARSEN, PEGGY; LARSEN, RICHARD	32-7058A	Decreed	06/01/1987	IRRIGATION	3.08	377.1	
LARSON ROAD FARM LLC	35-2749	Decreed	08/01/1966	IRRIGATION	9.10	513.0	
LARSON ROAD FARM LLC	35-7333	Decreed	10/10/1973	IRRIGATION	4.15	298.0	
LARSON ROAD FARM LLC	35-7334	Decreed	10/10/1973	IRRIGATION	5.13	595.0	
LARSON ROAD FARM LLC	35-7511	Decreed	05/29/1975	IRRIGATION	5.01	316.0	
LARSON ROAD FARM LLC	35-13482	Decreed	04/01/1987	IRRIGATION	0.60	547.0	Yes
LAST RANCH LLC	37-22491	Decreed	10/01/1954	IRRIGATION	2.83	1300.0	
LAST RANCH LLC	37-22492	Decreed	10/01/1954	COMMERCIAL, STOCKWATER	0.17	0.0	
LAST RANCH LLC	37-21157	Decreed	05/24/1973	IRRIGATION	2.48	1300.0	
LAST RANCH LLC	37-21158	Decreed	05/24/1973	STOCKWATER	0.72	0.0	
LAST RANCH LLC	37-7232	Decreed	05/24/1973	IRRIGATION	4.32	1300.0	
LAUGHTER, CAROL; LAUGHTER, LESLIE	35-13477	License	08/20/2003	IRRIGATION	0.09	3.0	
LAVA LAKE LAND & LIVESTOCK LLC	37-7072	Decreed	06/23/1970	IRRIGATION	1.34	586.2	
LAVA LAKE LAND & LIVESTOCK LLC	37-7600	Decreed	05/31/1977	IRRIGATION	2.65	586.2	
LAVA LAKE LAND & LIVESTOCK LLC	37-22469	Decreed	10/31/1986	IRRIGATION, MITIGATION	2.37	586.2	Yes
LAWTON, WARREN E	36-2489	Decreed	06/12/1961	IRRIGATION	0.36	18.0	

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LAWTON, WARREN E	36-7012	Decreed	11/17/1967	IRRIGATION, STOCKWATER	1.66	118.0	
LAZY P FARMS; PAULS, DEBBRAH; PAULS, EMIL V; PAULS, RONALD	37-8147	License	06/27/1983	DOMESTIC, IRRIGATION, STOCKWATER	0.04	1.8	
LAZY S RANCHES LLC	37-7484	Decreed	03/22/1976	IRRIGATION	2.88	144.0	
LCSC ENTERPRISES LLC	35-2526	Decreed	04/10/1958	IRRIGATION	0.80	40.0	
LCSC ENTERPRISES LLC	35-2606	Decreed	07/15/1960	IRRIGATION	2.20	110.0	
LCSC ENTERPRISES LLC	35-2824	Decreed	08/28/1961	IRRIGATION	0.16	9.0	
LCSC ENTERPRISES LLC	35-14041	Decreed	10/16/1974	IRRIGATION	3.18	322.5	
LCSC ENTERPRISES LLC	35-8144	Decreed	05/19/1983	IRRIGATION	0.29	15.0	
LD FARMS LLC	31-2371	Decreed	03/20/1969	IRRIGATION	4.14	207.0	
LD FARMS LLC	31-7204	Decreed	08/18/1976	IRRIGATION	3.08	292.0	
LD FARMS LLC	31-11652	Decreed	07/04/1979	IRRIGATION	0.60	292.0	Yes
LEAVELL, ALONZO B	37-22164	Decreed	09/20/1974	IRRIGATION	0.05	4.1	
LEAVELL, ALONZO B	37-22165	Decreed	09/20/1974	IRRIGATION	0.03	1.2	
LEAVELL, ALONZO B	37-22167	Decreed	09/20/1974	IRRIGATION	0.40	31.0	
LEAVELL, CHARMIANNE	37-8379	License	08/22/1988	DOMESTIC, IRRIGATION	0.15	7.1	
LEAVITT, DENNIS; LEAVITT, KENEA	35-2705	Decreed	03/19/1962	IRRIGATION	3.08	154.0	
LEAVITT, DENNIS; LEAVITT, KENEA	35-10930	Decreed	06/15/1962	IRRIGATION	0.30	184.0	Yes
LEAVITT, DENNIS; LEAVITT, KENEA	35-12920	Decreed	04/01/1968	IRRIGATION	0.40	315.5	Yes
LEAVITT, DENNIS; LEAVITT, KENEA	35-7036	Decreed	08/27/1968	IRRIGATION	1.06	53.0	
LEAVITT, DENNIS; LEAVITT, KENEA	35-10799	Decreed	05/01/1970	IRRIGATION	0.92	192.0	Yes
LEAVITT, DENNIS; LEAVITT, KENEA	35-7283	Decreed	03/08/1973	IRRIGATION	3.05	227.5	
LEAVITT, DENNIS; LEAVITT, KENEA	35-7398B	Decreed	03/26/1974	IRRIGATION	0.27	16.0	
LEAVITT, DENNIS; LEAVITT, KENEA	35-7478	Decreed	02/12/1975	IRRIGATION	1.58	150.0	
LEAVITT, DENNIS; LEAVITT, KENEA	35-7479A	Decreed	02/12/1975	IRRIGATION	3.22	267.0	
LEAVITT, DENNIS; LEAVITT, KENEA	35-7479B	Decreed	02/12/1975	IRRIGATION	0.42	150.0	
LEAVITT, DENNIS; LEAVITT, KENEA	35-7783	Decreed	02/06/1978	IRRIGATION	0.84	42.0	
LEAVITT, DENNIS; LEAVITT, KENEA	35-8136	License	05/03/1983	IRRIGATION	1.02	184.0	
LEAVITT, DENNIS; LEAVITT, KENEA	35-8137	License	05/03/1983	IRRIGATION	0.42	22.0	
LEAVITT, DENNIS; LEAVITT, KENEA	35-8142	License	06/10/1983	IRRIGATION	2.21	453.0	
LEAVITT, DENNIS; LEAVITT, KENEA	35-8744	License	03/31/1989	IRRIGATION	0.54	35.0	
LEAVITT, DENNIS; LEAVITT, KENEA	35-8760	License	05/08/1989	COMMERCIAL	0.02	0.0	
LEAVITT, DENNIS; LEAVITT, KENEA	35-8764	License	05/08/1989	COMMERCIAL	0.01	0.0	
LEAVITT, DENNIS; LEAVITT, KENEA	35-8783	License	05/08/1989	DOMESTIC, IRRIGATION	0.29	13.5	
LEAVITT, DENNIS; LEAVITT, KENEA	35-8780	License	05/25/1989	IRRIGATION	0.33	227.5	
LEAVITT, DENNIS; LEAVITT, KENEA	35-8858	License	12/19/1989	IRRIGATION	1.62	236.0	
LEAVITT, MARK D; LEAVITT, RHONDA	35-2455A	Decreed	03/20/1956	IRRIGATION	1.42	219.0	
LEAVITT, MARK D; LEAVITT, RHONDA	35-11409A	Decreed	03/20/1959	IRRIGATION	0.43	219.0	
LEAVITT, MARK D; LEAVITT, RHONDA	35-8048	Decreed	07/27/1982	IRRIGATION	0.50	27.0	

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LEE, BENNETT; LEE, JUDY J	35-4204	Decreed	08/01/1958	IRRIGATION	4.10	295.0	
LEE, CAROLYN C; LEE, LARRY O	31-7166B	Decreed	06/27/1975	IRRIGATION	2.20	132.0	
LEE, CAROLYN C; LEE, LARRY O	31-7166C	Decreed	06/27/1975	IRRIGATION	2.15	132.0	
LEE, CAROLYN C; LEE, LARRY O	31-7166D	Decreed	06/27/1975	IRRIGATION	2.31	132.0	
LEE, CAROLYN C; LEE, LARRY O	31-7166E	Decreed	06/27/1975	IRRIGATION	2.18	132.0	
LEE, J DEWAYNE; LEE, JEAN	31-7029B	Decreed	01/23/1970	IRRIGATION	2.40	148.0	
LEE, J DEWAYNE; LEE, JEAN	31-11347	Decreed	04/01/1980	IRRIGATION	0.45	148.0	Yes
LEE, LYNDA; LEE, MERWIN NELSON	35-8922	License	11/06/1990	DOMESTIC, IRRIGATION	0.04	3.0	
LEFFLER, BEVERLY A; LEFFLER, DAVID R	35-13447	Decreed	11/18/1980	IRRIGATION	0.13	9.0	
LEFFLER, BEVERLY A; LEFFLER, DAVID R	35-13445	Decreed	04/07/1983	IRRIGATION	0.06	9.0	Yes
LEGUINECHE, LOUIS J; LEGUINECHE, MICKEY R	37-20799	Decreed	02/11/1966	IRRIGATION	2.04	102.0	
LEISHMAN, LAURIE; LEISHMAN, STERLING	35-14822	License	06/11/1985	IRRIGATION	0.02	1.1	
LEMIEUX, PAULETTE B; LEMIEUX, WALTER J	25-7549	License	09/27/1989	DOMESTIC, IRRIGATION, STOCKWATER	0.08	1.5	
LESNESKI, B BERDELL; LESNESKI, PAUL R	36-4175	Decreed	03/15/1961	IRRIGATION	0.71	38.0	
LG GILLETTE INVESTMENTS LC	37-2660	Decreed	05/11/1961	IRRIGATION	4.36	404.0	
LG GILLETTE INVESTMENTS LC	37-2697	Decreed	07/02/1964	IRRIGATION	3.25	194.0	
LG GILLETTE INVESTMENTS LC	37-2729	Decreed	03/13/1966	IRRIGATION, STOCKWATER	4.40	295.0	
LG GILLETTE INVESTMENTS LC	37-2761A	Decreed	07/14/1967	IRRIGATION	1.64	130.5	
LG GILLETTE INVESTMENTS LC	37-8742	License	03/28/1991	IRRIGATION	4.21	995.5	
LIBERTY TRUST	36-15219A	Decreed	03/22/1956	IRRIGATION	0.56	28.0	
LILYA, KRISTINE; LILYA, LORIN S	35-14463	Decreed	08/11/1961	IRRIGATION	0.05	2.3	
LIM, GALE O	35-8191	License	05/25/1983	IRRIGATION	0.73	38.0	
LINCOLN CEMETERY DISTRICT	25-7525	License	08/15/1989	IRRIGATION	0.05	1.6	
LIND, ELDEN; LIND, MELBA JEAN	36-8583	License	02/22/1991	IRRIGATION	3.99	238.9	
LINDHOLM, PATTI; LINDHOLM, PAUL	35-4062	Decreed	05/01/1955	IRRIGATION	3.64	242.0	
LITTLE SKY FARMS LLLP	37-7480	Decreed	02/24/1977	IRRIGATION	9.83	844.4	
LIVERMONT, JESSICA; LIVERMONT, ZACHARY	25-7187	Decreed	02/27/1980	DOMESTIC, IRRIGATION	0.06	1.0	
LLKM PROPERTIES	35-7746	Decreed	08/25/1978	IRRIGATION	5.00	675.0	
LLOYD, CALVIN G; LLOYD, KIMBERLY	35-2478C	Decreed	10/18/1956	IRRIGATION	3.03	238.0	
LLOYD, CALVIN G; LLOYD, KIMBERLY	35-13923	Decreed	02/10/1975	IRRIGATION	1.67	142.0	
LLOYD, CALVIN G; LLOYD, KIMBERLY	35-13925	Decreed	05/25/1976	IRRIGATION	0.59	142.0	
LONG VIEW / BLUE SKY RANCH LLC	36-16184	License	06/30/1983	DOMESTIC, STOCKWATER	0.13	0.0	
LONG VIEW / BLUE SKY RANCH LLC	36-16185	License	06/30/1983	IRRIGATION	2.03	131.0	
LONG VIEW / BLUE SKY RANCH LLC	36-8482	License	11/07/1989	STOCKWATER	0.05	0.0	
LOO, PATRICIA; STROH, RICHARD	35-7035	Decreed	08/15/1968	IRRIGATION	2.46	156.0	
LOO, PATRICIA; STROH, RICHARD	35-7504	Decreed	05/02/1975	IRRIGATION	0.68	156.0	
LOOSLI, ANGELA; LOOSLI, CLINTON	35-14606	Decreed	11/21/1977	IRRIGATION	0.06	3.0	
LOOSLI, DELBERT; LOOSLI, RENETTE	35-7758	Decreed	11/21/1977	IRRIGATION	3.61	180.5	

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LOOSLI, JUSTIN	35-14610	Decreed	11/21/1977	IRRIGATION	0.06	3.0	
LOPES, JOE S; LOPES, VERNA F	37-20617	Decreed	06/01/1956	COMMERCIAL, STOCKWATER	0.14	0.0	
LOPES, JOE S; LOPES, VERNA F	37-21571	Decreed	12/03/1966	COMMERCIAL, STOCKWATER	0.19	0.0	
LOPES, JOE S; LOPES, VERNA F	37-21572	Decreed	10/18/1968	COMMERCIAL, STOCKWATER	0.24	0.0	
LOPES, JOE S; LOPES, VERNA F	37-21570	Decreed	02/18/1971	COMMERCIAL, STOCKWATER	0.10	0.0	
LOTT FARMS LLC	35-7854	Decreed	04/23/1979	IRRIGATION	3.74	410.0	
LOTT FARMS LLC	35-13424	Decreed	01/25/1981	IRRIGATION	1.11	158.0	
LOTT REAL PROPERTIES LLC	35-4198	Decreed	05/01/1954	IRRIGATION	2.44	1513.0	
LOTT REAL PROPERTIES LLC	35-2395	Decreed	01/17/1955	IRRIGATION	4.00	782.0	
LOTT REAL PROPERTIES LLC	35-2902	Decreed	04/19/1956	IRRIGATION	4.36	1513.0	
LOTT REAL PROPERTIES LLC	35-13295	Decreed	04/12/1957	IRRIGATION	4.57	1513.0	
LOTT REAL PROPERTIES LLC	35-2661A	Decreed	02/21/1961	IRRIGATION	1.47	1513.0	
LOTT REAL PROPERTIES LLC	35-7174	Decreed	05/06/1971	IRRIGATION	0.95	782.0	
LOTT REAL PROPERTIES LLC	35-7607	Decreed	05/03/1976	IRRIGATION	5.02	1513.0	
LOTT REAL PROPERTIES LLC	25-7139	Decreed	11/17/1977	IRRIGATION	2.68	134.0	
LOTT REAL PROPERTIES LLC	35-7924	Decreed	10/28/1980	IRRIGATION	3.00	782.0	
LOTT REAL PROPERTIES LLC	35-13297	Decreed	05/12/1983	IRRIGATION	1.35	1513.0	
LOTT REAL PROPERTIES LLC	35-13298	Decreed	05/12/1983	IRRIGATION	4.10	476.0	
LOTT REAL PROPERTIES LLC	35-8698	License	03/02/1989	IRRIGATION	2.23	628.0	
LOTT, BRENT T; LOTT, MICHELLE	35-2571	Decreed	04/16/1959	IRRIGATION	6.02	479.0	
LOTT, BRENT T; LOTT, MICHELLE	35-2707	Decreed	04/10/1962	IRRIGATION	4.84	320.0	
LOTT, JILL; LOTT, JONATHAN	27-12157	Decreed	09/11/1974	IRRIGATION	0.09	5.0	
LOTT, JILL; LOTT, JONATHAN	27-12161	Decreed	09/11/1974	IRRIGATION	0.09	5.0	
LOVE, SANDRA L	36-16188	Decreed	08/10/1973	IRRIGATION	0.07	5.0	
LOVE, SANDRA L	36-16186	Decreed	10/28/1977	IRRIGATION	0.02	5.0	
LOVES TRAVEL STOPS & COUNTRY STORES	35-14218	License	12/09/2011	COMMERCIAL	0.29	0.0	
LOWE, KATHIE L	27-12102	Decreed	03/22/1983	DOMESTIC, IRRIGATION	0.03	0.7	
LOWE, RAMONA	27-12101	Decreed	03/22/1983	DOMESTIC, IRRIGATION	0.03	0.7	
LUCIER, DIANA V; LUCIER, ROBERT P	25-14355	License	02/28/1992	IRRIGATION	0.01	0.3	
LUND, JEFFREY A	36-16752	Decreed	04/29/1958	COMMERCIAL, STOCKWATER	0.37	0.0	
LUND, JEFFREY A	36-15590	Decreed	04/03/1961	COMMERCIAL, STOCKWATER	0.46	0.0	
LUND, JEFFREY A	36-15591	Decreed	04/03/1961	IRRIGATION	0.36	36.6	
LUND, JEFFREY A	36-16142	Decreed	04/03/1961	IRRIGATION	0.24	20.0	
LUND, JEFFREY A	36-2404C	Decreed	04/03/1961	IRRIGATION	0.08	36.6	
LUND, JEFFREY A	36-2496	Decreed	07/05/1961	IRRIGATION	0.98	157.0	
LUND, JEFFREY A	36-15211	Decreed	01/30/1970	IRRIGATION	0.33	75.0	Yes
LUND, JEFFREY A	36-7472	Decreed	05/08/1974	IRRIGATION	2.16	157.0	
LUND, JEFFREY A	36-8649	Decreed	01/25/1978	IRRIGATION	1.47	73.5	

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LUND, JEFFREY A	36-15206	Decreed	07/29/1988	STOCKWATER	0.24	0.0	
LUNDHOLM ENTERPRISES LLC	31-7261	Decreed	06/09/1977	IRRIGATION	1.68	358.0	
LUSK, CANDRIA; LUSK, GALEN DEAN	36-4042	Decreed	07/31/1961	IRRIGATION	1.50	78.0	
LUTTMER, SANDI; LUTTMER, SCOTT	37-2733	Decreed	04/12/1966	IRRIGATION	0.57	32.0	
M & M LAND HOLDINGS LLC	36-7359	Decreed	09/27/1973	IRRIGATION	2.18	143.0	
M B HOLDINGS LLC	35-2900	Decreed	04/13/1954	IRRIGATION	1.48	146.0	
M B HOLDINGS LLC	35-2867	Decreed	03/10/1967	IRRIGATION	2.14	131.0	
M B HOLDINGS LLC	35-8156	License	06/10/1983	IRRIGATION	0.47	131.0	
M B HOLDINGS LLC	35-8718	License	04/03/1989	IRRIGATION	1.24	62.0	
M B HOLDINGS LLC	35-13509	License	01/07/1991	IRRIGATION	0.22	11.0	
M B HOLDINGS LLC	35-13510	License	01/07/1991	IRRIGATION	0.86	146.0	
M B HOLDINGS LLC	35-8931A	License	01/07/1991	IRRIGATION	0.58	146.0	
M B HOLDINGS LLC	35-8975	License	01/22/1992	IRRIGATION	3.20	160.0	
MADALENA, GRACE V; MADALENA, JOHN	36-2493C	Decreed	06/28/1961	IRRIGATION	2.38	134.0	
MADSEN, DENNIS; MADSEN, KIMBERLY; SHARP, JANESSA; SHARP, TODD	35-8940	License	04/06/1991	IRRIGATION	2.17	142.0	
MAGIC VALLEY GROWERS LTD	36-2285	Decreed	05/31/1955	IRRIGATION	3.50	194.0	
MAGIC VALLEY GROWERS LTD	36-16941	Decreed	01/21/1957	IRRIGATION	1.02	295.7	
MAGIC VALLEY GROWERS LTD	36-2497	Decreed	07/14/1961	IRRIGATION	0.82	41.0	
MAGIC VALLEY GROWERS LTD	36-16942	Decreed	02/27/1970	IRRIGATION	1.65	295.7	
MAGIC VALLEY GROWERS LTD	37-7591	Decreed	05/30/1979	IRRIGATION	5.21	260.4	
MAGIC VALLEY GROWERS LTD	36-16944	Decreed	12/11/1981	IRRIGATION	1.72	295.7	
MAGIC VIEW CALVES LLC	37-21144	Decreed	01/07/1974	IRRIGATION, MITIGATION	0.17	4.0	
MAHLER, ALPHA; MAHLER, EDWIN	36-8442	License	09/14/1989	IRRIGATION	0.03	1.0	
MALM, BARBARA; MALM, WALLACE E	27-7486	License	08/02/1993	IRRIGATION	1.80	97.0	
MALMSTROM, JOHN W; MALMSTROM, SHELLEY A	35-13592	Decreed	09/18/1956	DOMESTIC, IRRIGATION	6.01	309.0	
MALMSTROM, JOHN W; MALMSTROM, SHELLEY A	35-13594	Decreed	04/01/1964	IRRIGATION	0.17	309.0	Yes
MANGUM, BERNA; MANGUM, JOHN H	35-7811	Decreed	07/31/1978	IRRIGATION	0.36	20.0	
MARCUS KOLL SUBDIVISION WATER USERS INC	36-2511A	Decreed	08/25/1961	IRRIGATION	0.68	52.0	
MARKET LAKE CEMETERY DISTRICT	35-7851	Decreed	07/20/1979	IRRIGATION	0.16	8.2	
MARLOW, DENNIS L; MARLOW, MARY JO	27-7402	License	03/16/1985	IRRIGATION	0.94	47.0	
MARSHALL, COURTNEY AMBER; MARSHALL, JARED	35-14506	Decreed	03/11/1955	IRRIGATION	0.03	2.2	
MARSHALL, COURTNEY AMBER; MARSHALL, JARED	35-14507	Decreed	04/01/1962	IRRIGATION	0.02	2.2	
MARSHALL, JOAN; MARSHALL, KENNY	35-13479	Decreed	03/11/1955	IRRIGATION	0.08	6.8	
MARSHALL, JOAN; MARSHALL, KENNY	35-13481	Decreed	04/01/1962	IRRIGATION	0.05	6.8	
MARSHALL, WILLIAM R; WHITAKER, CHERYL A	35-8802B	License	06/20/1989	IRRIGATION	0.10	5.0	
MART GROUP LLC	36-8457	License	09/20/1989	COMMERCIAL	0.16	0.0	
MART GROUP LLC	36-8458	License	09/20/1989	COMMERCIAL	0.01	0.0	

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MARTENS, GERALD	36-2492A	Decreed	06/26/1961	IRRIGATION	1.03	69.0	
MARTIN, BILL; MARTIN, TRAVIS	35-7131B	Decreed	03/26/1970	IRRIGATION	2.51	135.5	
MARTIN, HAROLD D	35-13621	License	12/27/1989	DOMESTIC, IRRIGATION	0.04	0.8	
MARTIN, JOY; MARTIN, VON	35-8748	License	04/10/1989	IRRIGATION	0.03	1.0	
MARTIN, JULIE ANN; MARTIN, LARRY D	35-7175	Decreed	06/01/1971	IRRIGATION	2.12	126.0	
MARTIN, JULIE ANN; MARTIN, LARRY D	35-7806	Decreed	07/18/1978	IRRIGATION	0.46	126.0	
MARTINEZ, SAUL	36-16211	Decreed	05/23/1962	COMMERCIAL, STOCKWATER	0.03	0.0	
MARTINEZ, SAUL	36-16210	Decreed	05/04/1978	COMMERCIAL, STOCKWATER	0.11	0.0	
MARTINEZ, SAUL	36-13645	Decreed	12/31/1978	DOMESTIC, STOCKWATER	0.08	0.0	
MASON AG LLC	36-16547	Decreed	09/12/1973	IRRIGATION	1.60	160.0	
MASON AG LLC	36-16766	Decreed	09/12/1973	IRRIGATION	0.11	160.0	
MASTEN, LISA M ; MASTEN, MARK A	35-8001A	Decreed	10/26/1981	IRRIGATION	0.10	5.0	
MATHESON, DORIAN; MATHESON, MAUREEN	35-8969	License	12/31/1991	IRRIGATION	0.82	59.0	
MATSUURA, BRENT; MATSUURA, DEOLA RAE	35-7610	Decreed	05/07/1976	IRRIGATION	2.80	140.0	
MAUGHAN, KATHIE; MAUGHAN, WAYNE	36-2263	Decreed	06/15/1954	IRRIGATION	4.80	308.0	
MAUGHAN, KATHIE; MAUGHAN, WAYNE	36-4113	Decreed	03/15/1961	IRRIGATION	1.06	308.0	
MAVERIK LAND & CATTLE CO	36-7745	Decreed	08/15/1977	IRRIGATION	4.50	292.0	
MAVERIK LAND & CATTLE CO	36-8049	Decreed	12/21/1981	IRRIGATION	0.94	47.0	
MAXMILLION FARMS; SHRADER, MAXINE R	35-8224	Decreed	06/30/1983	DOMESTIC, IRRIGATION	0.04	1.0	
MAY CAPITAL LLC	36-8467	License	12/15/1989	COMMERCIAL	0.12	0.0	
MC BURNEY, CHARLES E	35-2690A	Decreed	09/08/1961	IRRIGATION	1.36	35.0	
MC CAUGHEY LAND & LIVESTOCK TRUST LLC	36-7438	Decreed	01/31/1974	IRRIGATION	2.00	100.0	
MC CAUGHEY LAND & LIVESTOCK TRUST LLC	36-8579	License	02/08/1991	IRRIGATION	0.68	52.0	
MC CLELLAN, TOM	45-7533	License	04/26/1983	IRRIGATION	0.09	3.0	
MC CLYMONDS, MICHAEL J	36-7873	Decreed	09/27/1979	DOMESTIC, IRRIGATION	0.08	4.5	
MC CORD, HARRIETT	36-16063	Decreed	01/10/1973	IRRIGATION	0.11	8.2	
MC CORD, HARRIETT	36-16064	Decreed	01/10/1973	IRRIGATION	0.33	28.4	
MC CULLOUGH JR, WILLIAM JAMES	35-2878B	Decreed	05/29/1967	IRRIGATION	0.08	4.0	
MC DANIEL, BRETT; MC DANIEL, KATHY	27-2125G	Decreed	12/27/1961	IRRIGATION	0.28	14.0	
MC DANIEL, FAITH	35-14740	Decreed	02/10/1976	IRRIGATION	0.02	1.0	
MC DONALD, FRANK F	36-8516	License	03/02/1990	DOMESTIC, IRRIGATION	0.11	3.0	
MC GALLIARD, MARGARET P; MC GALLIARD, RUSSELL C	36-8563	License	10/18/1990	DOMESTIC, IRRIGATION	0.07	1.0	
MC GARRY, L PETE; MC GARRY, M KAREN	31-7270	Decreed	10/28/1977	IRRIGATION	4.64	243.0	
MC GARRY, L PETE; MC GARRY, M KAREN	31-11605	Decreed	04/01/1978	IRRIGATION	0.87	328.0	Yes
MC GARRY, L PETE; MC GARRY, MARY KATHERINE	31-11619	Decreed	04/01/1978	IRRIGATION	0.22	243.0	Yes
MC GUIRE, JEDIDIAH O; MC GUIRE, JOLENE	37-23056	Decreed	09/14/1972	IRRIGATION, STOCKWATER	0.25	22.0	
MC HAN, CRYSTAL	45-14515	Decreed	07/15/1974	IRRIGATION	0.02	1.5	
MC KAY, BRYAN; MC KAY, SHAWNA	36-7456A	Decreed	03/20/1974	IRRIGATION, STOCKWATER	2.10	182.0	

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MC KAY, BRYAN; MC KAY, SHAWNA	36-7456B	Decreed	03/20/1974	IRRIGATION	0.89	77.5	
MC KINNEY, MONICA; MC KINNEY, WILLIAM	37-23208	Decreed	09/20/1974	IRRIGATION	0.02	1.0	
MC KINNEY, MONICA; MC KINNEY, WILLIAM	37-23210	Decreed	09/20/1974	IRRIGATION	0.03	1.5	
MC KINNEY, MONICA; MC KINNEY, WILLIAM	37-23215	Decreed	09/20/1974	IRRIGATION	0.01	0.8	
MC MANUS, JANINE B; MC MANUS, WILLIAM D	36-2733	Decreed	03/13/1956	IRRIGATION	0.75	67.5	
MC MANUS, JANINE B; MC MANUS, WILLIAM D	45-7548	License	07/03/1983	IRRIGATION	1.44	103.8	
MC MANUS, JANINE B; MC MANUS, WILLIAM D	36-8226	License	07/23/1983	IRRIGATION	0.74	37.0	
MC MANUS, JANINE B; MC MANUS, WILLIAM D	36-8288	License	07/21/1985	IRRIGATION	0.58	29.0	
MC MANUS, WILLIAM D	45-7264	Decreed	03/23/1976	IRRIGATION	3.78	189.0	
MC MINN, DALE M	36-16109	Decreed	11/19/1979	DOMESTIC, IRRIGATION	0.06	2.0	
MECHAM, CAROL L; MECHAM, LARRY B	31-2446	Decreed	05/03/1965	IRRIGATION	6.40	318.0	
MECHAM, CAROL L; MECHAM, LARRY B	31-2412	Decreed	10/24/1966	IRRIGATION	3.14	157.0	
MECHAM, CAROL L; MECHAM, LARRY B	31-7051	Decreed	06/09/1971	IRRIGATION	1.09	158.0	
MECHAM, KAYLEN; MECHAM, N VON	35-2428A	Decreed	07/01/1955	IRRIGATION, STOCKWATER	0.08	4.0	
MECHAM, KAYLEN; MECHAM, N VON	35-11011	Decreed	04/01/1961	IRRIGATION	0.76	38.0	
MECHAM, KEVIN A	35-7591	Decreed	03/15/1976	IRRIGATION	2.24	112.0	
MECHAM, KEVIN A; MECHAM, LORI S	35-8937	License	02/27/1991	IRRIGATION	2.36	139.0	
MECHAM, MARTHA ANN; MECHAM, STEVEN D	35-13458	Decreed	03/25/1963	IRRIGATION	0.96	204.0	
MECHAM, MARTHA ANN; MECHAM, STEVEN D	35-13460	Decreed	07/01/1968	IRRIGATION	1.68	204.0	
MECHAM, MARVA D; MECHAM, N DALE	27-11961	Decreed	11/23/1976	IRRIGATION	0.06	3.8	
MECHAM, NORMAN; MECHAM, VIRGINIA	27-11962	Decreed	11/23/1976	IRRIGATION	0.04	2.6	
MECHAM, STEVEN D	35-7412	Decreed	06/06/1974	IRRIGATION, STOCKWATER	3.99	192.0	
MENSINGER, PAUL; VOGT, EVELYN	36-16136	Decreed	11/25/1977	IRRIGATION	0.36	18.0	
MERRILL, KENT	25-14248	License	02/28/1992	IRRIGATION	0.07	3.6	
MERRILL, LLOYD R; MERRILL, MARJORIE R	35-7264	Decreed	11/16/1972	IRRIGATION	1.50	76.0	
MERRILL, STEPHANIE; MERRILL, WESLEY SCOTT	35-7220	Decreed	04/05/1972	DOMESTIC, IRRIGATION	0.29	13.0	
MESSICK, JESSIE L; MESSICK, ROCKY J	35-7580	Decreed	02/09/1976	IRRIGATION	1.28	74.0	
METZ, JOHN B	36-16492	Decreed	08/25/1977	DIVERSION TO STORAGE, IRRIGATION FROM STORAGE, IRRIGATION STORAGE, IRRIGATION, STOCKWATER	0.11	5.0	
MEYER, JAY; MEYER, NATALIE	25-14363	License	02/28/1992	IRRIGATION	0.01	0.3	
MEYERS, KATHI L; MEYERS, ROBERT J	36-2420	Decreed	02/08/1960	IRRIGATION	2.94	150.0	
MEYERS, KATHI L; MEYERS, ROBERT J	36-10301	Decreed	01/01/1961	IRRIGATION	1.97	149.2	
MEYERS, KATHI L; MEYERS, ROBERT J	37-2760	Decreed	04/06/1967	IRRIGATION	3.00	150.0	
MEYERS, KATHI L; MEYERS, ROBERT J	36-7459	Decreed	03/20/1974	IRRIGATION	2.45	160.0	

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MEYERS, KATHI L; MEYERS, ROBERT J	37-7611	License	05/23/1977	IRRIGATION, STOCKWATER	2.18	112.0	
MEYERS, ROBERT J	36-4036	Decreed	05/01/1962	IRRIGATION	1.48	74.0	
MEYERS, ROBERT J	36-7854	License	02/16/1990	IRRIGATION	2.71	142.0	
MEYERS, ROBERT J	37-8801	License	10/20/1992	DOMESTIC	0.10	0.0	
MICKELSEN PROPERTIES LLC	31-12132	Decreed	10/25/1954	IRRIGATION	2.04	184.2	
MICKELSEN PROPERTIES LLC	31-2335B	Decreed	10/25/1954	IRRIGATION	0.35	189.2	
MICKELSEN PROPERTIES LLC	35-2392	Decreed	01/10/1955	IRRIGATION	4.00	315.0	
MICKELSEN PROPERTIES LLC	35-2416	Decreed	04/07/1955	IRRIGATION	4.00	345.0	
MICKELSEN PROPERTIES LLC	35-2452	Decreed	02/08/1956	IRRIGATION	5.32	316.0	
MICKELSEN PROPERTIES LLC	35-14392	Decreed	04/27/1956	IRRIGATION	4.08	310.0	
MICKELSEN PROPERTIES LLC	35-2501	Decreed	04/24/1957	IRRIGATION	4.16	320.0	
MICKELSEN PROPERTIES LLC	31-12204	Decreed	04/18/1958	IRRIGATION	3.61	242.8	
MICKELSEN PROPERTIES LLC	31-12134	Decreed	02/20/1959	IRRIGATION	0.76	61.6	
MICKELSEN PROPERTIES LLC	35-2575	Decreed	04/15/1959	IRRIGATION	4.39	320.0	
MICKELSEN PROPERTIES LLC	35-2576B	Decreed	04/15/1959	IRRIGATION	3.21	210.0	
MICKELSEN PROPERTIES LLC	35-2576C	Decreed	04/15/1959	IRRIGATION	0.81	179.0	
MICKELSEN PROPERTIES LLC	35-2595	Decreed	05/13/1960	IRRIGATION	2.29	275.0	
MICKELSEN PROPERTIES LLC	35-2600	Decreed	05/13/1960	IRRIGATION	5.22	355.0	
MICKELSEN PROPERTIES LLC	31-11961	Decreed	05/02/1963	IRRIGATION	4.21	283.7	
MICKELSEN PROPERTIES LLC	31-11962	Decreed	05/02/1963	IRRIGATION	0.57	84.8	
MICKELSEN PROPERTIES LLC	35-2742	Decreed	11/17/1964	IRRIGATION	3.09	158.0	
MICKELSEN PROPERTIES LLC	31-12443	Decreed	03/29/1966	IRRIGATION	0.28	30.1	
MICKELSEN PROPERTIES LLC	31-2427C	Decreed	03/29/1966	IRRIGATION	4.18	243.5	
MICKELSEN PROPERTIES LLC	31-2435	Decreed	04/06/1967	IRRIGATION	6.65	520.0	
MICKELSEN PROPERTIES LLC	31-12481	Decreed	04/28/1967	IRRIGATION	0.78	91.0	
MICKELSEN PROPERTIES LLC	31-2437	Decreed	04/28/1967	IRRIGATION	8.31	512.0	
MICKELSEN PROPERTIES LLC	31-7015C	Decreed	04/03/1969	IRRIGATION	0.12	189.2	
MICKELSEN PROPERTIES LLC	31-7015D	Decreed	04/03/1969	IRRIGATION	0.07	189.2	
MICKELSEN PROPERTIES LLC	31-7024D	Decreed	06/20/1969	IRRIGATION	0.17	189.2	
MICKELSEN PROPERTIES LLC	31-11909	Decreed	07/07/1969	IRRIGATION	8.54	478.4	
MICKELSEN PROPERTIES LLC	31-12098	Decreed	05/11/1970	IRRIGATION	1.48	189.2	
MICKELSEN PROPERTIES LLC	31-12028	Decreed	06/08/1970	IRRIGATION	4.48	277.8	
MICKELSEN PROPERTIES LLC	31-12036	Decreed	06/08/1970	IRRIGATION	7.36	490.9	
MICKELSEN PROPERTIES LLC	31-7037B	Decreed	06/08/1970	IRRIGATION	0.07	189.2	
MICKELSEN PROPERTIES LLC	35-7176	Decreed	07/10/1971	IRRIGATION	0.95	355.0	
MICKELSEN PROPERTIES LLC	35-7177	Decreed	07/10/1971	IRRIGATION	1.38	345.0	
MICKELSEN PROPERTIES LLC	31-12130	Decreed	09/18/1973	IRRIGATION	2.07	245.8	
MICKELSEN PROPERTIES LLC	31-7136	Decreed	09/11/1974	IRRIGATION	1.35	520.0	

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MICKELSEN PROPERTIES LLC	31-7662	Decreed	01/24/1975	IRRIGATION	2.02	140.0	
MICKELSEN PROPERTIES LLC	31-7226	Decreed	03/07/1977	IRRIGATION	2.63	132.0	
MICKELSEN PROPERTIES LLC	31-7227	Decreed	03/07/1977	IRRIGATION	2.19	132.0	
MICKELSEN PROPERTIES LLC	31-7228	Decreed	03/07/1977	IRRIGATION	1.87	132.0	
MICKELSEN PROPERTIES LLC	31-7229	Decreed	03/07/1977	IRRIGATION	1.72	122.0	
MICKELSEN PROPERTIES LLC	31-12482	Decreed	03/07/1977	IRRIGATION	0.14	283.7	
MICKELSEN PROPERTIES LLC	31-7220F	Decreed	03/10/1977	IRRIGATION	1.42	137.1	
MICKELSEN PROPERTIES LLC	31-7238	Decreed	03/11/1977	IRRIGATION	2.06	140.0	
MICKELSEN PROPERTIES LLC	35-7784	Decreed	02/07/1978	IRRIGATION	3.21	275.0	
MICKELSEN PROPERTIES LLC	31-12078	Decreed	02/27/1978	IRRIGATION	1.72	101.6	
MICKELSEN PROPERTIES LLC	31-12080	Decreed	02/27/1978	IRRIGATION	1.68	105.6	
MICKELSEN PROPERTIES LLC	31-12082	Decreed	02/27/1978	IRRIGATION	2.02	123.3	
MICKELSEN PROPERTIES LLC	31-12084	Decreed	02/27/1978	IRRIGATION	1.96	123.3	
MICKELSEN PROPERTIES LLC	31-7293F	Decreed	02/27/1978	IRRIGATION	0.15	189.2	
MICKELSEN PROPERTIES LLC	31-7293H	Decreed	02/27/1978	IRRIGATION	0.27	189.2	
MICKELSEN PROPERTIES LLC	31-11975	Decreed	04/01/1980	IRRIGATION	0.30	21.3	Yes
MICKELSEN PROPERTIES LLC	31-12485	Decreed	04/01/1980	IRRIGATION	0.38	277.8	Yes
MICKELSEN PROPERTIES LLC	31-10275	Decreed	04/01/1981	IRRIGATION	0.26	512.0	Yes
MICKELSEN PROPERTIES LLC	31-10699	Decreed	05/01/1981	IRRIGATION	1.21	520.0	Yes
MICKELSEN PROPERTIES LLC	31-7627B	Decreed	08/12/1981	IRRIGATION	0.39	91.0	
MICKELSEN PROPERTIES LLC	31-11933	Decreed	08/17/1981	IRRIGATION	1.86	154.0	
MICKELSEN PROPERTIES LLC	31-11957	Decreed	08/17/1981	IRRIGATION	0.34	84.8	
MICKELSEN PROPERTIES LLC	31-11958	Decreed	08/17/1981	IRRIGATION	0.20	36.0	
MICKELSEN PROPERTIES LLC	31-11959	Decreed	08/17/1981	IRRIGATION	1.83	126.0	
MICKELSEN PROPERTIES LLC	31-11960	Decreed	08/17/1981	IRRIGATION	0.41	84.8	
MICKELSEN PROPERTIES LLC	31-7370A	Decreed	08/17/1981	IRRIGATION	0.44	22.0	
MICKELSEN PROPERTIES LLC	31-7370F	Decreed	08/17/1981	IRRIGATION	0.27	91.0	
MICKELSEN PROPERTIES LLC	31-12483	License	01/18/1984	IRRIGATION	0.25	283.7	
MICKELSEN PROPERTIES LLC	31-12484	License	01/18/1984	IRRIGATION	0.34	154.0	
MICKELSEN PROPERTIES LLC	31-12486	License	01/18/1984	IRRIGATION	0.06	78.0	
MICKELSEN PROPERTIES LLC	31-7651	License	08/28/1997	INDUSTRIAL	0.66	0.0	
MICKELSEN PROPERTIES LLC; MICKELSEN, MARK	31-12140	Decreed	03/11/1982	IRRIGATION	0.22	34.0	
MICKELSEN PROPERTIES LLC; MICKELSEN, MARK	31-12141	Decreed	03/11/1982	IRRIGATION	0.24	34.0	
MICKELSEN PROPERTIES LLC; MICKELSEN, MARK; MICKELSEN, STEPHANIE JO	31-7047B	Decreed	01/22/1971	IRRIGATION	0.20	10.0	
MICKELSEN PROPERTIES LLC; MICKELSEN, MARK; MICKELSEN, STEPHANIE JO	31-12040	Decreed	04/10/1974	IRRIGATION	1.70	121.4	

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MICKELSEN PROPERTIES LLC; MICKELSEN, MARK; MICKELSEN, STEPHANIE JO	31-12041	Decreed	04/10/1974	IRRIGATION	0.31	47.1	
MICKELSEN PROPERTIES LLC; MICKELSEN, MARK; MICKELSEN, STEPHANIE JO	31-12064	Decreed	11/29/1974	IRRIGATION	1.73	121.6	
MICKELSEN PROPERTIES LLC; MICKELSEN, MARK; MICKELSEN, STEPHANIE JO	31-12020	Decreed	12/23/1974	IRRIGATION	1.85	156.0	
MICKELSEN PROPERTIES LLC; MICKELSEN, MARK; MICKELSEN, STEPHANIE JO	31-12060	Decreed	12/23/1974	IRRIGATION	2.24	141.7	
MICKELSEN PROPERTIES LLC; MICKELSEN, MARK; MICKELSEN, STEPHANIE JO	31-12016	Decreed	06/11/1976	IRRIGATION	3.02	183.7	
MICKELSEN PROPERTIES LLC; MICKELSEN, MARK; MICKELSEN, STEPHANIE JO	31-12017	Decreed	06/11/1976	IRRIGATION	0.09	23.2	
MICKELSEN PROPERTIES LLC; MICKELSEN, MARK; MICKELSEN, STEPHANIE JO	31-12210	Decreed	06/11/1976	IRRIGATION	2.61	185.0	
MICKELSEN PROPERTIES LLC; MICKELSEN, MARK; MICKELSEN, STEPHANIE JO	31-12015	Decreed	02/24/1977	IRRIGATION	0.07	23.2	
MICKELSEN PROPERTIES LLC; MICKELSEN, MARK; MICKELSEN, STEPHANIE JO	31-12011	Decreed	03/02/1977	IRRIGATION	0.14	23.2	
MICKELSEN PROPERTIES LLC; MICKELSEN, MARK; MICKELSEN, STEPHANIE JO	31-12013	Decreed	11/01/1977	IRRIGATION	0.08	23.2	
MICKELSEN PROPERTIES LLC; MICKELSEN, MARK; MICKELSEN, STEPHANIE JO	31-12079	Decreed	02/27/1978	IRRIGATION	0.12	43.2	
MICKELSEN PROPERTIES LLC; MICKELSEN, MARK; MICKELSEN, STEPHANIE JO	31-12083	Decreed	02/27/1978	IRRIGATION	0.14	31.3	
MICKELSEN PROPERTIES LLC; MICKELSEN, MARK; MICKELSEN, STEPHANIE JO	31-12085	Decreed	02/27/1978	IRRIGATION	0.20	31.3	
MICKELSEN PROPERTIES LLC; MICKELSEN, MARK; MICKELSEN, STEPHANIE JO	31-12018	Decreed	07/15/1981	IRRIGATION	0.44	183.7	Yes
MICKELSEN PROPERTIES LLC; MICKELSEN, MARK; MICKELSEN, STEPHANIE JO	31-12019	Decreed	07/15/1981	IRRIGATION	0.01	23.2	Yes
MICKELSEN PROPERTIES LLC; MICKELSEN, MARK; MICKELSEN, STEPHANIE JO	31-11376	Decreed	07/21/1981	IRRIGATION	0.05	141.7	Yes
MICKELSEN PROPERTIES LLC; MICKELSEN, MARK; MICKELSEN, STEPHANIE JO	31-11396	Decreed	07/28/1981	IRRIGATION	0.16	121.6	Yes
MICKELSEN PROPERTIES LLC; MICKELSEN, MARK; MICKELSEN, STEPHANIE JO	31-12087	Decreed	08/12/1981	IRRIGATION	0.14	31.3	
MICKELSEN PROPERTIES LLC; MICKELSEN, MARK; MICKELSEN, STEPHANIE JO	31-12102	Decreed	03/11/1982	IRRIGATION	1.71	117.5	
MICKELSEN PROPERTIES LLC; MICKELSEN, MARK; MICKELSEN, STEPHANIE JO	31-12022	License	01/18/1984	IRRIGATION	1.76	123.0	

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MICKELSEN PROPERTIES LLC; MICKELSEN, MARK; MICKELSEN, STEPHANIE JO	31-12042	Decreed	01/19/1984	IRRIGATION	0.13	121.4	Yes
MICKELSEN PROPERTIES LLC; MICKELSEN, MARK; MICKELSEN, STEPHANIE JO	31-12043	Decreed	01/19/1984	IRRIGATION	0.02	47.1	Yes
MICKELSEN PROPERTIES LLC; MICKELSEN, MARK; MICKELSEN, STEPHANIE JO	31-11372	Decreed	06/05/1987	IRRIGATION	0.24	117.5	Yes
MICKELSEN, CYNTHIA; MICKELSEN, PAUL	36-2521	Decreed	10/05/1961	IRRIGATION	4.52	320.0	
MICKELSEN, DAVID; MICKELSEN, DIXIE; MICKELSEN, MATTHEW; MICKELSEN, RAMIE	36-2447C	Decreed	07/22/1960	IRRIGATION	0.01	14.0	
MICKELSEN, DEANNA; MICKELSEN, TODD H	35-2435	Decreed	09/08/1955	IRRIGATION	4.24	293.0	
MICKELSEN, HILLARY; MICKELSEN, TODD C	35-2908	Decreed	08/11/1961	IRRIGATION	2.17	108.7	
MICKELSEN, HILLARY; MICKELSEN, TODD C	35-7194	Decreed	12/17/1971	IRRIGATION	2.81	262.0	
MICKELSEN, HILLARY; MICKELSEN, TODD C	35-8024	Decreed	07/18/2005	IRRIGATION	0.94	262.0	
MICKELSEN, KARMA J; MICKELSEN, MICHAEL B	36-2675	Decreed	04/24/1966	IRRIGATION	2.92	303.0	
MICKELSEN, MARK; MICKELSEN, STEPHANIE JO	31-12386	Decreed	06/20/1969	IRRIGATION	0.08	122.4	
MICKELSEN, MARK; MICKELSEN, STEPHANIE JO	31-12029	Decreed	06/08/1970	IRRIGATION	0.21	78.0	
MICKELSEN, MARK; MICKELSEN, STEPHANIE JO	31-12037	Decreed	06/08/1970	IRRIGATION	0.29	43.2	
MICKELSEN, MARK; MICKELSEN, STEPHANIE JO	31-12208	Decreed	01/22/1971	IRRIGATION	2.24	121.4	
MICKELSEN, MARK; MICKELSEN, STEPHANIE JO	31-12057	Decreed	01/08/1973	IRRIGATION	0.28	61.0	
MICKELSEN, MARK; MICKELSEN, STEPHANIE JO	31-12059	Decreed	01/08/1973	IRRIGATION	0.02	61.0	
MICKELSEN, MARK; MICKELSEN, STEPHANIE JO	31-12100	Decreed	03/18/1974	IRRIGATION	1.75	119.8	
MICKELSEN, MARK; MICKELSEN, STEPHANIE JO	31-12190	Decreed	03/18/1974	IRRIGATION	1.94	120.0	
MICKELSEN, MARK; MICKELSEN, STEPHANIE JO	31-12032	Decreed	11/29/1974	IRRIGATION	1.55	121.4	
MICKELSEN, MARK; MICKELSEN, STEPHANIE JO	31-12033	Decreed	11/29/1974	IRRIGATION	0.23	43.2	
MICKELSEN, MARK; MICKELSEN, STEPHANIE JO	31-12065	Decreed	11/29/1974	IRRIGATION	0.24	61.0	
MICKELSEN, MARK; MICKELSEN, STEPHANIE JO	31-12021	Decreed	12/23/1974	IRRIGATION	0.13	78.0	
MICKELSEN, MARK; MICKELSEN, STEPHANIE JO	31-12061	Decreed	12/23/1974	IRRIGATION	0.22	61.0	
MICKELSEN, MARK; MICKELSEN, STEPHANIE JO	31-12062	Decreed	12/23/1974	IRRIGATION	1.87	122.2	
MICKELSEN, MARK; MICKELSEN, STEPHANIE JO	31-12063	Decreed	12/23/1974	IRRIGATION	0.21	61.0	
MICKELSEN, MARK; MICKELSEN, STEPHANIE JO	31-12385	Decreed	01/24/1975	IRRIGATION	0.08	122.4	
MICKELSEN, MARK; MICKELSEN, STEPHANIE JO	31-7171	Decreed	12/01/1975	IRRIGATION	1.60	122.4	
MICKELSEN, MARK; MICKELSEN, STEPHANIE JO	31-12097	Decreed	01/26/1976	IRRIGATION	0.40	90.0	
MICKELSEN, MARK; MICKELSEN, STEPHANIE JO	31-12182	Decreed	08/20/1976	IRRIGATION	2.22	119.0	
MICKELSEN, MARK; MICKELSEN, STEPHANIE JO	31-11776	Decreed	11/12/1976	IRRIGATION	0.59	31.5	
MICKELSEN, MARK; MICKELSEN, STEPHANIE JO	31-12089	Decreed	03/03/1977	IRRIGATION	0.20	90.0	
MICKELSEN, MARK; MICKELSEN, STEPHANIE JO	31-12091	Decreed	03/03/1977	IRRIGATION	0.27	90.0	
MICKELSEN, MARK; MICKELSEN, STEPHANIE JO	31-12093	Decreed	03/11/1977	IRRIGATION	0.29	90.0	
MICKELSEN, MARK; MICKELSEN, STEPHANIE JO	31-12095	Decreed	03/11/1977	IRRIGATION	0.26	90.0	

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MICKELSEN, MARK; MICKELSEN, STEPHANIE JO	31-12384	Decreed	03/11/1977	IRRIGATION	0.31	122.4	
MICKELSEN, MARK; MICKELSEN, STEPHANIE JO	31-11342	Decreed	04/01/1980	IRRIGATION	0.18	122.4	Yes
MICKELSEN, MARK; MICKELSEN, STEPHANIE JO	31-11343	Decreed	04/01/1980	IRRIGATION	0.15	119.0	Yes
MICKELSEN, MARK; MICKELSEN, STEPHANIE JO	31-11382	Decreed	04/01/1980	IRRIGATION	0.06	122.2	Yes
MICKELSEN, MARK; MICKELSEN, STEPHANIE JO	31-11391	Decreed	07/15/1981	IRRIGATION	0.14	119.8	Yes
MICKELSEN, MARK; MICKELSEN, STEPHANIE JO	21-13104	Decreed	03/11/1982	IRRIGATION	1.65	118.5	
MICKELSEN, MARK; MICKELSEN, STEPHANIE JO	21-13106	Decreed	03/11/1982	IRRIGATION	1.61	118.5	
MICKELSEN, MARK; MICKELSEN, STEPHANIE JO	31-12024	License	02/22/1983	IRRIGATION	1.75	129.0	
MICKELSEN, MARK; MICKELSEN, STEPHANIE JO	31-12025	License	02/22/1983	IRRIGATION	0.14	78.0	
MICKELSEN, MARK; MICKELSEN, STEPHANIE JO	31-12026	License	02/22/1983	IRRIGATION	1.88	125.0	
MICKELSEN, MARK; MICKELSEN, STEPHANIE JO	31-12027	License	02/22/1983	IRRIGATION	0.18	78.0	
MICKELSEN, MARK; MICKELSEN, STEPHANIE JO	31-12034	Decreed	03/25/1983	IRRIGATION	0.05	121.4	Yes
MICKELSEN, MARK; MICKELSEN, STEPHANIE JO	31-12035	Decreed	03/25/1983	IRRIGATION	0.02	43.2	Yes
MICKELSEN, MARK; MICKELSEN, STEPHANIE JO	31-12023	License	01/18/1984	IRRIGATION	0.17	78.0	
MICKELSEN, MARK; MICKELSEN, STEPHANIE JO	31-12030	License	01/18/1984	IRRIGATION	1.22	60.0	
MICKELSEN, MARK; MICKELSEN, STEPHANIE JO	31-12031	License	01/18/1984	IRRIGATION	0.23	78.0	
MICKELSEN, MARK; MICKELSEN, STEPHANIE JO	31-11392	Decreed	03/22/1984	IRRIGATION	0.12	120.0	Yes
MICKELSEN, TODD H	35-2396	Decreed	01/18/1955	IRRIGATION	4.28	288.0	
MICKELSEN, TODD H	35-2688A	Decreed	08/17/1961	IRRIGATION	1.52	76.0	
MIDNIGHT SUN INC	35-10522	Decreed	07/08/1954	IRRIGATION	0.26	253.0	
MIDNIGHT SUN INC	35-2447A	Decreed	12/28/1955	IRRIGATION	2.98	269.5	
MIDNIGHT SUN INC	35-2454	Decreed	03/01/1956	IRRIGATION	1.46	100.0	
MIDNIGHT SUN INC	35-2617	Decreed	11/18/1960	IRRIGATION	1.76	138.0	
MIDNIGHT SUN INC	35-4196	Decreed	08/15/1961	IRRIGATION	4.85	391.0	
MIDNIGHT SUN INC	35-2763B	Decreed	05/20/1965	IRRIGATION	0.44	40.0	
MIDNIGHT SUN INC	36-2662	Decreed	09/19/1966	IRRIGATION	1.24	62.0	
MIDNIGHT SUN INC	35-7023	Decreed	06/24/1968	IRRIGATION	0.21	269.5	
MIDNIGHT SUN INC	35-7154	Decreed	11/20/1970	IRRIGATION	4.29	272.0	
MIDNIGHT SUN INC	45-13820	Decreed	10/13/1972	IRRIGATION	9.24	663.2	
MIDNIGHT SUN INC	35-11572	Decreed	04/01/1976	IRRIGATION	0.31	100.0	Yes
MIDNIGHT SUN INC	35-11573	Decreed	04/01/1976	IRRIGATION	0.79	184.5	Yes
MIDNIGHT SUN INC	35-8211	License	06/17/1983	IRRIGATION	4.34	266.0	
MIDNIGHT SUN INC	35-13280	Decreed	04/01/1984	IRRIGATION	0.26	307.1	Yes
MIDNIGHT SUN INC	35-8961	Decreed	07/15/1993	IRRIGATION	1.00	310.0	
MIDNIGHT SUN INC VIII	36-2690	Decreed	05/01/1967	IRRIGATION	0.94	46.9	
MIKESELL, CHRISTOPHER D; MIKESELL, TERESA	36-16557	Decreed	02/08/1963	IRRIGATION	0.05	3.0	
MILK HAULER LOGISTICS LLC	36-7382	Decreed	09/20/1973	DOMESTIC, IRRIGATION	0.08	3.8	
MILK MONEY FARMS LLC	37-7465A	License	12/01/1975	IRRIGATION	2.67	160.0	

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MILK MONEY FARMS LLC	37-7504	Decreed	07/22/1976	IRRIGATION, STOCKWATER	3.30	178.0	
MILK MONEY FARMS LLC	37-7772	Decreed	01/11/1980	IRRIGATION	0.71	38.0	
MILLENKAMP PROPERTIES LLC	36-4157F	Decreed	06/01/1956	STOCKWATER	0.33	0.0	
MILLENKAMP PROPERTIES LLC	36-16244	Decreed	05/11/1957	COMMERCIAL, STOCKWATER	0.24	0.0	
MILLENKAMP PROPERTIES LLC	36-16242	Decreed	06/11/1957	COMMERCIAL, STOCKWATER	0.08	0.0	
MILLENKAMP PROPERTIES LLC	36-7460X	Decreed	03/25/1974	COMMERCIAL, STOCKWATER	0.25	0.0	
MILLENKAMP PROPERTIES LLC	36-16927	Decreed	11/26/1974	IRRIGATION	1.06	217.8	
MILLENKAMP PROPERTIES LLC	36-16914	License	04/24/1990	IRRIGATION	0.06	3.0	
MILLENKAMP PROPERTIES LLC	36-16915	License	04/24/1990	COMMERCIAL, STOCKWATER	1.36	0.0	
MILLENKAMP, SUSAN; MILLENKAMP, WILLIAM J	36-16926	Decreed	11/26/1974	IRRIGATION	1.18	79.0	
MILLENKAMP, SUSAN; MILLENKAMP, WILLIAM J	45-7290	Decreed	07/26/1977	IRRIGATION	3.78	189.0	
MILLENKAMP, SUSAN; MILLENKAMP, WILLIAM J	45-7331	Decreed	10/12/1978	IRRIGATION	4.70	277.0	
MILLENKAMP, SUSAN; MILLENKAMP, WILLIAM J	45-11912	Decreed	11/06/1981	IRRIGATION	0.71	277.0	Yes
MILLENKAMP, SUSAN; MILLENKAMP, WILLIAM J	36-16916	License	04/24/1990	IRRIGATION	0.88	217.8	
MILLER COUNTRY ESTATES WATER CO	25-7655	License	02/25/1998	DOMESTIC	0.11	0.0	
MILLER COUNTRY ESTATES WATER CO	25-7656	License	02/25/1998	DOMESTIC	0.11	0.0	
MILLER COUNTRY ESTATES WATER CO	25-7657	License	02/25/1998	DOMESTIC	0.11	0.0	
MILLER COUNTRY ESTATES WATER CO	25-7666	License	01/06/1999	DOMESTIC	0.20	0.0	
MILLER, BLAINE E	36-2409D	Decreed	12/02/1959	COMMERCIAL, STOCKWATER	0.04	0.0	
MILLER, BLAINE E	36-2440B	Decreed	06/01/1960	COMMERCIAL, STOCKWATER	0.06	0.0	
MILLER, BLAINE E	36-2543B	Decreed	06/18/1962	COMMERCIAL, STOCKWATER	0.04	0.0	
MILLER, BLAINE E	36-2637C	Decreed	01/27/1966	COMMERCIAL, STOCKWATER	0.06	0.0	
MILLER, BLAINE E	36-7096B	Decreed	12/01/1969	COMMERCIAL, STOCKWATER	0.03	0.0	
MILLER, BLAINE E; MILLER, CAROLANNE	36-16879	Decreed	01/27/1976	COMMERCIAL, STOCKWATER	0.06	0.0	
MILLER, BLAINE E; MILLER, CAROLANNE	36-16878	Decreed	10/31/1986	COMMERCIAL, STOCKWATER	0.02	0.0	Yes
MILLER, DAVID S	36-11256	Decreed	06/08/1962	IRRIGATION	0.18	9.0	
MILLER, DIANE M; MILLER, GUS E	37-8373	License	08/10/1988	DOMESTIC, IRRIGATION, STOCKWATER	0.04	2.0	
MILLER, GARY W; MILLER, TERESA S	37-7491	Decreed	06/08/1976	DOMESTIC, IRRIGATION	0.06	2.0	
MILLER, JEANNY M; MILLER, JOSEPH T	36-17162	Decreed	02/19/1976	IRRIGATION, STOCKWATER	1.49	138.0	
MILLER, JOLENE R; MILLER, TERRY D	36-2342A	Decreed	12/20/1957	IRRIGATION	2.69	331.0	
MILLER, JOLENE R; MILLER, TERRY D	36-2342B	Decreed	12/20/1957	IRRIGATION	0.49	130.0	
MILLER, JOLENE R; MILLER, TERRY D	36-2447D	Decreed	07/22/1960	IRRIGATION	0.01	130.0	
MILLER, JOLENE R; MILLER, TERRY D	36-2469F	Decreed	01/24/1961	IRRIGATION	4.78	311.0	
MILLER, JOLENE R; MILLER, TERRY D	36-2469G	Decreed	01/24/1961	IRRIGATION	0.77	130.0	
MILLER, JOLENE R; MILLER, TERRY D	36-2538A	Decreed	03/15/1962	IRRIGATION	0.85	331.0	
MILLER, JOLENE R; MILLER, TERRY D	36-2538B	Decreed	03/15/1962	IRRIGATION	0.15	130.0	
MILLER, JOLENE R; MILLER, TERRY D	36-7823A	Decreed	09/08/1978	IRRIGATION	1.31	331.0	
MILLER, JOLENE R; MILLER, TERRY D	36-7823B	Decreed	09/08/1978	IRRIGATION	0.23	130.0	

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MILLER, KALVIN W; MILLER, PAMELLA K	36-2255	Decreed	04/01/1954	IRRIGATION	4.70	320.0	
MILLER, KALVIN W; MILLER, PAMELLA K	36-2522	Decreed	10/05/1961	IRRIGATION	4.83	310.0	
MILLER, KALVIN W; MILLER, PAMELLA K	36-2523	Decreed	10/05/1961	IRRIGATION	5.30	318.0	
MILLER, KALVIN W; MILLER, PAMELLA K	36-2576	Decreed	08/14/1963	IRRIGATION	1.85	102.0	
MILLER, KALVIN W; MILLER, PAMELLA K	36-16737	Decreed	12/01/1972	IRRIGATION	1.30	320.0	
MILLER, KALVIN W; MILLER, PAMELLA K	36-12953	Decreed	03/09/1979	IRRIGATION	1.25	320.0	Yes
MILLER, KARI CELESTE; MILLER, TRAVIS JAY	36-7609	Decreed	02/19/1976	IRRIGATION, STOCKWATER	1.69	157.0	
MILLINGTON, STEVEN	27-7006	Decreed	03/20/1969	IRRIGATION	0.90	46.0	
MINIDOKA COUNTY SCHOOL DISTRICT #331	36-12217	Decreed	03/11/1955	DOMESTIC	0.22	0.0	
MINIDOKA COUNTY SCHOOL DISTRICT #331	36-7134	Decreed	06/24/1970	IRRIGATION	0.38	19.0	
MINIDOKA COUNTY SCHOOL DISTRICT #331	36-7135	Decreed	06/24/1970	IRRIGATION	0.38	19.0	
MINIDOKA LUMBER CO	36-2345	Decreed	01/29/1958	IRRIGATION	3.55	634.0	
MINIDOKA LUMBER CO	36-2516	Decreed	09/05/1961	IRRIGATION	6.40	793.0	
MINIDOKA LUMBER CO	36-2544	Decreed	07/03/1962	IRRIGATION	0.90	634.0	
MINIDOKA LUMBER CO	36-7015A	Decreed	02/14/1968	IRRIGATION	0.97	793.0	
MINIDOKA LUMBER CO	36-12643	Decreed	03/15/1973	IRRIGATION	1.70	793.0	Yes
MINIDOKA LUMBER CO	36-16208	Decreed	10/29/1973	COMMERCIAL	0.16	0.0	
MINIDOKA LUMBER CO	36-16209	Decreed	10/29/1973	IRRIGATION	4.36	634.0	
MINIDOKA LUMBER CO	36-8493	License	12/19/1989	IRRIGATION	2.70	793.0	
MISKIN SCRAPER WORKS INC	25-7095	Decreed	07/23/1976	COMMERCIAL, FIRE PROTECTION, IRRIGATION	0.55	5.0	
MITCHELL, DAN MICHAEL	31-7266	Decreed	08/22/1977	IRRIGATION	0.59	35.0	
MITCHELL, DELL N; MITCHELL, LYNN N	45-14334	Decreed	10/20/1980	IRRIGATION	0.07	5.0	
MITCHELL, DELL N; MITCHELL, LYNN N	45-14336	License	02/14/1991	IRRIGATION	0.01	0.8	
MITCHELL, DELL N; MITCHELL, SUSAN L	45-7454	Decreed	10/20/1980	IRRIGATION	1.32	102.6	
MITCHELL, DELL N; MITCHELL, SUSAN L	45-14547	License	02/14/1991	IRRIGATION	0.10	6.2	
MITCHELL, DELL N; MITCHELL, SUSAN L	45-7688	License	02/14/1991	IRRIGATION	0.56	35.6	
MITCHELL, JAN R; MITCHELL, LYNN N	45-14333	Decreed	10/20/1980	IRRIGATION	0.17	13.6	
MITCHELL, JAN R; MITCHELL, LYNN N	45-14335	License	02/14/1991	IRRIGATION	0.15	9.4	
MITCHELL, MICHALE D	27-12330	License	04/09/1991	IRRIGATION	0.08	4.2	
MOLYNEUX, CLYDE L; MOLYNEUX, TERESA L	37-8065	Decreed	01/14/1983	DOMESTIC, IRRIGATION	0.09	1.5	
MONSON, LEO DEAN	36-16205	License	04/14/1983	IRRIGATION	0.09	7.0	
MONTEVIEW CANAL CO INC	31-11764	Decreed	08/26/1954	IRRIGATION	19.42	4455.0	
MONTEVIEW CANAL CO INC	31-11833	Decreed	08/22/1955	COMMERCIAL, STOCKWATER	0.06	0.0	
MONTEVIEW CANAL CO INC	31-11907	Decreed	08/22/1955	IRRIGATION	14.47	4455.0	
MONTEVIEW CANAL CO INC	31-11760	Decreed	11/29/1956	IRRIGATION	19.42	4455.0	
MONTEVIEW CANAL CO INC	31-11762	Decreed	07/15/1960	IRRIGATION	19.42	4455.0	
MONTEVIEW CANAL CO INC	31-11766	Decreed	10/31/1962	IRRIGATION	45.05	4455.0	

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MONTEVIEW FARM LLC	32-13255	Decreed	10/25/1966	IRRIGATION	2.06	150.0	
MONTEVIEW FARM LLC	32-7013A	Decreed	01/15/1973	IRRIGATION	1.95	157.0	
MONTEVIEW FARM LLC	32-7022A	Decreed	12/14/1973	IRRIGATION	3.75	308.0	
MONTEVIEW FARM LLC	32-7023E	Decreed	12/14/1973	IRRIGATION	1.97	160.0	
MONTEVIEW FARM LLC	32-7023F	Decreed	12/14/1973	IRRIGATION	2.01	158.0	
MONTEVIEW FARM LLC	32-7032	Decreed	01/08/1975	IRRIGATION	3.45	280.0	
MONTEVIEW FARM LLC	32-13257	Decreed	10/11/1978	IRRIGATION	2.08	145.0	
MONTEVIEW FARM LLC	32-11246	Decreed	04/01/1987	IRRIGATION	0.30	157.0	Yes
MONTEVIEW FARM LLC	32-11247	Decreed	04/01/1987	IRRIGATION	0.55	280.0	Yes
MONTGOMERY, DARLENE M; MONTGOMERY, LLOYD J	36-2525	Decreed	10/27/1961	IRRIGATION	1.40	76.2	
MONTGOMERY, DARLENE M; MONTGOMERY, LLOYD J	36-12464	Decreed	05/01/1981	IRRIGATION	0.11	76.2	Yes
MONTGOMERY, JENNIE L; MONTGOMERY, MONTY B	36-2491	Decreed	06/16/1961	IRRIGATION	1.32	66.0	
MOORE, AARON R	37-23132	Decreed	09/23/1977	IRRIGATION	0.10	5.0	
MOORE, CINDY L; MOORE, TIM L	36-2506	Decreed	08/10/1961	IRRIGATION	2.02	184.0	
MORELAND CEMETERY DISTRICT	35-7119	Decreed	02/09/1970	IRRIGATION	0.11	5.6	
MORELAND CEMETERY DISTRICT	35-14818	License	05/29/1985	IRRIGATION	0.09	4.5	
MORELAND WATER & SEWER DISTRICT	35-10977	Decreed	07/15/1961	DOMESTIC, IRRIGATION	0.34	36.0	
MORELAND WATER & SEWER DISTRICT	35-8146	Decreed	05/17/1983	DOMESTIC, IRRIGATION	0.97	36.0	
MORELAND WATER & SEWER DISTRICT	35-14479	License	05/26/1989	COMMERCIAL	0.17	0.0	
MORGAN C/O CUSHMANS, ORIN; MORGAN, PEGGY	35-13791	Decreed	03/18/1970	IRRIGATION	0.12	6.0	
MORGAN ENTERPRISES LLC	35-13994	Decreed	07/13/1954	IRRIGATION	0.43	137.0	
MORGAN ENTERPRISES LLC	35-14399	Decreed	07/13/1954	IRRIGATION	0.39	65.9	
MORGAN ENTERPRISES LLC	35-14000	Decreed	04/01/1966	IRRIGATION	0.10	137.0	Yes
MORGAN ENTERPRISES LLC	35-14354	Decreed	04/01/1966	IRRIGATION	0.09	137.0	Yes
MORGAN ENTERPRISES LLC	35-14398	Decreed	04/01/1966	IRRIGATION	0.00	1.3	Yes
MORGAN ENTERPRISES LLC	35-14405	Decreed	04/01/1966	IRRIGATION	0.02	137.0	Yes
MORGAN ENTERPRISES LLC	35-13996	Decreed	11/12/1975	IRRIGATION	0.95	137.0	
MORGAN ENTERPRISES LLC	35-14400	Decreed	11/12/1975	IRRIGATION	0.85	65.9	
MORGAN ENTERPRISES LLC	35-7602B	Decreed	04/09/1976	IRRIGATION	1.61	151.0	
MORGAN ENTERPRISES LLC	35-7717	Decreed	05/18/1977	IRRIGATION	0.34	151.0	
MORGAN ENTERPRISES LLC	35-12922	Decreed	04/01/1982	IRRIGATION	0.66	151.0	Yes
MORGAN, CODY G	36-16207	Decreed	02/27/1979	COMMERCIAL, STOCKWATER	0.02	0.0	
MORGAN, CODY G; MORGAN, KATHY	36-17071	License	03/10/1992	COMMERCIAL, STOCKWATER	0.06	0.0	
MORGAN, CODY G; MORGAN, KATHY	36-17090	License	03/10/1992	COMMERCIAL, STOCKWATER	0.02	0.0	
MORGAN, KEN	35-8190	Decreed	06/22/1983	DOMESTIC, IRRIGATION	0.09	3.0	
MORGAN, MICHELLE; MORGAN, TRAVIS	35-14306	Decreed	03/30/1955	IRRIGATION	0.04	2.0	
MORGAN, MICHELLE; MORGAN, TRAVIS	35-2412	Decreed	03/30/1955	IRRIGATION	1.51	75.5	
MORGANS PASTURE LAND CO LLC	35-4030	Decreed	04/01/1961	IRRIGATION	4.66	396.0	

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MORGANS PASTURE LAND CO LLC	35-4008	Decreed	06/26/1961	IRRIGATION	3.31	298.0	
MORRIS, AUDREY; MORRIS, HOWARD L; MORRIS, JEREMY; MORRIS, RHONDA K	37-20838	Decreed	02/06/1974	IRRIGATION	1.15	376.0	
MORRIS, AUDREY; MORRIS, HOWARD L; MORRIS, JEREMY; MORRIS, RHONDA K	37-8500	License	02/22/1989	IRRIGATION	0.09	3.0	
MORRIS, HOWARD L; MORRIS, RHONDA K	37-20854	Decreed	12/03/1966	COMMERCIAL, STOCKWATER	0.18	0.0	
MORRIS, HOWARD L; MORRIS, RHONDA K	36-2671M	Decreed	01/09/1967	IRRIGATION	1.00	421.0	
MORRIS, HOWARD L; MORRIS, RHONDA K	37-7001	Decreed	07/25/1967	IRRIGATION	0.70	117.0	
MORRIS, HOWARD L; MORRIS, RHONDA K	37-20855	Decreed	10/18/1968	COMMERCIAL, STOCKWATER	0.23	0.0	
MORRIS, HOWARD L; MORRIS, RHONDA K	37-20856	Decreed	02/18/1971	COMMERCIAL, STOCKWATER	0.09	0.0	
MORRIS, HOWARD L; MORRIS, RHONDA K	37-7198D	Decreed	01/29/1973	IRRIGATION	2.39	126.8	
MORRIS, HOWARD L; MORRIS, RHONDA K	36-7367M	Decreed	08/13/1973	IRRIGATION	3.52	421.0	
MORRIS, HOWARD L; MORRIS, RHONDA K	36-7381M	Decreed	09/19/1973	IRRIGATION	0.59	421.0	
MORRIS, HOWARD L; MORRIS, RHONDA K	37-7315B	Decreed	11/07/1973	IRRIGATION	0.15	126.8	
MORRIS, HOWARD L; MORRIS, RHONDA K	37-7316	Decreed	11/07/1973	IRRIGATION	3.10	155.0	
MORRIS, HOWARD L; MORRIS, RHONDA K	36-7445M	Decreed	02/21/1974	IRRIGATION	1.03	421.0	
MORRIS, HOWARD L; MORRIS, RHONDA K	36-7480N	Decreed	05/31/1974	IRRIGATION	2.32	421.0	
MORRIS, HOWARD L; MORRIS, RHONDA K	37-7363	Decreed	05/31/1974	IRRIGATION	1.64	117.0	
MORRIS, HOWARD L; MORRIS, RHONDA K	37-7531	Decreed	10/06/1976	IRRIGATION	0.66	33.0	
MORRIS, JOSHUA K	27-7551	License	01/23/1992	IRRIGATION	1.72	86.0	
MORRIS, TODD	27-7339	Decreed	01/13/1983	IRRIGATION	2.84	145.0	
MORRIS, TODD	27-7390	Decreed	04/19/1984	IRRIGATION	1.83	93.0	
MOSS GREENHOUSES INC	36-7898	Decreed	02/27/1980	COMMERCIAL, DOMESTIC	0.06	0.0	
MOSS GREENHOUSES INC	36-8298	Decreed	09/23/1985	COMMERCIAL	0.27	0.0	
MOSS LAND CO LLP	36-2566	Decreed	04/27/1963	IRRIGATION	3.82	472.4	
MOSS LAND CO LLP	36-8426	License	07/18/1989	COMMERCIAL	0.02	0.0	
MOSS, DANA; MOSS, KEVIN	36-17038	Decreed	10/29/1964	COMMERCIAL	0.08	0.0	
MOSS, ELIZABETH D; MOSS, RONALD J	32-4001B	Decreed	02/01/1963	IRRIGATION	2.52	125.8	
MOUNTAIN VIEW EQUIPMENT COMPANY	36-8186	Decreed	05/17/1983	COMMERCIAL, DOMESTIC	0.04	0.0	
MOUNTAIN VIEW LAND LLC	36-13610	Decreed	04/01/1958	DOMESTIC, STOCKWATER	0.24	0.0	
MOUNTAIN VIEW LAND LLC	36-7273B	Decreed	11/14/1972	COMMERCIAL, STOCKWATER	0.92	0.0	
MOUNTAIN VIEW LAND LLC	36-16736	Decreed	12/01/1972	IRRIGATION	0.98	49.0	
MOUNTAIN VIEW LAND LLC	36-7460L	Decreed	03/25/1974	COMMERCIAL, STOCKWATER	0.55	0.0	
MOUNTAIN VIEW LAND LLC	36-7646	Decreed	09/24/1976	COMMERCIAL, STOCKWATER	0.85	0.0	
MOUNTAIN VIEW LAND LLC	36-7945	Decreed	10/20/1980	IRRIGATION	0.50	25.0	
MOUNTAIN VIEW LAND LLC	36-13611	Decreed	08/01/1981	DOMESTIC, STOCKWATER	0.24	0.0	
MOUNTAIN VIEW WATER CORP	37-7469	Decreed	03/14/1976	DOMESTIC	0.67	0.0	
MOUNTAIN VIEW WATER CORP	37-21278	License	03/22/2004	DOMESTIC	0.06	0.0	

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MOYLE, ALLEN; MOYLE, KARLA	36-8418	License	03/16/1989	COMMERCIAL	0.15	0.0	
MOYLE, ALLEN; MOYLE, KARLA	36-8768	License	06/16/1997	COMMERCIAL, STOCKWATER	0.17	0.0	
MOYLE, LEE	36-8450	License	09/21/1989	COMMERCIAL	0.02	0.0	
MUCHOW, BRIAN; MUCHOW, DEANNE	27-4143	Decreed	12/04/1961	DOMESTIC, IRRIGATION, STOCKWATER	0.09	1.0	
MUD LACRES LLC	31-7109	Decreed	08/14/1968	IRRIGATION	6.26	313.0	
MUD LACRES LLC	31-7122	Decreed	05/13/1974	IRRIGATION	3.16	158.0	
MUD LACRES LLC	31-7170	Decreed	11/28/1974	IRRIGATION	2.36	118.0	
MUD LACRES LLC	31-7567	License	01/20/1981	IRRIGATION	6.19	310.0	
MUD LACRES LLC	31-7557A	Decreed	05/13/1981	IRRIGATION	2.85	160.0	
MUD LACRES LLC	31-7557B	Decreed	05/13/1981	IRRIGATION	2.84	142.0	
MUD LACRES LLC	31-7560A	Decreed	05/13/1981	IRRIGATION	2.67	156.0	
MUD LACRES LLC	31-7560B	Decreed	05/13/1981	IRRIGATION	3.28	164.0	
MUD LACRES LLC	31-7559A	Decreed	05/01/1982	IRRIGATION	2.59	132.0	
MUD LACRES LLC	31-7559B	Decreed	05/01/1982	IRRIGATION	2.52	143.0	
MUD LAKE FARM LLC	31-4011B	Decreed	09/01/1956	IRRIGATION	1.64	310.0	
MUD LAKE FARM LLC	31-10652	Decreed	08/21/1960	IRRIGATION	6.22	311.0	
MUD LAKE FARM SUPPLY	31-10457	Decreed	04/01/1958	DOMESTIC, INDUSTRIAL, IRRIGATION	0.13	3.0	
MUD LAKE WATER USERS INC	31-11432	Decreed	09/03/1954	DIVERSION TO STORAGE, IRRIGATION STORAGE	202.95	0.0	
MUD LAKE WATER USERS INC	31-2341	Decreed	09/03/1954	IRRIGATION	16.00	0.0	
MUD LAKE WATER USERS INC	31-2342	Decreed	09/03/1954	IRRIGATION	16.00	0.0	
MUD LAKE WATER USERS INC	31-2343	Decreed	09/03/1954	IRRIGATION	16.00	0.0	
MUD LAKE WATER USERS INC	31-2344	Decreed	09/03/1954	IRRIGATION	16.00	0.0	
MUD LAKE WATER USERS INC	31-2345	Decreed	09/03/1954	IRRIGATION	16.00	0.0	
MUD LAKE WATER USERS INC	31-2317B	Decreed	10/27/1956	IRRIGATION	1.90	0.0	
MUD LAKE WATER USERS INC	31-10627	Decreed	12/31/1957	DOMESTIC	0.08	0.0	
MUD LAKE WATER USERS INC	31-7005	Decreed	12/04/1967	IRRIGATION	13.26	0.0	
MULHALL, C W	35-13806	Decreed	06/11/1977	IRRIGATION	0.79	86.0	
MULHALL, C W	35-13808	Decreed	06/11/1977	IRRIGATION	0.54	86.0	
MUNSEE, AMY; MUNSEE, MARK W	36-8559	License	09/04/1990	IRRIGATION	1.86	93.0	
MURDOCK, ANN MARIE; MURDOCK, CALVIN	35-14844	Decreed	09/08/1961	IRRIGATION	0.27	6.8	
MURDOCK, DALE C	35-2670D	Decreed	06/22/1961	IRRIGATION	0.79	39.7	
MURDOCK, DAN; MURDOCK, STEVE; THOMPSON JR, AARON MILTON	31-2337	Decreed	11/23/1954	IRRIGATION	1.68	152.0	
MURDOCK, JODDI E; MURDOCK, O BRIAN	35-13391	Decreed	05/09/1956	IRRIGATION	2.00	155.1	
MURDOCK, JODDI E; MURDOCK, O BRIAN	35-14635	Decreed	05/09/1956	IRRIGATION	0.88	68.0	
MURDOCK, JODDI E; MURDOCK, O BRIAN	35-14316	Decreed	04/18/1958	IRRIGATION	0.32	16.0	
MURDOCK, JODDI E; MURDOCK, O BRIAN	35-7058	Decreed	09/23/1968	IRRIGATION	1.13	65.4	

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MURDOCK, JODDI E; MURDOCK, O BRIAN; MURDOCK, ROBERT A; MURDOCK, TERESA	35-2515A	Decreed	06/17/1957	IRRIGATION	3.09	460.0	
MURDOCK, LONA	35-7818	Decreed	09/12/1978	IRRIGATION	0.27	19.0	
MURDOCK, LYNNETTE; MURDOCK, STEVEN	35-2670B	Decreed	06/22/1961	IRRIGATION	0.68	34.1	
MURDOCK, LYNNETTE; MURDOCK, STEVEN	35-2670C	Decreed	06/22/1961	IRRIGATION	1.20	60.0	
MURDOCK, LYNNETTE; MURDOCK, STEVEN	35-7792	Decreed	03/06/1978	IRRIGATION	0.72	36.0	
MURDOCK, O BRIAN; MURDOCK, ROBERT A	35-14636	Decreed	07/19/1974	IRRIGATION	0.09	5.0	
MURDOCK, O BRIAN; MURDOCK, ROBERT A	35-7432	Decreed	07/19/1974	IRRIGATION	0.29	16.0	
MURDOCK, QUENTIN C	35-2731	Decreed	12/13/1963	IRRIGATION	5.30	308.0	
MURDOCK, QUENTIN C	35-7251	Decreed	09/06/1972	IRRIGATION	1.00	156.0	
MURDOCK, ROBERT A; MURDOCK, TERESA	35-2444	Decreed	12/09/1955	IRRIGATION	8.94	611.0	
MURDOCK, ROBERT A; MURDOCK, TERESA	35-2615	Decreed	09/16/1960	IRRIGATION	0.84	64.0	
MURDOCK, W LYNN	35-7048	Decreed	09/04/1968	IRRIGATION	0.04	7.0	
MURDOCK, W LYNN	35-7109	Decreed	01/15/1970	IRRIGATION	0.05	7.0	
MURDOCK, ZOANNE T	35-12219	Decreed	09/04/1968	IRRIGATION	3.06	153.0	
MURDOCK, ZOANNE T	35-7081	Decreed	05/15/1969	IRRIGATION	2.53	141.0	
MURDOCK, ZOANNE T	35-7127	Decreed	02/22/1970	IRRIGATION	1.50	75.0	
MURILLO, MARIA; RAYGOZA, JORGE MURILLO	36-17198	Decreed	06/07/1968	IRRIGATION	0.09	4.5	
MURPHY, LA VERN A	36-8361	License	05/31/1988	IRRIGATION	0.09	3.0	
MURRAY, M MICHELLE; MURRAY, SHAWN	35-14609	Decreed	11/21/1977	IRRIGATION	0.04	2.0	
MUSSMANN, MILDRED; MUSSMANN, BERWYN	36-7700	Decreed	05/02/1977	IRRIGATION, STOCKWATER	0.73	88.0	
NALLEY, TINA L	37-8750	License	07/12/1991	DOMESTIC, IRRIGATION, STOCKWATER	0.13	6.0	
NAPIER, DIANNA K	36-8521	License	12/19/1991	DOMESTIC, IRRIGATION	0.03	1.0	
NATURAL GUARDIAN LLC	35-12600	Decreed	06/01/1954	DOMESTIC, IRRIGATION	0.08	2.0	
NATURAL GUARDIAN LLC	35-2586C	Decreed	03/22/1960	IRRIGATION	3.73	314.0	
NATURAL GUARDIAN LLC	35-2586E	Decreed	03/22/1960	IRRIGATION	3.09	283.0	
NATURAL GUARDIAN LLC	35-2598	Decreed	06/27/1960	IRRIGATION	4.18	485.0	
NATURAL GUARDIAN LLC	35-2797	Decreed	10/28/1965	IRRIGATION	19.46	1330.5	
NATURAL GUARDIAN LLC	35-13974	Decreed	02/16/1972	IRRIGATION	1.63	121.2	
NATURAL GUARDIAN LLC	35-13975	Decreed	02/16/1972	IRRIGATION	0.10	13.8	
NATURAL GUARDIAN LLC	35-14484	Decreed	02/16/1972	IRRIGATION	0.09	13.8	
NATURAL GUARDIAN LLC	35-14619	Decreed	02/16/1972	IRRIGATION	0.10	1330.5	
NATURAL GUARDIAN LLC	35-14745	Decreed	02/16/1972	IRRIGATION	1.73	1330.5	
NATURAL GUARDIAN LLC	35-7206C	Decreed	02/16/1972	IRRIGATION	0.27	20.0	
NATURAL GUARDIAN LLC	35-7293	Decreed	05/05/1973	IRRIGATION	2.68	485.0	
NATURAL GUARDIAN LLC	35-7364C	Decreed	01/08/1974	IRRIGATION	2.76	314.0	
NATURAL GUARDIAN LLC	35-7364E	Decreed	01/08/1974	IRRIGATION	2.61	283.0	
NATURAL GUARDIAN LLC	35-10054A	Decreed	08/10/1979	IRRIGATION	0.25	314.0	Yes

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NATURAL GUARDIAN LLC	35-8863	License	07/03/1989	IRRIGATION	6.68	425.9	
NATURAL GUARDIAN LLC	35-8942	License	04/17/1991	IRRIGATION	0.22	425.9	
NEFF, AMY L; NEFF, KURT L	35-2851	Decreed	12/30/1966	IRRIGATION	2.84	237.0	
NEFF, AMY L; NEFF, KURT L	35-7253	Decreed	10/10/1972	IRRIGATION	1.28	64.0	
NEFF, KURT L	35-8953	License	07/01/1991	IRRIGATION	2.82	345.0	
NEIBAUR, MACK W	36-7529H	Decreed	03/28/1975	IRRIGATION	0.35	79.0	
NEIBAUR, MACK W	36-11893	Decreed	07/23/1985	IRRIGATION	0.08	79.0	Yes
NEIBAUR, MITCHELL D; NEIBAUR, RACHEL H	36-7490	Decreed	07/30/1974	IRRIGATION	4.00	310.0	
NEIBAUR, MITCHELL D; NEIBAUR, RACHEL H	36-15212	Decreed	03/15/1975	IRRIGATION	0.33	310.0	Yes
NEIBAUR, MITCHELL D; NEIBAUR, RACHEL H	36-16954	Decreed	03/28/1975	IRRIGATION	0.34	79.0	
NEIBAUR, MITCHELL D; NEIBAUR, RACHEL H	36-7529A	Decreed	03/28/1975	IRRIGATION	0.90	541.8	
NEIBAUR, MITCHELL D; NEIBAUR, RACHEL H	36-7529B	Decreed	03/28/1975	IRRIGATION	1.47	541.8	
NEIBAUR, MITCHELL D; NEIBAUR, RACHEL H	36-15213	Decreed	03/15/1980	IRRIGATION	0.13	310.0	Yes
NEIBAUR, MITCHELL D; NEIBAUR, RACHEL H	36-16955	Decreed	07/23/1985	IRRIGATION	0.07	79.0	Yes
NEIBAUR, RYAN	27-7048	Decreed	11/12/1974	IRRIGATION	0.07	5.0	
NEIBAUR, STEVE	36-15241	Decreed	03/01/1962	IRRIGATION	1.58	427.0	
NEIBAUR, STEVE	36-2661	Decreed	09/12/1966	IRRIGATION	2.80	140.0	
NEIBAUR, STEVE	36-15375	Decreed	04/01/1978	IRRIGATION	1.25	427.0	Yes
NEIHART, LORI; WATERS, ARTIE S	27-7545	License	07/29/1991	IRRIGATION	0.06	2.8	
NEILSON, GLENN	36-8487	License	09/27/1989	DOMESTIC	0.22	0.0	
NELLIS, CARL H; NELLIS, JANE	36-7481	Decreed	06/04/1974	IRRIGATION	0.04	2.0	
NELSON, JACK; NELSON, KATHY	37-8717	License	03/01/1991	IRRIGATION	0.08	2.6	
NELSON, JACK; NELSON, KATHY	37-8740	License	03/14/1991	IRRIGATION	0.09	3.0	
NELSON, LYNN	27-7067	Decreed	11/22/1976	IRRIGATION	2.00	118.0	
NESBIT, BERVA DAWN; NESBIT, LARRY R	36-8124	Decreed	09/30/1982	IRRIGATION, STOCKWATER	0.16	7.0	
NEST EGG INVESTMENTS LLC	25-7320	Decreed	05/21/1983	COMMERCIAL	0.06	0.0	
NEST EGG INVESTMENTS LLC	25-14417	License	02/28/1992	COMMERCIAL	0.02	0.0	
NEST EGG INVESTMENTS LLC	25-14419		12/27/2014	COMMERCIAL	0.23	0.0	
NEUMANN, DAVID A; NEUMANN, SUZANNE	37-7837	Decreed	06/24/1980	IRRIGATION, STOCKWATER	0.05	2.5	
NEVILLE, BARBARA; NEVILLE, STAN D	31-2424	Decreed	03/01/1966	IRRIGATION	5.31	283.0	
NEVILLE, BARBARA; NEVILLE, STAN D	31-7044A	Decreed	01/11/1971	IRRIGATION	5.25	269.2	
NEVILLE, BARBARA; NEVILLE, STAN D	31-7140	Decreed	10/25/1974	IRRIGATION	2.30	140.0	
NEVILLE, BARBARA; NEVILLE, STAN D	31-7143	Decreed	11/04/1974	IRRIGATION	2.80	140.0	
NEVILLE, BARBARA; NEVILLE, STAN D	31-7162	Decreed	04/28/1975	IRRIGATION	2.00	110.0	
NEVILLE, BARBARA; NEVILLE, STAN D	31-7168	Decreed	07/14/1975	IRRIGATION	2.44	128.3	
NEVILLE, BARBARA; NEVILLE, STAN D	31-7190	Decreed	03/18/1976	IRRIGATION	2.53	132.0	
NEVILLE, BARBARA; NEVILLE, STAN D	31-7289	Decreed	01/25/1978	IRRIGATION	2.23	126.0	
NEVILLE, BARBARA; NEVILLE, STAN D	31-7363	Decreed	04/13/1981	IRRIGATION	0.76	38.0	

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NEVILLE, BARBARA; NEVILLE, STAN D	31-11371	Decreed	08/13/1981	IRRIGATION	0.12	128.3	Yes
NEVILLE, BARBARA; NEVILLE, STAN D	31-7374	Decreed	03/01/1982	IRRIGATION	2.40	142.0	
NEVILLE, BARBARA; NEVILLE, STAN D	31-11346	Decreed	04/01/1983	IRRIGATION	0.18	110.0	Yes
NEVILLE, BARBARA; NEVILLE, STAN D	31-7509	License	10/27/1988	IRRIGATION	1.63	81.4	
NEWCOMB, BRUCE C	45-2638	Decreed	03/08/1961	IRRIGATION	2.68	477.0	
NEWCOMB, BRUCE C	45-7083	Decreed	08/20/1971	IRRIGATION	2.34	614.1	
NEWCOMB, BRUCE C	45-7184	Decreed	08/06/1974	IRRIGATION	5.57	614.1	
NEWCOMB, BRUCE C	45-7507	Decreed	06/16/1982	IRRIGATION	1.93	614.1	
NEWCOMB, LONNA; NEWCOMB, MARK T	45-2508	Decreed	11/04/1955	IRRIGATION	2.02	546.0	
NEWCOMB, LONNA; NEWCOMB, MARK T	36-7122	Decreed	02/26/1970	IRRIGATION	1.40	144.0	
NEWCOMB, LONNA; NEWCOMB, MARK T	36-7170	Decreed	03/22/1971	IRRIGATION	1.18	144.0	
NEWCOMB, LONNA; NEWCOMB, MARK T	36-7890	Decreed	01/17/1980	IRRIGATION	1.48	144.0	
NEWCOMB, MARK T	45-2636	Decreed	02/08/1961	IRRIGATION	2.79	842.0	
NEWCOMB, MARK T	45-12440	Decreed	05/14/1976	IRRIGATION	4.28	237.0	
NEWCOMB, MARK T	45-7268B	Decreed	05/14/1976	IRRIGATION	0.61	842.0	
NEWCOMB, MARK T	45-7252	Decreed	07/02/1976	IRRIGATION	4.56	842.0	
NEWCOMB, MARK T	45-7318	Decreed	07/14/1977	IRRIGATION	3.38	200.0	
NEWCOMB, MARK T	45-12439	Decreed	07/28/1978	IRRIGATION, STOCKWATER	11.15	629.0	
NEWCOMB, MARK T	45-14069	Decreed	02/06/1979	IRRIGATION	0.37	269.6	
NEWTON, DENNIS; NEWTON, RANDY	36-15480	Decreed	04/01/1958	IRRIGATION	4.56	368.0	
NEWTON, DENNIS; NEWTON, RANDY	36-7308	Decreed	03/02/1973	IRRIGATION	1.62	368.0	
NH FARMS LLC	36-2355	Decreed	07/28/1958	IRRIGATION	2.30	120.0	
NICKELL, KAYE C; NICKELL, KENNETH G	35-2400A	Decreed	01/28/1955	IRRIGATION	4.04	232.0	
NICKELL, KAYE C; NICKELL, KENNETH G	35-2791	Decreed	09/01/1965	IRRIGATION	2.32	284.0	
NICKELL, KAYE C; NICKELL, KENNETH G	35-7829	License	01/09/1979	IRRIGATION	3.01	152.0	
NICKELL, KAYE C; NICKELL, KENNETH G	35-7861C	Decreed	06/25/1979	IRRIGATION	0.57	263.0	
NICKELL, KAYE C; NICKELL, KENNETH G	35-13277	Decreed	04/01/1987	IRRIGATION	0.39	263.0	Yes
NICKELL, KAYE C; NICKELL, KENNETH G	35-7060	License	05/05/1989	IRRIGATION	0.50	55.0	
NII, AMY	35-7502	Decreed	04/25/1975	IRRIGATION	2.06	103.0	
NIKA FARMS LLC	36-2672	Decreed	12/16/1966	IRRIGATION	1.26	120.0	
NKC GREAT PLAINS LLC	31-2365A	Decreed	04/18/1958	IRRIGATION	1.82	130.0	
NKC GREAT PLAINS LLC	31-2365B	Decreed	04/18/1958	IRRIGATION	0.42	171.6	
NKC GREAT PLAINS LLC	31-2374D	Decreed	02/20/1959	IRRIGATION	0.98	80.0	
NKC GREAT PLAINS LLC	31-7093	Decreed	09/18/1973	IRRIGATION	1.92	171.6	
NKC GREAT PLAINS LLC	31-7565	Decreed	04/18/1974	IRRIGATION	10.40	520.0	
NKC GREAT PLAINS LLC	31-12388	Decreed	09/11/1974	IRRIGATION	0.16	171.6	
NKC GREAT PLAINS LLC	31-7132	Decreed	09/11/1974	IRRIGATION	2.19	130.0	
NKC GREAT PLAINS LLC	31-7133	Decreed	09/11/1974	IRRIGATION	1.99	130.0	

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NKC GREAT PLAINS LLC	31-7134	Decreed	09/11/1974	IRRIGATION	2.16	134.0	
NKC GREAT PLAINS LLC	31-7135	Decreed	09/11/1974	IRRIGATION	2.28	132.0	
NKC GREAT PLAINS LLC	31-7137	Decreed	09/11/1974	IRRIGATION	1.91	134.0	
NKC GREAT PLAINS LLC	31-7138	Decreed	09/11/1974	IRRIGATION	2.34	132.0	
NORMAN E NEF & SONS INC	35-7443	Decreed	09/25/1974	IRRIGATION	4.96	748.6	
NORMAN E NEF & SONS INC	35-7962		06/01/1981	IRRIGATION	12.20	610.0	
NORMAN E NEF & SONS INC	35-7963		06/01/1981	IRRIGATION	6.40	320.0	
NORTH RIM FAIRWAYS OWNERS ASSN INC	36-8399	License	01/05/1995	DOMESTIC	0.41	0.0	
NORTH RIM FAIRWAYS OWNERS ASSN INC	36-16406	License	02/24/2006	DOMESTIC	0.23	0.0	
NORTH SIDE CANAL COMPANY LTD	36-8266	License	03/18/1985	COMMERCIAL, DOMESTIC, STOCKWATER	0.12	0.0	
NORTH SNAKE GROUND WATER DISTRICT	36-16178	Decreed	11/25/1977	IRRIGATION	0.26	13.0	
NORTHERN AGRICULTURE V LLC	31-7022A	Decreed	03/15/1968	IRRIGATION	3.44	396.0	
NORTHERN AGRICULTURE V LLC	31-7022B	Decreed	03/15/1968	IRRIGATION	1.49	396.0	
NORTHERN AGRICULTURE V LLC	31-7056	Decreed	01/24/1972	IRRIGATION	4.73	264.0	
NORTHERN AGRICULTURE V LLC	31-7057	Decreed	01/24/1972	DOMESTIC, IRRIGATION	3.76	264.0	
NORTHERN AGRICULTURE V LLC	31-7058	Decreed	01/24/1972	IRRIGATION	0.66	396.0	
NORTHERN AGRICULTURE V LLC	31-12118	Decreed	01/02/1976	IRRIGATION	2.18	1085.0	
NORTHERN AGRICULTURE V LLC	31-12330	Decreed	01/02/1976	IRRIGATION	2.13	1085.0	
NORTHERN AGRICULTURE V LLC	31-11775	Decreed	11/12/1976	IRRIGATION	6.76	1085.0	
NORTHERN AGRICULTURE V LLC	31-12116	Decreed	11/12/1976	IRRIGATION	2.49	1085.0	
NORTHERN AGRICULTURE V LLC	31-7215	Decreed	11/12/1976	IRRIGATION	4.21	268.0	
NORTHERN AGRICULTURE V LLC	31-12010	Decreed	03/02/1977	IRRIGATION	8.14	496.0	
NORTHERN AGRICULTURE V LLC	31-7281	Decreed	12/14/1977	IRRIGATION	6.54	402.0	
NORTHERN AGRICULTURE V LLC	31-7278B	Decreed	01/24/1978	IRRIGATION	0.07	96.7	
NORTHERN AGRICULTURE V LLC	31-7279B	Decreed	01/24/1978	IRRIGATION	0.03	96.7	
NORTHERN AGRICULTURE V LLC	31-7280B	Decreed	01/24/1978	IRRIGATION	0.08	96.7	
NORTHERN AGRICULTURE V LLC	31-7396B	Decreed	05/12/1983	IRRIGATION	0.75	96.7	
NORTHERN AGRICULTURE V LLC	31-12120	License	07/27/1985	IRRIGATION	0.46	1085.0	
NORTHSIDE ESTATES INC	25-7070	Decreed	07/11/1975	DOMESTIC	0.21	0.0	
NORTHSIDE ESTATES INC	25-7402	License	05/31/1985	IRRIGATION	0.16	8.0	
NORTHSIDE RANCH CO LLC	36-2318A	Decreed	02/28/1957	IRRIGATION	3.21	204.7	
NORTHSIDE RANCH CO LLC	36-13986	Decreed	03/01/1978	DOMESTIC, STOCKWATER	0.20	0.0	
NORTHVIEW FARMS LP	37-2605	Decreed	09/08/1958	IRRIGATION	2.60	287.0	
NORTHVIEW FARMS LP	37-2704	Decreed	03/08/1965	IRRIGATION	1.18	287.0	
NORTHVIEW FARMS LP	37-7213	Decreed	03/28/1973	IRRIGATION, STOCKWATER	5.02	283.0	
NORTHVIEW FARMS LP	37-7214	Decreed	03/28/1973	IRRIGATION	2.90	218.0	
NORTHVIEW FARMS LP	37-7453	Decreed	08/27/1975	IRRIGATION, STOCKWATER	2.14	146.0	
NORTHVIEW FARMS LP	37-8756A	License	02/04/1987	IRRIGATION	2.41	146.5	

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NORTHVIEW FARMS LP	37-8756B	License	02/04/1987	IRRIGATION	2.41	146.5	
NORTHVIEW FARMS LP	37-8757	License	02/04/1987	IRRIGATION	2.56	160.0	
NORTHWEST FARM CREDIT SERVICES FLCA; ROTH INVESTMENTS LLC	37-23157	License	09/20/1990	COMMERCIAL	0.50	0.0	
NORTHWEST FARM CREDIT SERVICES FLCA; ROTH INVESTMENTS LLC	37-8685	License	09/20/1990	STOCKWATER	0.26	0.0	
NORTHWEST FARM CREDIT SERVICES FLCA; TABER, BEVERLY; TABER, DONALD E	37-8401	License	09/20/1988	IRRIGATION	3.00	248.0	
NORTHWEST FARM CREDIT SERVICES FLCA; VAN BEEK, JOHN W	36-8165	License	04/07/1983	COMMERCIAL, STOCKWATER	0.88	0.0	
NORTHWEST FARM CREDIT SERVICES FLCA; VAN DYK, MARIE C; VAN DYK, RICHARD B	36-8547	License	04/25/1990	COMMERCIAL, DOMESTIC, STOCKWATER	0.33	0.0	
NORWEST MANUFACTURING EQUIPMENT LLC	36-8018	Decreed	11/12/1981	COMMERCIAL, DOMESTIC, IRRIGATION	0.06	0.5	
NOTCH BUTTE FARMS LLC	37-22606	Decreed	12/21/1956	IRRIGATION	0.27	335.1	
NOTCH BUTTE FARMS LLC	37-22615	Decreed	12/21/1956	IRRIGATION	0.04	335.1	
NOTCH BUTTE FARMS LLC	37-20840	Decreed	11/29/1960	IRRIGATION	4.02	448.0	
NOTCH BUTTE FARMS LLC	36-16139	Decreed	03/15/1974	IRRIGATION	0.18	188.0	Yes
NOTCH BUTTE FARMS LLC	36-16140	Decreed	03/15/1974	IRRIGATION	0.01	11.3	Yes
NOTCH BUTTE FARMS LLC	36-7648	Decreed	09/29/1976	IRRIGATION	0.44	667.0	
NOTCH BUTTE FARMS LLC	37-22612	Decreed	09/29/1976	IRRIGATION	0.11	335.1	
NOTCH BUTTE FARMS LLC	37-20816	Decreed	11/12/1981	IRRIGATION	0.49	195.4	
NOTCH BUTTE FARMS LLC	37-20817	Decreed	11/12/1981	IRRIGATION	0.47	187.0	
NUNES, DUARTE; NUNES, NELINHA	36-16703	Decreed	10/11/1966	IRRIGATION	0.05	4.0	
NUTTALL, GRIFF L; NUTTALL, LORRAINE D	35-7206B	Decreed	02/16/1972	IRRIGATION	0.11	7.0	
NUTTING, JAMI; NUTTING, LOGAN	36-7924	Decreed	06/30/1980	DOMESTIC, IRRIGATION, STOCKWATER	0.08	1.0	
O DONNELL, JOSEPH A; O DONNELL, JOYCE M	36-7662	License	01/08/1977	DOMESTIC, IRRIGATION	0.08	2.0	
OGDEN, ANITA; OGDEN, KIRK D	35-8755	License	06/24/1989	DOMESTIC, IRRIGATION, STOCKWATER	0.12	3.0	
OGDEN, DEBORAH; OGDEN, RICKY	35-9060	License	06/21/1984	DOMESTIC, IRRIGATION	0.12	4.9	
OGDEN, MIRANDA CHRISTINE; OGDEN, TREVOR GARETH	35-8106	License	02/25/1983	IRRIGATION	0.20	10.0	
OLER, JOSEPH M	35-13789	Decreed	05/01/1954	IRRIGATION	2.66	274.0	
OLER, JOSEPH M	27-11991	Decreed	09/11/1974	IRRIGATION	2.10	111.0	
OLER, JOSEPH M	27-7330	Decreed	11/04/1982	IRRIGATION	2.56	128.0	
OLER, JOSEPH M	27-7430	License	04/20/1987	IRRIGATION	2.39	133.0	
OLESON, DEBBIE R; OLESON, GEORGE	27-2118	Decreed	02/20/1959	IRRIGATION	2.40	120.0	
OLESON, DEBBIE R; OLESON, GEORGE	27-7007D	Decreed	05/18/1969	IRRIGATION	0.20	15.0	
OLESON, DEBBIE R; OLESON, GEORGE	27-7325B	Decreed	08/04/1982	IRRIGATION	1.03	52.0	
OLESON, DEBBIE R; OLESON, GEORGE	27-7326	License	08/04/1982	IRRIGATION	1.79	89.5	
OLESON, DEBBIE R; OLESON, GEORGE	27-7426	License	06/26/1985	IRRIGATION	0.15	7.5	
OLESON, ELIZABETH K; OLESON, JOE STEVEN	27-12248	License	08/31/1988	IRRIGATION	0.09	4.5	

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OLESON, JOE STEVEN	27-12249	License	08/31/1988	IRRIGATION	2.08	104.0	
OLSEN, J HENRY	35-2384	Decreed	08/06/1954	IRRIGATION	4.50	320.0	
OLSEN, J HENRY	35-7092	Decreed	08/05/1969	IRRIGATION	1.07	320.0	
OLSEN, J HENRY	35-13531	Decreed	07/11/1978	IRRIGATION	0.19	331.0	Yes
OLSEN, JOHN W; OLSEN, ROBERT W	35-7465	Decreed	01/09/1975	IRRIGATION	1.36	68.0	
OLSEN, LUANANE; OLSEN, LYNN D; OLSEN, ROBERT W; OLSEN, ROZLA	27-7482	License	09/25/1989	IRRIGATION	1.27	65.0	
OLSEN, ROBERT	27-7419	License	11/27/1990	IRRIGATION	1.20	60.0	
OLSON, CHRISTIAN CHAD	37-8377	License	08/19/1988	IRRIGATION	0.03	1.0	
ONDRISKO, ALANA; ONDRISKO, GARY	35-9062	License	06/16/1989	DOMESTIC, IRRIGATION	0.04	2.0	
OPPIO LAND & LIVESTOCK LLC	37-8010	Decreed	12/05/1982	IRRIGATION	2.52	142.4	
OPPIO LAND & LIVESTOCK LLC	37-8756C	License	02/04/1987	IRRIGATION	1.34	67.0	
OPPIO LAND & LIVESTOCK LLC	37-19848	Decreed	04/15/1987	IRRIGATION	0.29	142.4	Yes
ORANO USA LLC	35-13855	Decreed	02/14/1961	INDUSTRIAL, IRRIGATION, MITIGATION BY NON-USE	0.76	5.0	
ORLO H MAUGHAN FAMILY REVOCABLE TRUST	36-7669	Decreed	01/17/1977	IRRIGATION	2.36	1100.0	
ORLO H MAUGHAN FAMILY REVOCABLE TRUST	36-7883B	Decreed	01/15/1980	IRRIGATION	1.49	1100.0	
ORLO H MAUGHAN FAMILY REVOCABLE TRUST DTD 02/03/1978	36-2266	Decreed	08/19/1954	IRRIGATION	2.14	1100.0	
ORLO H MAUGHAN FAMILY REVOCABLE TRUST DTD 02/03/1978	36-2362	Decreed	11/12/1958	IRRIGATION	1.20	1100.0	
ORLO H MAUGHAN FAMILY REVOCABLE TRUST DTD 02/03/1978	36-2378	Decreed	03/10/1959	IRRIGATION	1.82	1100.0	
ORLO H MAUGHAN FAMILY REVOCABLE TRUST DTD 02/03/1978	36-7964A	License	02/09/1981	IRRIGATION	2.00	1100.0	
ORLO H MAUGHAN FAMILY REVOCABLE TRUST DTD 02/03/1978	36-7964B	License	02/09/1981	IRRIGATION	3.70	1100.0	
ORLO H MAUGHAN FAMILY REVOCABLE TRUST DTD 02/03/1978	36-15191	Decreed	06/15/1981	IRRIGATION	0.45	1100.0	
OROZCO Z, SAUL	36-16110	Decreed	11/19/1979	IRRIGATION	0.06	3.0	
OVERMAN, ARQUE W; RUBY OVERMAN TRUST	36-2715	Decreed	08/22/1966	IRRIGATION	1.01	78.0	
OVERMAN, ARQUE W; RUBY OVERMAN TRUST	36-2700	Decreed	04/13/1967	IRRIGATION	0.97	75.0	
P & C IRRIGATION ASSN INC	37-2740	Decreed	07/11/1966	IRRIGATION	4.06	1098.5	
PACIFICORP	35-14164	Decreed	04/24/1959	IRRIGATION	0.01	10.0	
PACIFICORP	35-14172	Decreed	01/19/1962	IRRIGATION	0.03	10.0	
PACIFICORP	35-14170	Decreed	02/23/1962	IRRIGATION	0.01	10.0	
PACIFICORP	35-14168	Decreed	01/31/1967	IRRIGATION	0.01	10.0	
PACIFICORP	27-7018	Decreed	06/18/1971	COOLING, DOMESTIC	0.87	0.0	
PACIFICORP	35-14166	Decreed	12/24/1973	IRRIGATION	0.02	10.0	
PACKER, CLAIR; PACKER, LYNDA	35-10629	Decreed	06/04/1955	IRRIGATION	0.12	4.0	
PALACIO, THOMAS R	37-7629	Decreed	06/14/1977	IRRIGATION	1.30	76.0	
PALMER, DEAN; PALMER, LUDEAN	25-14356	License	02/28/1992	IRRIGATION	0.01	0.3	
PANORAMA HILLS WATER CO	25-7100	Decreed	12/16/1977	DOMESTIC, IRRIGATION	1.39	38.2	
PARDUE CATTLE COMPANY OF IDAHO LLC	37-7581	Decreed	01/09/1978	IRRIGATION	5.10	460.0	

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PARKINSON, ROBERT J	36-8591	License	03/06/1991	IRRIGATION	1.00	66.0	
PARKS UNLIMITED LLC	35-4237	Decreed	05/15/1955	IRRIGATION	2.28	129.0	
PARKS UNLIMITED LLC; PARKS, ALAN; PARKS, NICOLE	35-14664	Decreed	12/05/1958	IRRIGATION	2.76	235.0	
PARKS UNLIMITED LLC; PARKS, ALAN; PARKS, NICOLE	35-14663	Decreed	02/06/1978	IRRIGATION	0.73	235.0	
PARKS, ALAN G; PARKS, NICOLE L; PARKS, PAULA G; PARKS, RAYMOND	35-2523	Decreed	02/06/1958	IRRIGATION	2.62	308.0	
PARKS, ALAN G; PARKS, NICOLE L; PARKS, PAULA G; PARKS, RAYMOND	35-2694	Decreed	10/20/1961	IRRIGATION	1.42	71.0	
PARKS, ALAN G; PARKS, NICOLE L; PARKS, PAULA G; PARKS, RAYMOND	35-4151B	Decreed	03/18/1963	IRRIGATION	2.04	102.0	
PARKS, ALAN G; PARKS, NICOLE L; PARKS, PAULA G; PARKS, RAYMOND	35-4263	Decreed	03/18/1963	IRRIGATION	2.43	228.0	
PARKS, ALAN G; PARKS, NICOLE L; PARKS, PAULA G; PARKS, RAYMOND	35-2857A	Decreed	01/16/1967	IRRIGATION	4.45	296.5	
PARKS, ALAN G; PARKS, NICOLE L; PARKS, PAULA G; PARKS, RAYMOND	35-2858B	Decreed	01/16/1967	IRRIGATION	1.47	296.5	
PARKS, ALAN; PARKS, NICOLE	35-8609A	License	06/28/1985	IRRIGATION	1.65	92.0	
PARKS, ALAN; PARKS, NICOLE L; PARKS, PAULA G	35-12392	Decreed	04/01/1954	IRRIGATION, STOCKWATER	2.73	134.0	
PARKS, ALAN; PARKS, NICOLE L; PARKS, PAULA G	35-14264	Decreed	01/16/1967	IRRIGATION	0.05	2.5	
PARKS, ALAN; PARKS, NICOLE L; PARKS, PAULA G	35-14265	Decreed	01/16/1967	IRRIGATION	2.89	244.0	
PARKS, MICA	35-13334	Decreed	08/05/1969	IRRIGATION	0.07	8.0	
PARKS, PAULA G; PARKS, RAYMOND	35-2651C	Decreed	03/15/1961	IRRIGATION	2.87	476.0	
PARKS, PAULA G; PARKS, RAYMOND	35-2839	Decreed	08/03/1966	IRRIGATION	2.40	355.0	
PARKS, PAULA G; PARKS, RAYMOND	35-7670A	Decreed	02/03/1977	IRRIGATION	1.42	75.0	
PARKS, RAYMOND	35-10813	Decreed	08/25/1954	IRRIGATION	0.43	318.0	
PARKS, RAYMOND	35-7771	Decreed	01/24/1978	IRRIGATION	6.91	476.0	
PARNELL, KEVIN	37-21266	Decreed	02/27/1979	IRRIGATION, MITIGATION	0.07	3.6	
PARR, LOVELLE L; PARR, ROLLIN	36-7541	Decreed	05/07/1975	IRRIGATION	0.16	21.0	
PATTERSON BROTHERS	36-8022B	License	11/19/1981	COMMERCIAL	0.04	0.0	
PATTERSON LAND & LIVESTOCK CO INC	37-7357	Decreed	04/25/1974	IRRIGATION	2.90	170.0	
PATTERSON LAND & LIVESTOCK CO INC	37-7952	Decreed	11/18/1981	IRRIGATION	0.15	10.0	
PATTERSON, ARNOLD F; PATTERSON, CECILIA S	36-7687	Decreed	04/04/1977	IRRIGATION	2.80	199.0	
PATTERSON, ARNOLD F; PATTERSON, CECILIA S	36-8022A	License	11/19/1981	STOCKWATER	0.15	0.0	
PATTERSON, MICHAEL S	36-4218	Decreed	05/01/1962	IRRIGATION	0.16	20.0	
PATTERSON, MICHAEL S	36-7718	Decreed	06/01/1977	IRRIGATION	1.68	84.0	
PAUL CEMETERY MAINTENANCE DISTRICT	36-8586	License	04/24/1991	IRRIGATION	0.20	10.0	
PAUL MICKELSEN FARMS INC	36-2258A	Decreed	05/12/1954	IRRIGATION	2.28	165.0	
PAUL MICKELSEN FARMS INC	36-2468	Decreed	01/24/1961	IRRIGATION	3.20	160.0	

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PAVKOV, JOAN R; PAVKOV, JOSEPH D	37-7255	Decreed	07/31/1973	IRRIGATION	4.68	280.0	
PAYTON, BROOKE; PAYTON, STEVEN R	36-7483	Decreed	06/07/1974	IRRIGATION	0.12	6.0	
PEARSON, KENNETH CHAD	37-7447A	Decreed	07/30/1975	IRRIGATION	0.29	15.0	
PEHRSON, LEA MARIE	35-14425	Decreed	05/25/1972	IRRIGATION	0.04	4.1	
PEHRSON, LEA MARIE	35-14426	Decreed	04/11/1973	IRRIGATION	0.03	4.1	
PELAYO, CARMEN J; PELAYO, WENDY	35-13750	Decreed	04/28/1980	IRRIGATION	0.12	6.0	
PELAYO, CARMEN J; PELAYO, WENDY	35-14838	License	07/25/1989	DOMESTIC, IRRIGATION	0.06	4.0	
PELICAN POINT SUBDIVISION ASSN INC	36-8772	License	01/16/1998	DOMESTIC	0.73	0.0	
PENA , MARIAN; PENA , THOMAS	35-8708	License	02/24/1989	DOMESTIC, IRRIGATION	0.05	3.5	
PEREIRA, REBECCA SLIMAN	37-8061	Decreed	12/09/1982	DOMESTIC, IRRIGATION	0.07	1.0	
PEREZ, ADOLFO P	25-7172	Decreed	06/19/1979	DOMESTIC, IRRIGATION	0.04	1.0	
PERRY GILLETTE FARMS INC	36-15552	Decreed	03/15/1974	IRRIGATION	0.86	282.6	
PERSCHON FARMS LLC	35-4156	Decreed	06/01/1954	IRRIGATION	3.28	313.0	
PERSCHON FARMS LLC	35-14540	Decreed	08/12/1957	IRRIGATION	0.59	247.3	
PERSCHON FARMS LLC	35-4046	Decreed	04/09/1958	IRRIGATION	2.22	313.0	
PERSCHON FARMS LLC	35-7067	Decreed	01/23/1969	IRRIGATION	1.78	166.0	
PERSCHON FARMS LLC	35-7330	Decreed	10/04/1973	IRRIGATION	1.60	156.0	
PERSCHON FARMS LLC	35-14537	Decreed	07/01/1974	IRRIGATION	0.59	247.3	
PERSCHON FARMS LLC	35-14538	Decreed	04/01/1976	IRRIGATION	0.29	247.3	Yes
PERSCHON FARMS LLC	35-7673	Decreed	02/14/1977	IRRIGATION	1.11	166.0	
PERSCHON FARMS LLC	35-7757	Decreed	11/21/1977	IRRIGATION	0.73	312.0	
PETERS, THOMAS R	36-8577	License	02/28/1991	IRRIGATION	1.68	94.0	
PETERSEN, JERRY B; PETERSEN, MARILYN	27-7573	License	06/27/1989	DOMESTIC, IRRIGATION	0.06	2.0	
PETERSEN, WILMA	31-7086	Decreed	04/05/1973	IRRIGATION	2.18	129.0	
PETERSEN, WILMA	31-7147	Decreed	12/05/1974	IRRIGATION, STOCKWATER	2.37	126.0	
PETERSON, ALAN S; PETERSON, STACEY	35-7317	Decreed	08/14/1973	IRRIGATION	0.31	39.0	
PETERSON, LEE C	31-12050	Decreed	04/02/1962	IRRIGATION	1.21	233.9	
PETERSON, LEE C	31-12052	Decreed	05/09/1962	IRRIGATION	3.78	233.9	
PETERSON, LEE C	31-12054	Decreed	04/01/1969	IRRIGATION	1.07	233.9	Yes
PETTA, DANIEL FREDRICK	36-16144	Decreed	11/25/1977	IRRIGATION	0.02	1.0	
PETTERSON, REBECCA L; PETTERSON, TIM	36-7460AH	Decreed	03/25/1974	COMMERCIAL, STOCKWATER	0.49	0.0	
PETTERSON, REBECCA L; PETTERSON, TIM	36-8533	License	04/11/1990	COMMERCIAL, DOMESTIC, STOCKWATER	0.10	0.0	
PHILIP & PAULINE DREHER ESTATE	27-7143A	Decreed	12/13/1979	IRRIGATION	2.22	111.0	
PHILLIPS BROTHERS FARM & LIVESTOCK	35-13715	Decreed	03/11/1966	IRRIGATION	2.20	157.0	
PHILLIPS BROTHERS FARM & LIVESTOCK	35-7449A	Decreed	10/15/1974	IRRIGATION	3.61	217.0	
PHILLIPS BROTHERS FARM & LIVESTOCK	35-7449B	Decreed	10/15/1974	IRRIGATION	3.76	273.3	
PHILLIPS BROTHERS FARM & LIVESTOCK	35-13717	Decreed	10/01/1976	IRRIGATION	0.18	157.0	Yes
PHILLIPS, ANITA; PHILLIPS, JOHN	36-16106	Decreed	12/03/1966	IRRIGATION	0.38	59.4	

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PHILLIPS, ANITA; PHILLIPS, JOHN	36-16104	Decreed	10/18/1968	IRRIGATION	0.49	59.4	
PHILLIPS, ANITA; PHILLIPS, JOHN	36-16108	Decreed	02/18/1971	IRRIGATION	0.20	59.4	
PHILLIPS, CAROLINE	35-13744	License	07/19/1989	IRRIGATION	0.03	1.3	
PHILLIPS, ELIZABETH H; PHILLIPS, JOSEPH	35-2541	Decreed	06/11/1958	IRRIGATION	2.83	215.0	
PHILLIPS, ELIZABETH H; PHILLIPS, JOSEPH	35-14452	License	04/10/1998	IRRIGATION	0.40	25.0	
PHILLIPS, ELIZABETH H; PHILLIPS, JOSEPH	35-7930	License	04/10/1998	IRRIGATION, STOCKWATER	1.29	215.0	
PHILLIPS, KAREN M	35-2390	Decreed	12/16/1954	IRRIGATION	4.40	303.0	
PHILLIPS, KAREN M	35-7171	Decreed	03/30/1971	IRRIGATION	0.67	313.0	
PHILLIPS, KAREN M	35-12899	Decreed	05/01/1977	IRRIGATION	1.06	303.0	Yes
PHILLIPS, KASSIDEE VERNICE; PHILLIPS, LOGAN POLL	35-2552	Decreed	12/05/1958	IRRIGATION	2.04	173.0	
PHILLIPS, KASSIDEE VERNICE; PHILLIPS, LOGAN POLL	35-7782	Decreed	02/06/1978	IRRIGATION	0.54	173.0	
PICABO CEMETARY DISTRICT	37-8413	License	10/06/1988	IRRIGATION	0.07	1.7	
PIERCE, LARRY TIM; PIERCE, LUCILLE	35-2376	Decreed	04/30/1954	IRRIGATION	1.56	78.0	
PIERCE, LARRY TIM; PIERCE, LUCILLE	35-2517B	Decreed	10/11/1957	IRRIGATION	0.56	183.0	
PIERCE, LARRY TIM; PIERCE, LUCILLE	35-2806	Decreed	10/11/1957	IRRIGATION	0.65	183.0	
PIERCE, LARRY TIM; PIERCE, LUCILLE	35-2910	Decreed	01/09/1958	IRRIGATION	1.84	183.0	
PIERCE, LARRY TIM; PIERCE, LUCILLE	35-2735	Decreed	04/01/1964	IRRIGATION	2.93	158.0	
PIERCE, LARRY TIM; PIERCE, LUCILLE	35-7817	Decreed	09/01/1978	IRRIGATION	0.50	183.0	
PIERCE, LARRY TIM; PIERCE, LUCILLE	35-8785	License	06/23/1989	IRRIGATION	0.44	22.0	
PIERSON, AUBRIE; PIERSON, CHARLES	36-8447	License	10/10/1989	IRRIGATION	0.12	6.0	
PIERSON, MARGARET A; PIERSON, MARVIN E	37-7649	Decreed	07/27/1978	IRRIGATION	2.99	181.0	
PINEWOOD ESTATES	25-7707	License	10/23/2000	DOMESTIC	1.08	0.0	
PINNACLE GREAT PLAINS OPERATING CO LLC	31-2444	Decreed	05/06/1965	IRRIGATION	6.30	337.0	
PINNACLE GREAT PLAINS OPERATING CO LLC	31-2443	Decreed	03/14/1966	IRRIGATION	7.00	350.0	
PINNACLE GREAT PLAINS OPERATING CO LLC	31-2445	Decreed	03/14/1966	IRRIGATION	2.90	294.0	
PINNACLE GREAT PLAINS OPERATING CO LLC	31-12206	Decreed	03/09/1970	IRRIGATION	2.57	128.7	
PINNACLE GREAT PLAINS OPERATING CO LLC	31-12397	Decreed	03/09/1970	IRRIGATION	1.25	130.1	
PINNACLE GREAT PLAINS OPERATING CO LLC	31-12398	Decreed	03/09/1970	IRRIGATION	1.36	130.1	
PINNACLE GREAT PLAINS OPERATING CO LLC	31-7030A	Decreed	03/09/1970	IRRIGATION	2.30	115.0	
PINNACLE GREAT PLAINS OPERATING CO LLC	31-7047A	Decreed	01/22/1971	IRRIGATION	0.45	337.0	
PINNACLE GREAT PLAINS OPERATING CO LLC	31-7048	Decreed	01/22/1971	IRRIGATION	4.47	294.0	
PIONEER WATER USERS ASSN INC	35-8352	License	06/28/1984	DOMESTIC, IRRIGATION	0.29	7.0	
PIRES, JOHN; PIRES, LUCIA	36-10664	Decreed	06/23/1976	IRRIGATION	0.05	1.6	
PKD PROPERTIES LC	45-14160	Decreed	02/10/1960	IRRIGATION	2.11	160.0	
PKD PROPERTIES LC	45-2637	Decreed	02/08/1961	IRRIGATION	4.80	328.0	
PKD PROPERTIES LC	45-2709	Decreed	01/06/1966	IRRIGATION	4.72	236.0	
PKD PROPERTIES LC	45-7109	Decreed	05/11/1972	IRRIGATION	0.89	140.0	
PKD PROPERTIES LC	45-7104B	Decreed	07/04/1972	IRRIGATION	0.32	328.0	

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PKD PROPERTIES LC	45-7104A	Decreed	07/05/1972	IRRIGATION	2.16	108.0	
PKD PROPERTIES LC	45-7102	Decreed	04/02/1973	IRRIGATION	0.70	328.0	
PKD PROPERTIES LC	45-7159	Decreed	11/13/1973	IRRIGATION	2.36	118.0	
PKD PROPERTIES LC	45-7292	Decreed	04/25/1977	IRRIGATION	2.60	180.0	
PKD PROPERTIES LC	45-7299	Decreed	05/04/1977	IRRIGATION	3.18	165.0	
PKD PROPERTIES LC	45-7433	Decreed	12/28/1979	IRRIGATION	0.83	140.0	
PKD PROPERTIES LC	45-14019	Decreed	02/10/1981	IRRIGATION	2.05	104.0	
PKD PROPERTIES LC	45-7508	Decreed	07/12/1982	IRRIGATION	1.62	112.0	
PKD PROPERTIES LC; THE DUNCAN LTD PARTNERSHIP	45-7037	Decreed	04/18/1969	IRRIGATION	0.78	60.0	
PLACE FARMS LTD	31-2423	Decreed	02/21/1966	IRRIGATION	4.67	380.3	
PLACE FARMS LTD	31-7039	Decreed	06/29/1970	IRRIGATION	4.90	280.0	
PLACE FARMS LTD	31-7060	Decreed	03/31/1972	IRRIGATION	2.28	122.0	
PLACE FARMS LTD	31-7099	Decreed	01/15/1974	IRRIGATION	2.67	140.0	
PLACE FARMS LTD	31-7098	Decreed	02/11/1974	IRRIGATION	1.38	380.3	
PLACE FARMS LTD	31-11340	Decreed	04/01/1974	IRRIGATION	0.15	122.0	Yes
PLACE FARMS LTD	31-7144A	Decreed	11/13/1974	IRRIGATION	2.17	124.0	
PLACE FARMS LTD	31-7144B	Decreed	11/13/1974	IRRIGATION	0.28	16.0	
PLACE FARMS LTD	31-7296	Decreed	03/28/1978	IRRIGATION	2.18	139.0	
PLACE FARMS LTD	31-7297	Decreed	03/28/1978	IRRIGATION	1.18	68.0	
PLACE FARMS LTD	31-11341	Decreed	04/01/1983	IRRIGATION	0.15	68.0	Yes
POCKET RANCH LAND HOLDINGS LLC	37-2719	Decreed	11/30/1965	IRRIGATION	4.23	409.0	
POCKET RANCH LAND HOLDINGS LLC	37-7473	Decreed	02/04/1976	IRRIGATION	3.22	409.0	
POLATIS BROTHERS	35-2388	Decreed	10/22/1954	IRRIGATION	2.34	148.0	
POLATIS BROTHERS	35-2630B	Decreed	05/24/1961	IRRIGATION	3.20	276.0	
POLATIS BROTHERS	35-4037	Decreed	06/16/1961	IRRIGATION	2.11	145.6	
POLATIS, DANIEL T; POLATIS, JOANN	35-7306A	Decreed	07/03/1973	IRRIGATION	0.86	61.0	
POLATIS, DANIEL T; POLATIS, JOANN	35-7306B	Decreed	07/03/1973	IRRIGATION	0.54	292.0	
POLATIS, GORDON; POLATIS, MARLA	35-2594B	Decreed	03/31/1960	IRRIGATION	2.28	157.8	
POLATIS, GORDON; POLATIS, MARLA	35-12189	Decreed	08/21/1965	IRRIGATION	0.40	157.8	
POLATIS, GORDON; POLATIS, MARLA	35-7570	Decreed	12/30/1975	IRRIGATION	1.60	211.0	
POLATIS, JOYCE; POLATIS, RANDALL J	35-7305	Decreed	07/03/1973	IRRIGATION	1.00	200.0	
POLATIS, JOYCE; POLATIS, RANDALL J	35-13699	Decreed	06/18/1974	IRRIGATION	0.53	318.0	Yes
POLATIS, JOYCE; POLATIS, RANDALL J	35-13700	Decreed	06/18/1974	IRRIGATION	0.07	40.0	Yes
POLATIS, JUDY; POLATIS, KIRK D	35-8802C	License	06/20/1989	IRRIGATION	0.18	9.0	
POLATIS, KATHY ANN; POLATIS, RICHARD D	35-2421	Decreed	04/29/1955	IRRIGATION	2.64	309.0	
POLATIS, KATHY ANN; POLATIS, RICHARD D	35-2445	Decreed	12/12/1955	IRRIGATION	3.10	155.0	
POLATIS, KATHY ANN; POLATIS, RICHARD D	35-7503	Decreed	06/04/1975	IRRIGATION	2.49	292.0	
POLATIS, KATHY ANN; POLATIS, RICHARD D	35-7588	Decreed	03/05/1976	IRRIGATION	2.58	292.0	

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POLATIS, KATHY ANN; POLATIS, RICHARD D	35-7672A	Decreed	02/09/1977	IRRIGATION, STOCKWATER	0.74	168.0	
POLATIS, KATHY ANN; POLATIS, RICHARD D	35-7672B	Decreed	02/09/1977	IRRIGATION	2.18	109.0	
POLATIS, KATHY ANN; POLATIS, RICHARD D	35-7819A	Decreed	09/22/1978	IRRIGATION	0.96	351.0	
POLATIS, KATHY ANN; POLATIS, RICHARD D	35-7819B	Decreed	09/22/1978	IRRIGATION	1.64	309.0	
POLATIS, RICHARD D	35-13623	License	06/01/1989	IRRIGATION	1.12	70.0	
POPA, DAN; POPA, PAM	36-8197	Decreed	06/07/1983	DOMESTIC, IRRIGATION	0.08	2.5	
POPE, CLAYTON B; POPE, MARILYN C	36-2503B	Decreed	07/27/1961	IRRIGATION	0.92	102.0	
POPE, WILLIAM R	27-7442	License	10/14/1987	DOMESTIC, IRRIGATION	0.08	1.5	
POSTMA, LAURA; POSTMA, RAYMOND	37-7447B	Decreed	07/30/1975	IRRIGATION	0.31	16.0	
POTEET, FERN P; POTEET, HERBERT W; POTEET, RICHARD F; POTEET, SHERMA F	36-2260	Decreed	05/22/1954	IRRIGATION	1.08	58.0	
POTEET, HERBERT W; POTEET, RICHARD F	36-7600	Decreed	01/19/1976	IRRIGATION	3.88	308.0	
POVEY, ANDREW E	36-16625	Decreed	11/11/1959	MITIGATION	0.11	0.0	
POVEY, ANDREW E	36-16627	Decreed	11/15/1970	MITIGATION	0.16	0.0	
POVEY, ANDREW E	36-16631	Decreed	05/26/1971	MITIGATION	0.01	0.0	
POVEY, ANDREW E	36-16629	Decreed	05/16/1980	MITIGATION	0.04	0.0	
POWELL, DIANE; POWELL, NEAL	27-7514	License	06/27/1990	IRRIGATION	2.06	119.0	
POWELL, DUSTIN	27-7362	License	06/09/1983	IRRIGATION	0.15	7.5	
PRATT, ANITA K; PRATT, GARY L	27-7387	License	03/26/1984	IRRIGATION, STOCKWATER	0.72	38.7	
PRATT, ANITA K; PRATT, GARY L	27-7316	License	08/16/1988	IRRIGATION	1.10	55.0	
PRATT, CAMI; PRATT, JARED A	36-2685	Decreed	02/27/1967	IRRIGATION	0.35	17.5	
PRICE, BETH; PRICE, TERRY L	36-8805	License	10/31/2000	IRRIGATION	0.03	0.8	
PRINCE, CARI L; PRINCE, JAMES J	36-2487	Decreed	06/07/1961	IRRIGATION	1.00	146.0	
PRINCE, CARI L; PRINCE, JAMES J	36-15687	Decreed	12/03/1966	COMMERCIAL, STOCKWATER	0.13	0.0	
PRINCE, CARI L; PRINCE, JAMES J	36-15685	Decreed	10/18/1968	COMMERCIAL, STOCKWATER	0.17	0.0	
PRINCE, CARI L; PRINCE, JAMES J	36-7303	Decreed	03/16/1973	IRRIGATION	1.11	70.0	
PRINCE, CARI L; PRINCE, JAMES J	36-16100	License	05/09/1988	COMMERCIAL, STOCKWATER	0.09	0.0	
PRINCE, CARI L; PRINCE, JAMES J	36-8395	License	09/23/1988	COMMERCIAL, STOCKWATER	0.11	0.0	
PRODUCERS IRRIGATION CO	31-12253	Decreed	07/25/1955	IRRIGATION	3.83	1088.0	
PRODUCERS IRRIGATION CO	31-12255	Decreed	07/26/1961	IRRIGATION	2.43	1088.0	
PRODUCERS IRRIGATION CO	31-10669	Decreed	08/07/1962	IRRIGATION	10.68	1088.0	
PROUSE, GORDON G	35-4091	Decreed	03/21/1963	IRRIGATION	1.81	100.0	
PROVO PEAK INVESTMENTS LLC,	36-2514	Decreed	12/26/1961	IRRIGATION	2.00	129.0	
PRUETT, BRENDA; PRUETT, DAN R	45-13821	Decreed	10/13/1972	IRRIGATION	0.05	6.1	
PT ELLIOTT LLC	35-14649	Decreed	04/22/1979	IRRIGATION	0.39	19.3	
PT ELLIOTT LLC	35-7720	Decreed	04/22/1979	IRRIGATION	0.26	100.0	
PUGH, BETTY D; PUGH, WILLIAM L	36-16729	Decreed	12/16/1958	IRRIGATION	0.34	17.0	
PURCELL II, JIMMIE A; PURCELL, GAIL JUNE	37-7694	Decreed	01/09/1978	IRRIGATION	0.10	5.0	

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PUREGRO CO	35-8675	License	10/12/1988	DOMESTIC, INDUSTRIAL	0.80	0.0	
PUTNAM, JANET D; PUTNAM, LAWRENCE D	27-12280	License	05/31/1989	DOMESTIC, IRRIGATION	0.04	1.0	
R & L PATTERSON LAND LLC	36-16526	Decreed	04/01/1955	IRRIGATION	0.31	466.5	Yes
R & L PATTERSON LAND LLC	36-2541	Decreed	05/16/1962	IRRIGATION	2.92	231.0	
R & L PATTERSON LAND LLC	36-7101	Decreed	12/16/1969	IRRIGATION	1.12	307.0	
R & L PATTERSON LAND LLC	36-16499	Decreed	04/01/1984	IRRIGATION	0.04	466.5	Yes
R & M FARMS	35-7826	Decreed	12/12/1978	IRRIGATION	5.43	300.0	
R & M FARMS PARTNERSHIP	35-2401	Decreed	01/31/1955	IRRIGATION	4.88	938.0	
R & M FARMS PARTNERSHIP	35-2411	Decreed	03/28/1955	IRRIGATION	4.92	938.0	
R & M FARMS PARTNERSHIP	35-2555A	Decreed	01/19/1959	IRRIGATION	5.16	452.0	
R & M FARMS PARTNERSHIP	35-2555B	Decreed	01/19/1959	IRRIGATION	3.61	318.0	
R & M FARMS PARTNERSHIP	35-2555C	Decreed	01/19/1959	IRRIGATION	6.23	530.0	
R & M FARMS PARTNERSHIP	35-7217	Decreed	04/01/1972	IRRIGATION	7.00	938.0	
R & M FARMS PARTNERSHIP	35-7218	Decreed	04/01/1972	IRRIGATION	2.76	138.0	
R & M FARMS PARTNERSHIP	35-7705	Decreed	05/02/1977	IRRIGATION	3.68	259.0	
R & R FARMS LLC	35-2447B	Decreed	12/28/1955	IRRIGATION	0.67	878.5	
R & R FARMS LLC	35-2580	Decreed	09/01/1959	IRRIGATION	4.00	878.5	
R & R FARMS LLC	35-2589	Decreed	02/16/1960	IRRIGATION	4.59	878.5	
RADY, DEANNA; RADY, KEITH	31-7295	Decreed	03/09/1978	IRRIGATION	2.16	124.0	
RAFTER J FARM & LIVESTOCK LLC	36-7009	Decreed	09/18/1967	IRRIGATION	0.56	28.0	
RAINSDON, DARWIN LYLE	35-2689E	Decreed	09/11/1961	IRRIGATION	1.74	87.0	
RANDYS RENTALS	36-8441A	License	09/12/1989	IRRIGATION	0.04	1.0	
RANDYS RENTALS	36-8441B	License	09/12/1989	COMMERCIAL	0.02	0.0	
RANSOM, RODNEY S	35-2879	Decreed	05/03/1967	IRRIGATION	4.30	314.0	
RANSOM, RODNEY S	35-13229	Decreed	04/01/1978	IRRIGATION	0.47	314.0	Yes
RASMUSSEN, JEFFREY R; RASMUSSEN, SHAWNA L	45-14534	Decreed	01/19/1978	IRRIGATION	0.01	1.5	
RASMUSSEN, JEFFREY R; RASMUSSEN, SHAWNA L	45-14535	License	02/12/1996	IRRIGATION	0.02	1.5	
RATLIFF, GARY; RATLIFF, JENNIE	27-11922	Decreed	04/29/1965	IRRIGATION	0.26	13.0	
RAVENSCROFT, HARRIETT B; RAVENSCROFT, VERNON F	37-7343	Decreed	03/03/1974	IRRIGATION	1.80	90.0	
RAY SAUER FARMS INC	32-7023N	Decreed	12/14/1973	IRRIGATION	0.10	13.0	
RAY SAUER FARMS INC	32-7023Q	Decreed	12/14/1973	IRRIGATION	0.10	13.0	
RAY SAUER FARMS INC	32-7069	Decreed	12/02/1976	IRRIGATION	2.63	141.0	
RAZORBACK VENTURES LLC	35-8905	License	08/07/1990	IRRIGATION	1.08	54.0	
RBA LLC	36-17143	Decreed	01/20/1965	IRRIGATION	0.01	2.5	
RBA LLC	36-17140	Decreed	01/09/1967	COMMERCIAL, IRRIGATION	0.15	9.0	
RBA LLC	36-17144	Decreed	12/09/1968	IRRIGATION	0.01	2.5	
RBA LLC	36-17145	Decreed	01/25/1974	IRRIGATION	0.01	2.5	
RBA LLC	36-17141	Decreed	04/01/1984	IRRIGATION	0.01	9.0	Yes

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RBA LLC	36-17146	Decreed	04/01/1984	IRRIGATION	0.01	2.5	Yes
REDD, BRIGHAM; REDD, HEATHER	25-14212	Decreed	04/01/1958	DOMESTIC, IRRIGATION, STOCKWATER	0.12	2.1	
REED & LESLIE BROWN FAMILY LTD PARTNERSHIP	36-7102A	Decreed	12/17/1969	IRRIGATION	0.07	4.5	
REED & LESLIE BROWN FAMILY LTD PARTNERSHIP	36-7102B	Decreed	12/17/1969	IRRIGATION	4.16	306.5	
REED, ANITA T; REED, D BRAD	35-7254	Decreed	10/12/1972	IRRIGATION	2.67	263.0	
REED, ANITA T; REED, D BRAD	35-7260	Decreed	11/03/1972	IRRIGATION	2.22	263.0	
REED, DARLENE; REED, JOHN GLENN	36-16558	Decreed	02/08/1963	IRRIGATION	4.79	262.0	
REED, DON R; REED, JANA	35-13423	Decreed	01/25/1981	IRRIGATION	1.89	270.0	
REED, JULIE K; REED, TERRY D	35-2766	Decreed	03/13/1965	IRRIGATION	2.00	154.0	
REED, JULIE K; REED, TERRY D	35-2795	Decreed	10/27/1965	IRRIGATION	2.30	141.0	
REED, JULIE K; REED, TERRY D	35-2803	Decreed	11/16/1965	IRRIGATION	2.30	150.0	
REED, JULIE K; REED, TERRY D	35-11106A	Decreed	04/01/1972	IRRIGATION	0.15	20.0	Yes
REED, JULIE K; REED, TERRY D	35-7224	Decreed	04/13/1972	IRRIGATION	2.28	124.0	
REED, JULIE K; REED, TERRY D	35-13249	Decreed	04/01/1979	IRRIGATION	0.14	154.0	Yes
REED, JULIE K; REED, TERRY D	35-13453	License	07/03/1989	IRRIGATION	0.07	27.0	
REED, JULIE K; REED, TERRY D; THE FARMERS MERCHANT	35-2474B	Decreed	09/18/1956	IRRIGATION	0.70	60.0	
REED, JULIE K; REED, TERRY D; THE FARMERS MERCHANT	35-11106B	Decreed	04/01/1972	IRRIGATION	0.19	215.0	Yes
REED, JULIE K; REED, TERRY D; THE FARMERS MERCHANT	35-8834A	License	07/03/1989	IRRIGATION	0.38	60.0	
REICHE, STEPHEN	35-2725	Decreed	05/20/1963	IRRIGATION	1.00	100.0	
REICHE, STEPHEN	35-11554	Decreed	05/04/1972	IRRIGATION	0.36	100.0	Yes
REICHE, STEPHEN	35-8590	License	06/25/1985	IRRIGATION	1.00	112.0	
REITSMA, GREGORY A; REITSMA, MELISA J	36-16487	Decreed	11/06/1961	COMMERCIAL, STOCKWATER	0.40	0.0	
REITSMA, GREGORY A; REITSMA, MELISA J	36-16651	Decreed	12/17/1974	IRRIGATION	1.54	76.9	
REITSMA, GREGORY A; REITSMA, MELISA J	36-16652	Decreed	12/17/1974	COMMERCIAL, STOCKWATER	0.06	0.0	
REITSMA, GREGORY A; REITSMA, MELISA J	36-8378	License	07/23/1997	COMMERCIAL, STOCKWATER	0.07	0.0	
REMSBERG III, JOHN D; REMSBERG, JUDY	36-7730	Decreed	07/01/1977	IRRIGATION	4.00	400.0	
REMSBERG III, JOHN D; REMSBERG, JUDY	36-16728	Decreed	03/07/1978	IRRIGATION	0.71	35.4	
RENO AGRICULTURE & ELECTRONICS	31-2411	Decreed	02/26/1964	IRRIGATION	3.13	310.5	
RENO AGRICULTURE & ELECTRONICS	31-7064	Decreed	08/04/1972	IRRIGATION	0.96	310.5	
RICH BROTHERS	35-13262	Decreed	02/18/1987	IRRIGATION	0.47	107.0	Yes
RICH BROTHERS	35-7294A	Decreed	02/18/1987	IRRIGATION	1.43	107.0	
RICHARD E TRAIL TRUST	36-7145	Decreed	12/10/1970	IRRIGATION	2.45	609.0	
RICHARD E TRAIL TRUST	36-7146	Decreed	12/10/1970	IRRIGATION	1.94	609.0	
RICHARD E TRAIL TRUST	36-7147	Decreed	12/10/1970	IRRIGATION	4.03	609.0	
RICHARD E TRAIL TRUST	36-15215	Decreed	03/15/1972	IRRIGATION	1.10	609.0	Yes
RICHARD E TRAIL TRUST	36-7528	Decreed	03/27/1975	IRRIGATION	1.08	609.0	
RICHARDS, RANDY GARY	35-8978	License	01/22/1992	DOMESTIC, IRRIGATION	0.05	1.0	
RICHINS, DALE H	31-11348	Decreed	04/01/1986	IRRIGATION	0.43	310.0	Yes

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RICHINS, DE ANN; RICHINS, LLOYD	36-2333	Decreed	06/26/1957	IRRIGATION	3.40	379.0	
RICHINS, DE ANN; RICHINS, LLOYD	36-2337	Decreed	08/19/1957	IRRIGATION	3.12	379.0	
RICKS, BRUCE R; RICKS, DIANE	32-13328	Decreed	12/14/1973	IRRIGATION	2.30	157.0	
RICKS, BRUCE R; RICKS, DIANE	32-13330	Decreed	12/14/1973	IRRIGATION	2.55	157.0	
RICKS, DIANE	32-2141B	Decreed	07/13/1955	IRRIGATION	12.06	603.0	
RIDDLE, LEN H; VEENSTRA, FRANK W	36-7376	Decreed	09/29/1973	IRRIGATION	2.75	185.0	
RIEHL, JENNIFER D; RIEHL, PHILEMON A	37-22305	Decreed	07/22/1971	IRRIGATION	0.08	3.0	
RIETKERK, GEORGE; RIETKERK, NANCY	36-7888	Decreed	01/10/1980	DOMESTIC, IRRIGATION, STOCKWATER	0.07	1.0	
RIETKERK, JOHN H; RIETKERK, RHONDA M	36-2692	Decreed	06/02/1967	IRRIGATION	2.56	220.0	
RIETKERK, JOHN H; RIETKERK, RHONDA M	36-7691	Decreed	03/22/1977	IRRIGATION	0.70	220.0	
RIRIE ELK MEADOWS HOMEOWNERS ASSN C/O SEAN KLINGLER	25-7662	License	08/26/1998	DOMESTIC	0.48	0.0	
RISENMAY, PEGGY L; RISENMAY, RALPH L	35-2408B	Decreed	03/11/1955	IRRIGATION	0.12	8.0	
RITCHIE, JAMES M; RITCHIE, KARLYN	36-7394	Decreed	11/14/1973	IRRIGATION	4.56	330.0	
RITCHIE, JAMES M; RITCHIE, KARLYN	36-7726	Decreed	06/23/1977	IRRIGATION	4.00	261.0	
RITCHIE, JAMES M; RITCHIE, KARLYN	36-7752	Decreed	09/28/1977	IRRIGATION	3.58	251.0	
RITCHIE, JAMES M; RITCHIE, KARLYN	36-8077	Decreed	07/12/1984	IRRIGATION	1.60	330.0	
RITCHIE, JOHN M; RITCHIE, KAYE	35-13993	Decreed	07/13/1954	IRRIGATION	0.20	34.4	
RITCHIE, JOHN M; RITCHIE, KAYE	35-13999	Decreed	04/01/1966	IRRIGATION	0.15	48.4	Yes
RITCHIE, JOHN M; RITCHIE, KAYE	35-13995	Decreed	11/12/1975	IRRIGATION	0.42	34.4	
RIVERBEND DAIRY	36-2698	Decreed	02/25/1960	STOCKWATER	0.36	0.0	
RIVERBEND DAIRY	36-7304B	Decreed	02/23/1973	COMMERCIAL, STOCKWATER	0.24	0.0	
RIVERBEND DAIRY	36-7304C	Decreed	02/23/1973	COMMERCIAL, STOCKWATER	0.80	0.0	
RIVERBEND DAIRY	36-8608	License	09/03/1991	COMMERCIAL, DOMESTIC, IRRIGATION, STOCKWATER	0.86	2.0	
RIVERBEND ROAD FARMS LLC	35-7010	Decreed	01/17/1968	IRRIGATION	1.80	90.0	
RIVERBEND ROAD FARMS LLC	35-8802A	License	06/20/1989	IRRIGATION	0.32	106.0	
RIVERSIDE CEMETERY DISTRICT	36-7063	Decreed	05/08/1969	IRRIGATION	0.08	9.0	
RIVERSIDE CEMETERY DISTRICT	36-7227	Decreed	03/08/1972	IRRIGATION	0.20	9.0	
RIVERSIDE CEMETERY DISTRICT	36-15341	Decreed	08/20/1976	IRRIGATION	0.12	9.0	Yes
RIVERSIDE ESTATES WATER USERS ASSN	35-8711	License	04/07/1989	DOMESTIC, IRRIGATION	0.39	8.0	
RIVERSIDE THOMAS CEMETARY	35-8788	License	06/02/1989	IRRIGATION	0.10	5.0	
RIVERVIEW ACRES #1	35-4135	Decreed	10/16/1957	DOMESTIC, IRRIGATION	0.28	7.0	
RIVERVIEW CEMETERY MAINTENANCE DISTRICT	35-2511	Decreed	08/15/1957	IRRIGATION	0.02	1.0	
RIVERVIEW ONE LLC	35-7904	Decreed	06/09/1993	COMMERCIAL	0.64	0.0	
RLDR FARM LLC	36-2261	Decreed	05/26/1954	IRRIGATION	2.40	591.0	
RLDR FARM LLC	36-2560	Decreed	12/26/1962	IRRIGATION	0.72	591.0	
ROBBINS, AMELIA; ROBBINS, MYRON	27-11972	Decreed	11/23/1976	IRRIGATION	0.01	1.3	
ROBBINS, KELLI JO; ROBBINS, QUINN JOE	27-11973	Decreed	11/23/1976	IRRIGATION	0.01	1.2	

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ROBERTS FAMILY TRUST; ROBERTS, BILLY K	27-11974	Decreed	11/23/1976	IRRIGATION	0.02	1.6	
ROBERTS, LEOLA CARROL	27-7056	Decreed	12/05/1975	DOMESTIC, IRRIGATION	0.15	6.0	
ROBERTSON LAND CO LLC	36-16589	Decreed	05/10/1960	IRRIGATION	5.70	426.0	
ROBERTSON LAND CO LLC	36-15155	Decreed	02/03/1966	IRRIGATION	3.28	400.0	
ROBERTSON LAND CO LLC	36-16591	Decreed	02/29/1968	IRRIGATION	2.82	426.0	
ROBERTSON LAND CO LLC	36-7674	Decreed	01/28/1977	IRRIGATION	4.74	400.0	
ROBERTSON LAND CO LLC	36-7802B	License	06/16/1978	IRRIGATION	1.40	522.5	
ROBERTSON, COLLETTE; ROBERTSON, LOGAN	36-16848	Decreed	02/21/1958	IRRIGATION	0.02	7.7	
ROBERTSON, COLLETTE; ROBERTSON, LOGAN	36-16842	Decreed	02/12/1960	IRRIGATION	0.01	7.7	
ROBERTSON, COLLETTE; ROBERTSON, LOGAN	36-16850	Decreed	06/01/1962	IRRIGATION	0.01	7.7	
ROBERTSON, COLLETTE; ROBERTSON, LOGAN	36-16844	Decreed	03/07/1966	IRRIGATION	0.02	7.7	
ROBERTSON, COLLETTE; ROBERTSON, LOGAN	36-16852	Decreed	09/27/1968	IRRIGATION	0.02	7.7	
ROBERTSON, COLLETTE; ROBERTSON, LOGAN	36-16854	Decreed	04/06/1978	IRRIGATION	0.01	7.7	
ROBERTSON, COLLETTE; ROBERTSON, LOGAN	36-16846	Decreed	07/13/1987	IRRIGATION	0.01	7.7	
ROBERTSON, COLLETTE; ROBERTSON, LOGAN	36-16840	License	03/13/1989	IRRIGATION	0.02	7.7	
ROBERTSON, FINCH; ROBERTSON, VERNA I	35-7052	Decreed	09/05/1968	IRRIGATION	0.60	30.0	
ROBERTSON, RYAN	36-15363	Decreed	04/17/1960	IRRIGATION	10.17	1140.0	
ROBERTSON, RYAN	36-4058A	Decreed	06/01/1962	IRRIGATION	1.24	1140.0	
ROBERTSON, RYAN	36-7056	Decreed	05/07/1969	IRRIGATION	6.40	1140.0	
ROBERTSON, RYAN	36-11124	Decreed	05/01/1972	IRRIGATION	0.52	1140.0	
ROBERTSON, RYAN	36-7690A	Decreed	04/06/1978	IRRIGATION	2.24	1140.0	
ROBINSON, ALMY J; ROBINSON, VERA JO	35-7385	Decreed	03/10/1974	IRRIGATION	0.60	30.0	
ROBINSON, DIANE	36-11109	Decreed	03/15/1963	IRRIGATION	0.10	5.0	
ROBINSON, ELAINE; ROBINSON, I WAYNE	35-13478	Decreed	03/11/1955	IRRIGATION	1.21	98.0	
ROBINSON, ELAINE; ROBINSON, I WAYNE	35-13480	Decreed	04/01/1962	IRRIGATION	0.75	98.0	
ROBINSON, I WAYNE	35-2509	Decreed	08/08/1957	IRRIGATION	3.92	315.0	
ROBINSON, I WAYNE	35-2613	Decreed	09/21/1960	IRRIGATION	3.12	511.0	
ROBINSON, I WAYNE	35-7785	Decreed	02/09/1978	IRRIGATION	6.00	511.0	
ROBINSON, I WAYNE	35-8687	License	12/28/1988	COMMERCIAL, DOMESTIC	0.04	0.0	
ROBISON FARMS	35-2545	Decreed	09/23/1958	IRRIGATION	4.00	313.0	
ROBISON FARMS	35-10248	Decreed	05/01/1980	IRRIGATION	0.32	828.0	Yes
ROBISON, ANGIE; ROBISON, DAVE	35-2640	Decreed	12/19/1960	IRRIGATION	5.12	619.0	
ROBISON, ANGIE; ROBISON, DAVE	35-2683B	Decreed	09/16/1961	IRRIGATION	1.69	619.0	
ROBISON, ANGIE; ROBISON, DAVE	35-2852	Decreed	12/19/1966	IRRIGATION	3.82	317.0	
ROBISON, ANGIE; ROBISON, DAVE	35-13203	Decreed	08/12/1971	IRRIGATION	0.31	317.0	Yes
ROBISON, DAVID W	35-13317	Decreed	01/27/1976	COMMERCIAL	0.04	0.0	
ROBISON, RONALD D	35-2721	Decreed	02/06/1963	IRRIGATION	0.30	17.0	
ROCKIN S EQUIPMENT CO	27-12307	Decreed	11/12/1974	IRRIGATION	2.08	148.0	

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ROCKY MOUNTAIN AGRONOMICS INC	35-14042	Decreed	03/24/1982	INDUSTRIAL	0.10	0.0	
ROCKY MOUNTAIN AGRONOMICS INC	35-8907	License	07/25/1990	COMMERCIAL	0.46	0.0	
ROCKY MOUNTAIN LAND & CATTLE CO	31-11805	Decreed	09/02/1961	IRRIGATION	0.32	13.9	
ROCKY MOUNTAIN LAND & CATTLE CO	31-11806	Decreed	09/02/1961	STOCKWATER	0.40	0.0	
ROCKY MOUNTAIN LAND & CATTLE LLC	31-11444	Decreed	05/01/1973	IRRIGATION	0.45	30.0	Yes
ROCKY MOUNTAIN LAND & CATTLE LLC	31-7094	Decreed	09/28/1973	IRRIGATION	1.41	94.0	
RODNEY HANSEN FARMS INC	36-11147	Decreed	03/15/1968	IRRIGATION	0.26	497.1	Yes
RODRIGUEZ, LORENZO	27-12154	Decreed	12/27/1961	IRRIGATION	0.04	1.9	
ROELOFFS LAND HOLDINGS LLC	36-2262	Decreed	05/25/1954	IRRIGATION	2.00	154.0	
ROELOFFS LAND HOLDINGS LLC	36-2335	Decreed	07/08/1957	IRRIGATION	3.16	279.0	
ROELOFFS LAND HOLDINGS LLC	36-4048	Decreed	03/25/1958	IRRIGATION	3.14	193.0	
ROELOFFS LAND HOLDINGS LLC	36-2374B	Decreed	01/29/1959	IRRIGATION	1.94	97.0	
ROELOFFS LAND HOLDINGS LLC	36-2494	Decreed	07/05/1961	IRRIGATION	0.78	39.0	
ROELOFFS LAND HOLDINGS LLC	36-2510	Decreed	08/25/1961	IRRIGATION	0.68	34.0	
ROELOFFS LAND HOLDINGS LLC	36-2590	Decreed	05/19/1964	IRRIGATION	2.42	142.0	
ROELOFFS LAND HOLDINGS LLC	36-7304A	Decreed	02/23/1973	IRRIGATION	5.20	322.0	
ROELOFFS LAND HOLDINGS LLC	36-7326	Decreed	04/06/1973	IRRIGATION	0.64	36.0	
ROELOFFS LAND HOLDINGS LLC	36-7325A	Decreed	04/12/1973	IRRIGATION	3.60	188.5	
ROELOFFS LAND HOLDINGS LLC	36-7325B	Decreed	04/12/1973	IRRIGATION	0.95	279.0	
ROELOFFS LAND HOLDINGS LLC	36-7533A	Decreed	03/27/1975	IRRIGATION	1.13	72.0	
ROELOFFS LAND HOLDINGS LLC	36-7533B	Decreed	03/27/1975	IRRIGATION	1.12	81.0	
ROELOFFS LAND HOLDINGS LLC	36-7533C	Decreed	03/27/1975	IRRIGATION	0.42	30.0	
ROELOFFS LAND HOLDINGS LLC	36-7575	Decreed	10/31/1975	IRRIGATION, STOCKWATER	0.43	37.0	
ROELOFFS LAND HOLDINGS LLC	36-7583	Decreed	12/09/1975	IRRIGATION	0.22	142.0	
ROELOFFS LAND HOLDINGS LLC	36-7584	Decreed	12/09/1975	IRRIGATION	1.08	154.0	
ROELOFFS LAND HOLDINGS LLC	36-7672	Decreed	01/27/1977	IRRIGATION	1.77	103.0	
ROELOFFS LAND HOLDINGS LLC	36-10666	Decreed	05/01/1987	IRRIGATION	0.19	142.0	Yes
ROGERS, DAVID W; ROGERS, RONDA	36-7428	Decreed	01/10/1974	IRRIGATION	0.40	30.0	
ROJAS, WILMA L	36-2503A	Decreed	07/27/1961	IRRIGATION	0.34	17.0	
ROLLER KING TRUST	36-8419	License	04/04/1989	COMMERCIAL	0.04	0.0	
ROLLING HILLS DEVELOPMENT	35-14535	Decreed	04/15/1959	IRRIGATION	0.38	54.9	
ROLLING HILLS DEVELOPMENT	35-13522	License	11/18/2004	DOMESTIC	0.35	0.0	
ROLLING ROCK DAIRY FARM LLC	36-8546	License	05/15/1990	COMMERCIAL, STOCKWATER	0.08	0.0	
RONALD ESPLIN AND SONS LP	27-7321	Decreed	06/02/1982	IRRIGATION	0.58	29.0	
RONALD ESPLIN FARMS LP	27-10314	Decreed	09/01/1961	IRRIGATION	1.29	64.3	
RONALD ESPLIN FARMS LP	27-7066	Decreed	09/24/1976	IRRIGATION	0.86	43.0	
RONALD ESPLIN FARMS LP	27-7077B	Decreed	03/04/1977	IRRIGATION	0.54	35.0	
RONALD ESPLIN FARMS LP	27-7103	Decreed	05/28/1980	IRRIGATION	5.43	505.0	

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RONALD ESPLIN FARMS LP	27-11957	Decreed	04/01/1984	IRRIGATION	0.16	35.0	Yes
RONALD ESPLIN FARMS LP	27-11958	License	07/22/2003	IRRIGATION	0.66	116.0	
ROOST POTATO CO INC	36-13931	Decreed	03/01/1955	DOMESTIC, STOCKWATER	0.40	0.0	
ROOST POTATO CO INC	36-7000	Decreed	06/14/1967	STOCKWATER	0.56	0.0	
ROSA, EDWARD M	37-7009	Decreed	01/16/1968	IRRIGATION	3.04	151.7	
ROSE GARDEN UTILITY CORP	27-7148	Decreed	03/28/1980	DOMESTIC	0.37	0.0	
ROSE, JESSE E; ROSE, KATHY A	36-8535	License	04/12/1990	DOMESTIC, IRRIGATION	0.13	4.0	
ROSS D NEWMAN LLC	31-2384	Decreed	12/07/1960	IRRIGATION	3.12	304.0	
ROSS D NEWMAN LLC	31-2425	Decreed	07/08/1966	IRRIGATION	2.52	304.0	
ROSSI, CHARLENE	35-2762	Decreed	03/01/1965	IRRIGATION	4.37	266.0	
ROSSI, TOMMASO	35-7042	Decreed	09/04/1968	IRRIGATION	2.67	156.0	
ROTH INVESTMENTS LLC	36-2539A	Decreed	04/26/1962	IRRIGATION	3.19	475.0	
ROTH INVESTMENTS LLC	36-2539B	Decreed	04/26/1962	COMMERCIAL, STOCKWATER	0.85	0.0	
ROTH INVESTMENTS LLC	36-7235	Decreed	04/19/1972	IRRIGATION	5.00	2126.0	
ROTH INVESTMENTS LLC	36-16859	Decreed	07/05/1973	COMMERCIAL, STOCKWATER	0.18	0.0	
ROTH INVESTMENTS LLC	36-16860	Decreed	07/05/1973	IRRIGATION	2.67	2126.0	
ROTH INVESTMENTS LLC	36-16886	Decreed	07/05/1985	IRRIGATION	0.49	2126.0	Yes
ROTH INVESTMENTS LLC	36-16887	Decreed	07/05/1985	COMMERCIAL, STOCKWATER	0.03	0.0	Yes
ROTH, JAMES D	36-7395	Decreed	10/24/1973	IRRIGATION	3.18	314.0	
ROTH, JAMES D	36-7705	Decreed	05/16/1977	IRRIGATION	2.09	167.0	
ROUNDY, BARBARA K; ROUNDY, WILLIAM H	31-7657	Decreed	07/19/1979	IRRIGATION	3.20	295.0	
ROUNDY, JANEY; ROUNDY, KAMLAH	31-12322	Decreed	02/13/1959	IRRIGATION	0.49	1777.0	
ROUNDY, JANEY; ROUNDY, KAMLAH	31-2372	Decreed	02/13/1959	IRRIGATION	1.71	123.0	
ROUNDY, JANEY; ROUNDY, KAMLAH	31-10405B	Decreed	04/01/1960	IRRIGATION	0.80	1777.0	
ROUNDY, JANEY; ROUNDY, KAMLAH	31-4117	Decreed	05/01/1961	IRRIGATION	3.76	1777.0	
ROUNDY, JANEY; ROUNDY, KAMLAH	32-4001C	Decreed	02/01/1963	IRRIGATION	2.55	127.5	
ROUNDY, JANEY; ROUNDY, KAMLAH	31-12396	Decreed	05/22/1974	IRRIGATION	0.39	1777.0	
ROUNDY, JANEY; ROUNDY, KAMLAH	31-12433	Decreed	05/22/1974	IRRIGATION	0.38	1777.0	
ROUNDY, JANEY; ROUNDY, KAMLAH	31-7124	Decreed	05/22/1974	IRRIGATION, STOCKWATER	4.35	246.8	
ROUNDY, JANEY; ROUNDY, KAMLAH	31-12472	Decreed	05/22/1974	IRRIGATION	0.37	1777.0	
ROUNDY, JANEY; ROUNDY, KAMLAH	31-12323	Decreed	04/13/1976	IRRIGATION	0.20	1777.0	
ROUNDY, JANEY; ROUNDY, KAMLAH	31-7196C	Decreed	04/13/1976	IRRIGATION	0.69	123.0	
ROUNDY, WILLIAM H	31-12159	Decreed	07/25/1955	IRRIGATION	1.02	312.0	
ROUNDY, WILLIAM H	32-4000	Decreed	05/01/1960	IRRIGATION	5.45	307.0	
ROUNDY, WILLIAM H	31-12164	Decreed	07/26/1961	IRRIGATION	0.64	312.0	
ROY & NORMA LLC	36-7024	Decreed	04/16/1968	IRRIGATION	0.54	35.0	
RSM VENTURES LLC	25-7267	Decreed	01/06/1982	COMMERCIAL	0.04	0.0	
RUBY RANCH INC	36-7860	Decreed	06/20/1979	IRRIGATION	1.01	51.0	

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RUBY, HAROLD J; RUBY, LINDA L	36-7508A	Decreed	11/05/1974	IRRIGATION	0.61	33.0	
RUBY, KENNETH E	36-7207A	Decreed	10/12/1971	IRRIGATION	1.28	64.0	
RUBY, KENNETH E	36-7794	Decreed	04/28/1978	IRRIGATION	0.38	19.0	
RUPERT ANIMAL HOSPITAL	36-8460	License	10/11/1989	COMMERCIAL	0.05	0.0	
RUSHTON, BRIAN L	27-7352	Decreed	04/29/1983	DOMESTIC, FIRE PROTECTION, IRRIGATION	0.07	0.5	
RUSSELL, MISTRI; RUSSELL, RACE	27-12311	Decreed	09/11/1974	IRRIGATION	0.10	5.0	
RUSSELL, VIOLA	35-13475	Decreed	04/01/1956	IRRIGATION	0.03	1.0	
S & S AGRISOURCE HOLDING LLC	31-12416	Decreed	05/17/1955	IRRIGATION	0.07	171.0	
S & S AGRISOURCE HOLDING LLC	32-2096B	Decreed	05/17/1955	IRRIGATION	1.05	119.5	
S & S AGRISOURCE HOLDING LLC	31-12415	License	01/02/1996	IRRIGATION	0.05	171.0	
S & S AGRISOURCE HOLDING LLC	32-7034A	License	01/02/1996	IRRIGATION	0.68	119.5	
S & S FARMS; SEARLE, DEAN L	35-13788	Decreed	05/01/1954	IRRIGATION	0.70	72.0	
S & S PARTNERSHIP	35-7586	Decreed	02/23/1976	IRRIGATION	6.41	591.0	
S & S PARTNERSHIP	35-7605	Decreed	04/28/1976	IRRIGATION	4.00	591.0	
SABALA, JANE M; SABALA, JERRY	36-7515	Decreed	12/12/1974	IRRIGATION	0.73	38.0	
SAGEBRUSH SPUDS	36-8366	License	06/15/1988	COMMERCIAL	0.02	0.0	
SALISBURY, BEVERLY R; SALISBURY, RICHARD D	35-14347	Decreed	02/10/1976	IRRIGATION	0.37	18.3	
SALMON FALLS LAND & LIVESTOCK CO INC	36-2419	Decreed	02/08/1960	IRRIGATION	4.81	404.0	
SALMON FALLS LAND & LIVESTOCK CO INC	36-10037	Decreed	03/15/1974	IRRIGATION	1.65	404.0	Yes
SALMON FALLS LAND & LIVESTOCK CO INC	36-10033	Decreed	03/15/1975	IRRIGATION	1.07	370.0	Yes
SALMON FALLS LAND & LIVESTOCK CO INC	36-10035	Decreed	03/15/1981	IRRIGATION	0.47	370.0	Yes
SAND SPRINGS LP	36-7136	Decreed	07/10/1970	IRRIGATION	4.20	1556.6	
SAND SPRINGS LP	36-7163	Decreed	03/03/1971	IRRIGATION	5.49	1556.6	
SAND SPRINGS LP	36-7452	Decreed	03/11/1974	IRRIGATION	0.50	1556.6	
SAND SPRINGS LP	36-7453	Decreed	03/11/1974	IRRIGATION	1.34	1556.6	
SAND SPRINGS LP	36-17052		07/15/2015	DIVERSION TO STORAGE, WILDLIFE STORAGE	2.43	0.0	
SANDERS FAMILY LLLP	31-7318	Decreed	09/09/1987	IRRIGATION	1.52	93.7	
SANDOVAL FARMS INC	27-7096A	Decreed	07/05/1977	IRRIGATION	1.51	81.0	
SANDOVAL, VERNON G	27-7534	License	03/27/1991	IRRIGATION	2.62	131.0	
SAPP, JEANNETTE; SAPP, RANDY E	35-8367A	License	01/22/1985	IRRIGATION	0.22	11.0	
SAUER FARMS INC	32-2141A	Decreed	07/13/1955	IRRIGATION	5.70	285.0	
SAUER FARMS INC	32-13260	Decreed	01/21/1957	IRRIGATION	0.28	66.0	
SAUER FARMS INC	32-2140C	Decreed	01/21/1957	IRRIGATION	6.60	330.0	
SAUER FARMS INC	32-13256	Decreed	10/25/1966	IRRIGATION	0.08	66.0	
SAUER FARMS INC	32-13249	Decreed	12/14/1973	IRRIGATION	2.00	153.0	
SAUER FARMS INC	32-13250	Decreed	12/14/1973	IRRIGATION	0.09	66.0	
SAUER FARMS INC	32-13251	Decreed	12/14/1973	IRRIGATION	2.03	153.0	

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SAUER FARMS INC	32-13252	Decreed	12/14/1973	IRRIGATION	0.09	66.0	
SAUER FARMS INC	32-13253	Decreed	12/14/1973	IRRIGATION	4.78	304.0	
SAUER FARMS INC	32-13254	Decreed	12/14/1973	IRRIGATION	0.19	66.0	
SAUER FARMS INC	32-13327	Decreed	12/14/1973	IRRIGATION	2.17	148.5	
SAUER FARMS INC	32-13329	Decreed	12/14/1973	IRRIGATION	2.42	149.5	
SAUER FARMS INC	32-7023J	Decreed	12/14/1973	IRRIGATION	4.72	236.0	
SAUER FARMS INC	32-13247	Decreed	11/04/1976	IRRIGATION	1.97	138.6	
SAUER FARMS INC	32-13248	Decreed	11/04/1976	IRRIGATION	0.02	66.0	
SAUER FARMS INC	32-13261	Decreed	11/04/1976	IRRIGATION	4.66	323.6	
SAUER FARMS INC	32-13262	Decreed	11/04/1976	IRRIGATION	0.06	66.0	
SAUER FARMS INC	32-13394	Decreed	11/04/1976	IRRIGATION	1.51	106.0	
SAUER FARMS INC	32-13245	Decreed	12/02/1976	IRRIGATION	3.87	275.8	
SAUER FARMS INC	32-13246	Decreed	12/02/1976	IRRIGATION	0.02	66.0	
SAUER FARMS INC	32-7063	Decreed	12/02/1976	IRRIGATION	1.87	150.0	
SAUER FARMS INC	32-7064	Decreed	12/02/1976	IRRIGATION	1.47	306.0	
SAUER FARMS INC	32-7065	Decreed	12/02/1976	IRRIGATION	1.74	306.0	
SAUER FARMS INC	32-13258	Decreed	10/11/1978	IRRIGATION	0.19	66.0	
SAUER FARMS INC	32-11241	Decreed	04/01/1986	IRRIGATION	0.51	306.0	Yes
SAUER FARMS INC	32-11242	Decreed	04/01/1986	IRRIGATION	0.28	150.0	Yes
SAUER, DAVID W; SAUER, MAGDALENE	32-2127B	Decreed	10/25/1966	IRRIGATION	1.81	132.0	
SAUER, DAVID W; SAUER, MAGDALENE	32-7013C	Decreed	01/15/1973	IRRIGATION	4.01	264.0	
SAUER, DAVID W; SAUER, MAGDALENE	32-11243B	Decreed	04/01/1986	IRRIGATION	0.32	28.0	Yes
SAUER, DAVID W; SAUER, MAGDALENE	32-11245	Decreed	04/01/1986	IRRIGATION	0.55	42.0	Yes
SAUER, DAVID; SAUER, MAGDALENE	32-7023G	Decreed	02/14/1973	IRRIGATION	4.11	320.0	
SAUER, DIANE	32-2140B	Decreed	01/21/1957	IRRIGATION	0.80	40.0	
SAUER, DIANE	32-2140D	Decreed	01/21/1957	IRRIGATION	6.24	312.0	
SAUER, DIANE	32-2140E	Decreed	01/21/1957	IRRIGATION	3.04	152.0	
SAUER, DIANE	32-2127D	Decreed	10/25/1966	IRRIGATION	1.62	117.0	
SAUER, DIANE	32-7099B	Decreed	10/11/1978	IRRIGATION	0.57	29.0	
SAUNDERS PARTNERSHIP	35-7131A	Decreed	03/26/1970	IRRIGATION	0.05	2.5	
SAVAGE, AARON; SAVAGE, LYLA	31-7117	Decreed	12/28/1973	IRRIGATION	2.13	116.0	
SAWTOOTH SHEEP INC	37-8702	License	01/31/1991	IRRIGATION	2.50	260.0	
SCHAEFFER & SCHAEFFER LLC	36-2533	Decreed	01/02/1962	IRRIGATION	0.70	35.0	
SCHAEFFER FARMS II LLC	36-16867	Decreed	01/22/1958	IRRIGATION	0.91	80.0	
SCHAEFFER FARMS II LLC	36-2557	Decreed	12/13/1962	IRRIGATION	4.76	319.0	
SCHAEFFER FARMS II LLC	36-2568	Decreed	03/18/1963	IRRIGATION	2.93	160.0	
SCHAEFFER FARMS II LLC	36-7015B	Decreed	02/14/1968	IRRIGATION	1.92	303.0	
SCHAEFFER, DIANNE RAE	36-13767	Decreed	03/01/1955	DOMESTIC, STOCKWATER	0.17	0.0	

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SCHAEFFER, DIANNE RAE	36-16199	Decreed	01/22/1958	IRRIGATION	3.99	351.0	
SCHAEFFER, DIANNE RAE	36-16200	Decreed	01/22/1958	STOCKWATER	0.26	0.0	
SCHAEFFER, TAMERA	36-8220B	License	02/07/1990	IRRIGATION	1.20	162.0	
SCHENK, ROBERT W; STEWART, REID S; ZOLLINGER, C S	36-2397	Decreed	12/07/1960	IRRIGATION	5.63	462.0	
SCHENK, ROBERT W; STEWART, REID S; ZOLLINGER, C S	36-10030	Decreed	04/01/1975	IRRIGATION	1.30	462.0	Yes
SCHILDER, LEVI; SCHILDER, RENAE	37-22306	Decreed	07/22/1971	IRRIGATION	0.06	6.0	
SCHOTH, PAMELA S	36-8589	License	05/09/1991	DOMESTIC, IRRIGATION	0.13	2.7	
SCHOTT, JEFFREY A; SCHOTT, LINDA R	36-8536	License	04/12/1990	DOMESTIC, IRRIGATION	0.03	1.0	
SCHWIEDER, KAELYNE; SCHWIEDER, KIRT	35-13868	Decreed	02/28/1955	IRRIGATION	4.79	3345.0	
SCHWIEDER, KAELYNE; SCHWIEDER, KIRT	35-13869	Decreed	02/28/1955	IRRIGATION	0.33	3345.0	
SCHWIEDER, KAELYNE; SCHWIEDER, KIRT	35-13872	Decreed	06/20/1961	IRRIGATION	1.64	3345.0	
SCHWIEDER, KAELYNE; SCHWIEDER, KIRT	35-13873	Decreed	06/20/1961	IRRIGATION	0.07	3345.0	
SCHWIEDER, KAELYNE; SCHWIEDER, KIRT	35-13874	Decreed	06/20/1961	IRRIGATION	4.01	3345.0	
SCHWIEDER, KAELYNE; SCHWIEDER, KIRT	35-13875	Decreed	06/20/1961	IRRIGATION	0.28	3345.0	
SCHWIEDER, KAELYNE; SCHWIEDER, KIRT	35-13864	Decreed	01/10/1966	IRRIGATION	6.03	3345.0	
SCHWIEDER, KAELYNE; SCHWIEDER, KIRT	35-13865	Decreed	01/10/1966	IRRIGATION	0.45	3345.0	
SCHWIEDER, KAELYNE; SCHWIEDER, KIRT	35-7009	Decreed	01/08/1968	IRRIGATION	4.00	3345.0	
SCHWIEDER, KAELYNE; SCHWIEDER, KIRT	35-7157	Decreed	11/27/1970	IRRIGATION	3.74	3345.0	
SCHWIEDER, KAELYNE; SCHWIEDER, KIRT	35-13870	Decreed	04/11/1972	IRRIGATION	7.31	3345.0	
SCHWIEDER, KAELYNE; SCHWIEDER, KIRT	35-14130	Decreed	04/11/1972	IRRIGATION	0.08	3345.0	
SCHWIEDER, KAELYNE; SCHWIEDER, KIRT	35-14131	Decreed	04/11/1972	IRRIGATION	0.13	3345.0	
SCHWIEDER, KAELYNE; SCHWIEDER, KIRT	35-7324	Decreed	08/31/1973	IRRIGATION	6.38	3345.0	
SCHWIEDER, KAELYNE; SCHWIEDER, KIRT	35-13866	Decreed	03/13/1974	IRRIGATION	6.00	3345.0	
SCHWIEDER, KAELYNE; SCHWIEDER, KIRT	35-13867	Decreed	03/13/1974	IRRIGATION	0.25	3345.0	
SCHWIEDER, KAELYNE; SCHWIEDER, KIRT	35-7536	Decreed	10/14/1975	IRRIGATION	7.91	3345.0	
SCOTT, AMANDA; SCOTT, BRENT	35-14553	Decreed	03/07/1977	DOMESTIC, IRRIGATION, STOCKWATER	0.16	5.1	
SCOTT, BRADY; SCOTT, KARIN	27-7260	Decreed	03/06/1981	IRRIGATION	0.42	21.0	
SEAMONS, GARY	35-7980	Decreed	05/11/1981	IRRIGATION	0.20	144.0	
SEAMONS, GARY	35-7982	Decreed	05/11/1981	IRRIGATION	0.28	161.0	
SEAMONS, GARY	35-7983	Decreed	06/05/1981	IRRIGATION	0.96	63.0	
SEARLE FARMS	35-2463	Decreed	12/19/1960	IRRIGATION	2.89	152.0	
SEARLE, AMY; SEARLE, BROCK	35-8155	Decreed	06/09/1983	DOMESTIC, IRRIGATION, STOCKWATER	0.07	3.0	
SEARLE, KENT; SEARLE, STANLEY	35-8919	License	09/26/1990	IRRIGATION	0.33	392.0	
SECRIST, DREW; SECRIST, KAYLA	35-14865	Decreed	09/08/1961	IRRIGATION	0.16	4.0	
SEE FARMS INC	31-2369	Decreed	09/22/1958	IRRIGATION	4.12	475.4	
SEE FARMS INC	31-7123	Decreed	05/02/1974	IRRIGATION	2.04	475.4	
SEELEY, ARNOLD LYNN	35-8035	Decreed	05/03/1982	IRRIGATION	0.24	12.0	
SERR, DARYL J; SERR, ILENE M	36-2267	Decreed	08/28/1954	IRRIGATION	1.60	80.0	

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SERR, ILENE M	36-7026	Decreed	06/05/1968	IRRIGATION	4.90	291.0	
SERR, KAREN B; SERR, MAX A	36-7299	Decreed	02/07/1973	IRRIGATION	4.22	214.0	
SERR, KAREN B; SERR, MAX A	36-7965	Decreed	12/29/1980	IRRIGATION	1.18	59.0	
SERR, KAREN B; SERR, MAX A	36-15364	Decreed	04/01/1985	IRRIGATION	0.06	214.0	Yes
SEVERANCE, EULA; SEVERANCE, RICHARD	37-2724	Decreed	02/11/1966	IRRIGATION	1.26	63.0	
SHAW, ACEY RYAN; SHAW, JALYN BELLE; SHAW, RITA S; SHAW, WILLIAM HUBERT	37-21425	Decreed	01/07/1974	IRRIGATION	2.65	1276.0	
SHAW, ACEY RYAN; SHAW, JALYN BELLE; SHAW, RITA S; SHAW, WILLIAM HUBERT	37-21264	Decreed	02/27/1979	IRRIGATION	0.63	1276.0	
SHAW, DEAN B	36-7702	Decreed	05/05/1977	IRRIGATION	2.32	116.0	
SHAW, EUGENE L; SHAW, JOYCE M	37-7157	Decreed	08/21/1972	IRRIGATION	1.94	97.2	
SHAW, EUGENE L; SHAW, JOYCE M	37-7314	Decreed	11/05/1973	IRRIGATION	2.80	180.0	
SHAW, EUGENE L; SHAW, JOYCE M	37-7726	Decreed	08/10/1978	IRRIGATION	0.80	180.0	
SHAW, RITA S; SHAW, WILLIAM HUBERT	37-7189	Decreed	12/29/1972	IRRIGATION	2.45	1276.0	
SHAW, RITA S; SHAW, WILLIAM HUBERT	37-7716	Decreed	05/22/1978	IRRIGATION	0.78	1276.0	
SHAW, SHELLEE	37-23207	Decreed	09/20/1974	IRRIGATION	0.03	2.2	
SHAW, WILLIAM HUBERT	37-7149	Decreed	06/26/1972	IRRIGATION	4.46	1892.0	
SHAW, WILLIAM HUBERT	37-7394	Decreed	12/01/1974	IRRIGATION, STOCKWATER	5.94	1892.0	
SHAW, WILLIAM HUBERT	37-7768	Decreed	02/28/1979	STOCKWATER	0.18	0.0	
SHAW, WILLIAM HUBERT	37-7814	Decreed	12/12/1979	IRRIGATION	0.14	1892.0	
SHAW, WILLIAM HUBERT	37-8705	License	02/21/1991	IRRIGATION	7.00	1892.0	
SHAWVER, F MARK	35-7312	Decreed	07/19/1973	IRRIGATION	2.99	261.0	
SHAWVER, F MARK	35-13009	Decreed	07/21/1982	IRRIGATION	0.26	261.0	Yes
SHAWVER, FRANCIS MARK	35-14187	Decreed	04/01/1972	IRRIGATION	0.27	139.3	Yes
SHELLEY CEMETERY DISTRICT	27-7331	Decreed	11/19/1982	DOMESTIC, IRRIGATION	0.21	9.5	
SHENTON, CAROLYN RHODES; SHENTON, H TOD	32-7081C	Decreed	06/20/1977	IRRIGATION	1.89	294.0	
SHEPARD, JANET C; SHEPARD, ROBERT J	36-14202	Decreed	05/01/1975	IRRIGATION	0.20	130.0	Yes
SHEPARD, JANET C; SHEPARD, ROBERT J	36-7737A	Decreed	07/29/1977	IRRIGATION	1.42	120.0	
SHEPARD, JANET C; SHEPARD, ROBERT J	36-7737B	Decreed	07/29/1977	IRRIGATION	0.16	142.0	
SHIPLEY, O DEVAUGHN; SHIPLEY, PATRICIA K	35-9065	License	05/10/1989	DOMESTIC, IRRIGATION, STOCKWATER	0.06	1.0	
SHOEMAKER, J BLAINE	27-7007C	Decreed	05/18/1969	IRRIGATION	3.13	239.1	
SHOOTING STAR RANCH LLC	37-7313	Decreed	11/02/1973	IRRIGATION	1.11	75.0	
SHOSHONE JOINT SCHOOL DISTRICT #312	37-7498	Decreed	06/25/1976	IRRIGATION	0.30	18.0	
SHULDBERG, CARA; SHULDBERG, JONATHAN	31-11786	Decreed	09/07/1971	IRRIGATION	1.48	74.0	
SHULDBERG, JALENE; SHULDBERG, KEITH	31-7054D	Decreed	09/07/1971	IRRIGATION	4.20	228.0	
SHULDBERG, JALENE; SHULDBERG, KEITH	31-10515	Decreed	10/15/1980	IRRIGATION	0.33	228.0	Yes
SHUMWAY BROTHERS DAIRY; SHUMWAY, ADA H	27-12319	Decreed	02/10/1983	STOCKWATER	0.06	0.0	
SHUMWAY BROTHERS DAIRY; SHUMWAY, ADA H	35-8096	Decreed	02/10/1983	DOMESTIC	0.06	0.0	

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SHUPE, ALLAN R; SHUPE, CAMDEN	31-11426	Decreed	01/25/1974	IRRIGATION	2.15	165.0	
SHUPE, ALLAN R; SHUPE, CAMDEN	31-7141A	Decreed	11/01/1974	IRRIGATION	2.58	129.0	
SHUPE, ALLAN R; SHUPE, CAMDEN	31-7141B	Decreed	11/01/1974	IRRIGATION	1.08	53.8	
SHUPE, ALLAN R; SHUPE, CAMDEN	31-7287	Decreed	01/23/1978	IRRIGATION	0.90	51.7	
SHUPE, KARLENE; SHUPE, LYLE R	31-11427	Decreed	01/25/1974	IRRIGATION	1.11	55.7	
SHUPE, LYLE R	31-2432	Decreed	01/27/1967	IRRIGATION	3.44	295.5	
SHURTZ, KRISTIN	27-12295	Decreed	09/11/1974	IRRIGATION	0.10	5.0	
SIDDOWAY SHEEP CO INC	31-11707	Decreed	10/06/1976	IRRIGATION	0.41	39.0	
SIDDOWAY SHEEP CO INC	31-12468	Decreed	10/06/1976	IRRIGATION	0.01	1.2	
SIEMS, ANN K; SIEMS, STANLEY	25-7492	License	03/29/1989	DOMESTIC, IRRIGATION	0.04	1.0	
SIERRA PROPERTIES LLC	35-14035	Decreed	05/21/1974	IRRIGATION	0.07	4.0	
SIERRA PROPERTIES LLC	35-13799	License	02/10/1983	IRRIGATION	0.29	71.0	
SILVER RIDGE RANCH INC	35-2901	Decreed	03/10/1955	IRRIGATION	4.66	1200.0	
SILVER RIDGE RANCH INC	35-2625	Decreed	12/28/1960	IRRIGATION	4.90	445.0	
SILVER RIDGE RANCH INC	35-2666A	Decreed	05/29/1961	IRRIGATION	0.66	445.0	
SILVER RIDGE RANCH INC	35-2666B	Decreed	05/29/1961	IRRIGATION	1.02	1200.0	
SILVER RIDGE RANCH INC	35-7410	Decreed	03/29/1974	IRRIGATION	6.94	1200.0	
SILVERLINE FARMS LLC	36-15991	Decreed	11/29/1973	COMMERCIAL, STOCKWATER	0.08	0.0	
SILVERLINE FARMS LLC	36-16497	Decreed	11/29/1973	IRRIGATION	1.24	126.2	
SILVERLINE FARMS LLC	36-16498	Decreed	11/29/1973	COMMERCIAL, STOCKWATER	0.16	0.0	
SILVERLINE FARMS LLC	36-7460S	Decreed	03/25/1974	COMMERCIAL, STOCKWATER	0.11	0.0	
SILVERLINE FARMS LLC	36-10889	Decreed	11/01/1980	STOCKWATER	0.11	0.0	
SILVERLINE FARMS LLC	36-10656	Decreed	03/01/1981	COMMERCIAL, STOCKWATER	0.04	0.0	
SILVERLINE FARMS LLC	36-8771	License	08/25/1997	DOMESTIC	0.06	0.0	
SIMONIC, LISA; TURNER, COLLEEN; TURNER, DAREN; TURNER, JARED; TURNER, MICHAEL; TURNER, MITCHELL; TURNER, SCOTT	45-7334	Decreed	06/07/1978	IRRIGATION	1.78	160.0	
SIMPSON, DANNY V; SIMPSON, DUSTIN J	37-22204	Decreed	07/21/1961	IRRIGATION	2.20	149.0	
SIMPSON, DANNY V; SIMPSON, JULIE M	37-22451	Decreed	11/25/1962	IRRIGATION	0.05	3.1	
SIMPSON, JOYE	45-7333B	Decreed	01/19/1978	IRRIGATION	0.08	8.0	
SIRE, DAVID L; SIRE, MARGO L	35-8200	License	06/28/1983	IRRIGATION	0.02	0.8	
SIRUCEK, JAMES; SIRUCEK, KAREN	36-2490	Decreed	06/12/1961	IRRIGATION	1.70	196.0	
SIRUCEK, MICHAEL J	36-8569	License	12/10/1990	IRRIGATION	0.46	67.0	
SJC PROPERTIES LLC	35-7066	Decreed	12/26/1968	IRRIGATION	8.30	612.0	
SJC PROPERTIES LLC	35-7623	Decreed	07/20/1976	IRRIGATION	6.06	303.0	
SKIDMORE, ANGELA; SKIDMORE, GARY	31-2409	Decreed	12/19/1963	DOMESTIC, IRRIGATION	6.34	317.0	
SKIDMORE, ANGELA; SKIDMORE, GARY	31-7564	Decreed	09/28/1981	IRRIGATION	4.35	303.0	
SKIDMORE, GARY	31-7561	Decreed	01/30/1981	IRRIGATION	2.26	158.0	
SKIDMORE, GARY	31-7562	Decreed	03/04/1981	IRRIGATION	2.27	160.0	

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SLADE, DELILAH; SLADE, KEVIN L	36-17057	Decreed	01/19/1959	IRRIGATION	1.97	304.0	
SLADE, DELILAH; SLADE, KEVIN L	36-17058	Decreed	01/07/1965	IRRIGATION	0.65	304.0	
SLADE, DELILAH; SLADE, KEVIN L	36-7119	Decreed	02/24/1970	IRRIGATION	2.41	153.0	
SLADE, DELILAH; SLADE, KEVIN L	36-17059	Decreed	08/09/1972	IRRIGATION	2.12	304.0	
SLADE, DELILAH; SLADE, KEVIN L	36-15229	Decreed	08/17/1972	IRRIGATION	0.30	153.0	Yes
SLADE, DELILAH; SLADE, KEVIN L	36-17060	Decreed	02/13/1973	IRRIGATION	0.74	304.0	
SLADE, DELILAH; SLADE, KEVIN L	36-17061	Decreed	03/15/1973	IRRIGATION	0.07	304.0	Yes
SLADE, WILLIAM J; SLADE, WYLENE	36-2372	Decreed	01/19/1959	IRRIGATION	1.00	155.0	
SLADE, WILLIAM J; SLADE, WYLENE	36-2598	Decreed	01/07/1965	IRRIGATION	0.33	155.0	
SLADE, WILLIAM J; SLADE, WYLENE	36-7254	Decreed	08/09/1972	IRRIGATION	1.08	155.0	
SLADE, WILLIAM J; SLADE, WYLENE	36-7301	Decreed	02/13/1973	IRRIGATION	0.38	155.0	
SLADE, WILLIAM J; SLADE, WYLENE	36-15228	Decreed	03/15/1973	IRRIGATION	0.03	155.0	Yes
SLAGOWSKI, J NICOLE; SLAGOWSKI, JOE	31-12235	Decreed	05/01/1956	IRRIGATION	0.56	36.3	
SLAGOWSKI, JOE; SLAGOWSKI, NICOLE	31-7290	Decreed	02/15/1978	IRRIGATION	0.34	25.0	
SLAGOWSKI, JOE; SLAGOWSKI, NICOLE	31-11409	Decreed	04/01/1978	IRRIGATION	1.29	36.5	Yes
SLEEPY SAGE FARM LLC	31-7201	Decreed	07/29/1976	IRRIGATION	5.45	326.0	
SLEEPY SAGE FARM LLC	31-7248	Decreed	03/24/1977	IRRIGATION	3.13	201.0	
SLEEPY SAGE FARM LLC	31-7249	Decreed	03/24/1977	IRRIGATION	2.16	152.0	
SLEEPY SAGE FARM LLC	31-7250	Decreed	03/24/1977	IRRIGATION	4.71	290.0	
SLEEPY SAGE FARM LLC	31-7378	License	12/15/1982	IRRIGATION	4.54	227.0	
SLEEPY SAGE FARM LLC	31-10422	Decreed	04/01/1985	IRRIGATION	0.24	326.0	Yes
SLEEPY SAGE FARM LLC	31-11690	License	03/27/2001	IRRIGATION	1.60	100.0	
SLIMAN, MICHAEL E	37-8060	Decreed	12/09/1982	COMMERCIAL	0.01	0.0	
SLT PROPERTIES LLC	35-14851	Decreed	06/19/1961	IRRIGATION	3.04	73.0	
SLT PROPERTIES LLC	35-7360	Decreed	12/07/1973	IRRIGATION	1.52	120.0	
SMITH JR, MERLIN; SMITH SR, MERLIN; SMITH, JENNIFER	35-14257	Decreed	03/28/1966	IRRIGATION	0.42	198.2	
SMITH JR, MERLIN; SMITH SR, MERLIN; SMITH, JENNIFER	35-2882	Decreed	03/28/1966	IRRIGATION	1.28	244.0	
SMITH JR, MERLIN; SMITH SR, MERLIN; SMITH, JENNIFER	35-8022	Decreed	02/22/1982	IRRIGATION	2.12	198.2	
SMITH JR, MERLIN; SMITH, JENNIFER	35-7367	Decreed	01/11/1974	IRRIGATION	3.94	240.0	
SMITH JR, MERLIN; SMITH, JENNIFER	35-14072	Decreed	12/05/1975	IRRIGATION	0.31	240.0	
SMITH SR, MERLIN	35-14489	Decreed	04/01/1966	IRRIGATION	0.02	5.3	Yes
SMITH SR, MERLIN	35-14071	Decreed	12/05/1975	IRRIGATION	2.75	137.7	
SMITH SR, MERLIN	35-14278	Decreed	02/24/1977	IRRIGATION	0.11	244.0	
SMITH SR, MERLIN	35-8610	License	06/28/1985	IRRIGATION	2.12	129.4	
SMITH SUNRISE LIVESTOCK LLC	36-16968	Decreed	11/17/1960	IRRIGATION	0.10	26.4	
SMITH SUNRISE LIVESTOCK LLC	36-16966	Decreed	01/24/1961	IRRIGATION	0.11	26.4	
SMITH SUNRISE LIVESTOCK LLC	36-16970	Decreed	11/18/1966	IRRIGATION	0.14	26.4	
SMITH SUNRISE LIVESTOCK LLC	36-16967	Decreed	05/02/1977	IRRIGATION	0.05	26.4	

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SMITH SUNRISE LIVESTOCK LLC	36-16969	Decreed	03/15/1981	IRRIGATION	0.02	26.4	
SMITH, ARLIN; SMITH, DAVID LYNN; SMITH, GERALD	35-7807	Decreed	06/22/1978	IRRIGATION	0.70	35.0	
SMITH, CAROLEE H; SMITH, STEWART W	35-7411A	Decreed	04/03/1974	IRRIGATION	0.70	43.0	
SMITH, JAMES M; SMITH, SHERRI	45-7180	Decreed	07/15/1974	DOMESTIC, IRRIGATION	0.60	36.5	
SMITH, MERLIN	35-14330	Decreed	05/25/1972	IRRIGATION	0.03	198.2	
SMITH, MERLIN	35-14341	Decreed	05/25/1972	IRRIGATION	0.03	198.2	
SMITH, MERLIN	35-14357	Decreed	05/25/1972	IRRIGATION	0.03	198.2	
SMITH, MERLIN	35-14359	Decreed	05/25/1972	IRRIGATION	0.03	4.1	
SMITH, MERLIN	35-14361	Decreed	05/25/1972	IRRIGATION	0.03	4.1	
SMITH, MERLIN	35-14363	Decreed	05/25/1972	IRRIGATION	0.03	4.1	
SMITH, MERLIN	35-14365	Decreed	05/25/1972	IRRIGATION	0.03	16.4	
SMITH, MERLIN	35-14367	Decreed	05/25/1972	IRRIGATION	0.03	16.4	
SMITH, MERLIN	35-14369	Decreed	05/25/1972	IRRIGATION	0.03	16.4	
SMITH, MERLIN	35-14373	Decreed	05/25/1972	IRRIGATION	0.03	16.4	
SMITH, MERLIN	35-14383	Decreed	05/25/1972	IRRIGATION	0.04	4.1	
SMITH, MERLIN	35-14385	Decreed	05/25/1972	IRRIGATION	0.03	4.1	
SMITH, MERLIN	35-14331	Decreed	04/11/1973	IRRIGATION	0.02	198.2	
SMITH, MERLIN	35-14342	Decreed	04/11/1973	IRRIGATION	0.02	198.2	
SMITH, MERLIN	35-14358	Decreed	04/11/1973	IRRIGATION	0.03	198.2	
SMITH, MERLIN	35-14360	Decreed	04/11/1973	IRRIGATION	0.03	4.1	
SMITH, MERLIN	35-14362	Decreed	04/11/1973	IRRIGATION	0.03	4.1	
SMITH, MERLIN	35-14364	Decreed	04/11/1973	IRRIGATION	0.03	4.1	
SMITH, MERLIN	35-14366	Decreed	04/11/1973	IRRIGATION	0.03	16.4	
SMITH, MERLIN	35-14368	Decreed	04/11/1973	IRRIGATION	0.03	16.4	
SMITH, MERLIN	35-14370	Decreed	04/11/1973	IRRIGATION	0.03	16.4	
SMITH, MERLIN	35-14374	Decreed	04/11/1973	IRRIGATION	0.03	16.4	
SMITH, MERLIN	35-14384	Decreed	04/11/1973	IRRIGATION	0.02	4.1	
SMITH, MERLIN	35-14386	Decreed	04/11/1973	IRRIGATION	0.02	4.1	
SMITH, MERLIN	35-14250	Decreed	07/19/1973	IRRIGATION	0.31	198.2	
SMITH, RONNIE D; SMITH, SHARLENE M	36-2366D	Decreed	12/16/1958	IRRIGATION	0.52	26.0	
SMITH, RONNIE D; SMITH, SHARLENE M	36-16559	Decreed	02/08/1971	IRRIGATION	2.01	149.0	
SMITH, RONNIE D; SMITH, SHARLENE M	36-16837	Decreed	02/08/1971	IRRIGATION	0.48	35.7	
SMITH, RONNIE D; SMITH, SHARLENE M	36-8333	License	08/25/1987	IRRIGATION	2.91	146.0	
SMITH, STACY L	36-8181	Decreed	04/28/1983	DOMESTIC, IRRIGATION	0.09	1.5	
SNAKE RIVER EQUIPMENT CO INC	35-13664	Decreed	02/08/1956	IRRIGATION	0.32	962.3	
SNAKE RIVER EQUIPMENT CO INC	35-2451A	Decreed	02/08/1956	IRRIGATION	3.69	962.3	
SNAKE RIVER EQUIPMENT CO INC	35-2451C	Decreed	02/08/1956	IRRIGATION	2.92	962.3	
SNAKE RIVER EQUIPMENT CO INC	35-2639	Decreed	01/27/1961	IRRIGATION	3.08	962.3	

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SNAKE RIVER EQUIPMENT CO INC	35-13662	Decreed	11/06/1969	IRRIGATION	1.02	962.3	
SNAKE RIVER EQUIPMENT CO INC	35-13660	License	06/19/1985	IRRIGATION	2.63	962.3	
SNAKE RIVER EQUIPMENT CO INC	35-13706	License	06/19/1985	IRRIGATION	0.81	280.3	
SNAKE RIVER LIVESTOCK CO	35-7186	Decreed	10/23/1971	STOCKWATER	1.00	0.0	
SNAKE RIVER LIVESTOCK CO	35-7430	Decreed	07/05/1974	COMMERCIAL	0.02	0.0	
SNAKE RIVER SCHOOL DISTRICT #52	35-11208	Decreed	08/16/1955	DOMESTIC, IRRIGATION	0.10	5.0	
SNAKE RIVER SCHOOL DISTRICT #52	35-7302	Decreed	06/28/1973	DOMESTIC, IRRIGATION	0.19	5.0	
SNAKE RIVER SCHOOL DISTRICT #52	35-8183	License	07/18/1983	DOMESTIC, IRRIGATION	0.19	7.0	
SNAKE RIVER SCHOOL DISTRICT #52	35-8184	License	07/18/1983	IRRIGATION	0.45	24.0	
SNAKE RIVER SCHOOL DISTRICT #52	35-12203	Decreed	05/01/1986	IRRIGATION	0.28	114.0	Yes
SNAKE RIVER VIEW ESTATES HOMEOWNERS ASSN	35-9085	License	12/23/1999	DOMESTIC	0.34	0.0	
SNAKE RIVER VIEW ESTATES HOMEOWNERS ASSN	35-13577	License	09/07/2006	DOMESTIC	0.55	0.0	
SNARR FAMILY MANAGEMENT LLC	35-2741	Decreed	06/02/1964	IRRIGATION	4.00	385.0	
SNARR FAMILY MANAGEMENT LLC	35-7167	Decreed	02/24/1971	IRRIGATION	3.01	385.0	
SNYDER, ALAN M	35-7764B	Decreed	01/10/1978	DOMESTIC, IRRIGATION	0.04	1.5	
SODERQUIST, CHRISTIE; SODERQUIST, KEITH EDWIN	36-7416C	License	02/22/1974	IRRIGATION	4.78	310.4	
SODERQUIST, CHRISTIE; SODERQUIST, KEITH EDWIN	36-7416D	License	02/22/1974	IRRIGATION	4.00	310.4	
SODERQUIST, KRISTA; SODERQUIST, LYLE R	35-13823	Decreed	05/01/1980	IRRIGATION	0.29	63.0	
SODERQUIST, KRISTA; SODERQUIST, LYLE R	35-13778	License	06/28/1980	IRRIGATION	4.80	288.0	
SODERQUIST, KRISTA; SODERQUIST, LYLE R	35-13779	License	06/28/1980	IRRIGATION	0.27	63.0	
SODERQUIST, KRISTA; SODERQUIST, LYLE R	35-13800	License	04/14/1983	IRRIGATION	0.05	2.7	
SODERQUIST, KRISTA; SODERQUIST, LYLE R	35-13801	License	04/14/1983	IRRIGATION	0.12	63.0	
SODERQUIST, KRISTA; SODERQUIST, LYLE R	35-14631	License	04/14/1983	IRRIGATION	0.14	63.0	
SODERQUIST, LYLE R	35-7897B	License	06/28/1980	IRRIGATION	3.02	223.0	
SOHN, EDNA G; SOHN, HERBERT F; SOHNS INC	35-7085	Decreed	07/06/1969	DOMESTIC, IRRIGATION	0.16	1.0	
SOLAR FARMS LLC	45-2744B	Decreed	02/10/1960	COMMERCIAL, STOCKWATER	0.86	0.0	
SOLAR FARMS LLC	36-7266	Decreed	11/13/1972	IRRIGATION	1.66	133.0	
SOLAR FARMS LLC	45-7649	License	06/19/1989	COMMERCIAL, DOMESTIC	0.04	0.0	
SORENSEN, JESSE; SORENSEN, KAITLIN	35-14573	Decreed	03/20/1956	IRRIGATION	0.01	1.4	
SORENSEN, JESSE; SORENSEN, KAITLIN	35-14572	Decreed	03/20/1959	IRRIGATION	0.01	1.4	
SOUTH INTERCHANGE PROPERTIES	35-14267	Decreed	08/05/1969	IRRIGATION	0.06	23.8	
SOUTH INTERCHANGE PROPERTIES LLC	35-14485	Decreed	11/29/1971	IRRIGATION	0.02	23.8	
SOUTH INTERCHANGE PROPERTIES LLC	35-14486	Decreed	11/29/1971	IRRIGATION	0.00	23.8	
SOUTH INTERCHANGE PROPERTIES LLC	35-13537	License	07/15/2005	COMMERCIAL	0.04	0.0	
SOUTH LANDS LLC C/O BARRY SOUTH	25-14219	License	04/09/2008	COMMERCIAL	0.50	0.0	
SOUTH VIEW DAIRY LLC	36-16016	Decreed	12/02/1955	IRRIGATION	0.05	318.0	
SOUTH VIEW DAIRY LLC	36-16601	Decreed	12/02/1955	IRRIGATION	0.02	252.0	
SOUTH VIEW DAIRY LLC	36-16602	Decreed	12/02/1955	COMMERCIAL, STOCKWATER	0.01	0.0	

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SOUTH VIEW DAIRY LLC	36-17097	Decreed	12/02/1955	COMMERCIAL, STOCKWATER	0.01	0.0	
SOUTH VIEW DAIRY LLC	36-16018	Decreed	11/23/1956	IRRIGATION	0.39	318.0	
SOUTH VIEW DAIRY LLC	36-16695	Decreed	11/23/1956	IRRIGATION	0.30	252.0	
SOUTH VIEW DAIRY LLC	36-16696	Decreed	11/23/1956	COMMERCIAL, STOCKWATER	0.01	0.0	
SOUTH VIEW DAIRY LLC	36-17106	Decreed	11/23/1956	COMMERCIAL, STOCKWATER	0.01	0.0	
SOUTH VIEW DAIRY LLC	36-2348	Decreed	03/07/1958	IRRIGATION	0.74	37.0	
SOUTH VIEW DAIRY LLC	36-2493E	Decreed	06/28/1961	IRRIGATION	0.24	13.8	
SOUTH VIEW DAIRY LLC	36-2493F	Decreed	06/28/1961	COMMERCIAL, STOCKWATER	0.02	0.0	
SOUTH VIEW DAIRY LLC	36-16020	Decreed	07/18/1961	IRRIGATION	0.26	318.0	
SOUTH VIEW DAIRY LLC	36-16603	Decreed	07/18/1961	IRRIGATION	0.20	252.0	
SOUTH VIEW DAIRY LLC	36-16604	Decreed	07/18/1961	COMMERCIAL, STOCKWATER	0.01	0.0	
SOUTH VIEW DAIRY LLC	36-17098	Decreed	07/18/1961	COMMERCIAL, STOCKWATER	0.01	0.0	
SOUTH VIEW DAIRY LLC	36-16022	Decreed	06/07/1965	IRRIGATION	0.53	318.0	
SOUTH VIEW DAIRY LLC	36-16605	Decreed	06/07/1965	IRRIGATION	0.42	252.0	
SOUTH VIEW DAIRY LLC	36-16606	Decreed	06/07/1965	COMMERCIAL, STOCKWATER	0.01	0.0	
SOUTH VIEW DAIRY LLC	36-17099	Decreed	06/07/1965	COMMERCIAL, STOCKWATER	0.01	0.0	
SOUTH VIEW DAIRY LLC	36-16038	Decreed	12/11/1969	IRRIGATION	1.81	318.0	
SOUTH VIEW DAIRY LLC	36-16619	Decreed	12/11/1969	IRRIGATION	1.43	252.0	
SOUTH VIEW DAIRY LLC	36-16620	Decreed	12/11/1969	COMMERCIAL, STOCKWATER	0.04	0.0	
SOUTH VIEW DAIRY LLC	36-17105	Decreed	12/11/1969	COMMERCIAL, STOCKWATER	0.04	0.0	
SOUTH VIEW DAIRY LLC	36-7208	Decreed	11/10/1971	IRRIGATION	3.68	184.0	
SOUTH VIEW DAIRY LLC	36-16083	Decreed	01/10/1973	IRRIGATION	2.56	198.8	
SOUTH VIEW DAIRY LLC	36-16024	Decreed	02/26/1973	IRRIGATION	0.40	318.0	
SOUTH VIEW DAIRY LLC	36-16607	Decreed	02/26/1973	IRRIGATION	0.32	252.0	
SOUTH VIEW DAIRY LLC	36-16608	Decreed	02/26/1973	COMMERCIAL, STOCKWATER	0.01	0.0	
SOUTH VIEW DAIRY LLC	36-17100	Decreed	02/26/1973	COMMERCIAL, STOCKWATER	0.01	0.0	
SOUTH VIEW DAIRY LLC	36-16026	Decreed	08/02/1973	IRRIGATION	0.65	318.0	
SOUTH VIEW DAIRY LLC	36-16609	Decreed	08/02/1973	IRRIGATION	0.50	252.0	
SOUTH VIEW DAIRY LLC	36-16610	Decreed	08/02/1973	COMMERCIAL, STOCKWATER	0.02	0.0	
SOUTH VIEW DAIRY LLC	36-17101	Decreed	08/02/1973	COMMERCIAL, STOCKWATER	0.02	0.0	
SOUTH VIEW DAIRY LLC	36-16028	Decreed	05/28/1974	IRRIGATION	0.21	318.0	
SOUTH VIEW DAIRY LLC	36-16611	Decreed	05/28/1974	IRRIGATION	0.15	252.0	
SOUTH VIEW DAIRY LLC	36-16612	Decreed	05/28/1974	COMMERCIAL, STOCKWATER	0.01	0.0	
SOUTH VIEW DAIRY LLC	36-17102	Decreed	05/28/1974	COMMERCIAL, STOCKWATER	0.01	0.0	
SOUTH VIEW DAIRY LLC	36-16030	Decreed	02/04/1976	IRRIGATION	0.19	318.0	
SOUTH VIEW DAIRY LLC	36-16613	Decreed	02/04/1976	IRRIGATION	0.14	252.0	
SOUTH VIEW DAIRY LLC	36-16614	Decreed	02/04/1976	COMMERCIAL, STOCKWATER	0.01	0.0	
SOUTH VIEW DAIRY LLC	36-17103	Decreed	02/04/1976	COMMERCIAL, STOCKWATER	0.01	0.0	

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SOUTH VIEW DAIRY LLC	36-7681A	Decreed	02/14/1977	IRRIGATION	0.90	56.7	
SOUTH VIEW DAIRY LLC	36-7681B	Decreed	02/14/1977	COMMERCIAL, DOMESTIC, STOCKWATER	0.08	0.0	
SOUTH VIEW DAIRY LLC	36-16032	Decreed	02/22/1978	IRRIGATION	0.61	318.0	
SOUTH VIEW DAIRY LLC	36-16615	Decreed	02/22/1978	IRRIGATION	0.17	252.0	
SOUTH VIEW DAIRY LLC	36-16616	Decreed	02/22/1978	COMMERCIAL, STOCKWATER	0.01	0.0	
SOUTH VIEW DAIRY LLC	36-17104	Decreed	02/22/1978	COMMERCIAL, STOCKWATER	0.01	0.0	
SOUTH VIEW DAIRY LLC	36-7799	Decreed	06/27/1978	IRRIGATION	0.80	40.0	
SOUTH VIEW DAIRY LLC	36-16034	Decreed	12/11/1978	IRRIGATION	0.05	318.0	
SOUTH VIEW DAIRY LLC	36-8140	Decreed	01/21/1983	COMMERCIAL, STOCKWATER	0.11	0.0	
SOUTH VIEW DAIRY LLC	36-16036	Decreed	05/01/1985	IRRIGATION	0.18	318.0	Yes
SOUTH VIEW DAIRY LLC	36-8578	License	02/08/1993	COMMERCIAL, STOCKWATER	0.25	0.0	
SOUTH, BARRY; SOUTH, DAVID	25-7331	License	06/03/1983	COMMERCIAL	0.04	0.0	
SOUTHERN IDAHO LEASING INC	36-7768	Decreed	11/28/1977	IRRIGATION	1.01	50.6	
SOUTHFIELD DAIRY	36-8387	License	08/31/1988	IRRIGATION	2.48	149.0	
SOUTHFIELD LAND & LIVESTOCK LLC	36-15219B	Decreed	03/22/1956	IRRIGATION	0.26	99.0	
SOUTHFIELD LAND & LIVESTOCK LLC	36-2297	Decreed	03/23/1956	IRRIGATION	1.82	135.1	
SOUTHFIELD LAND & LIVESTOCK LLC	36-2425C	Decreed	03/09/1960	IRRIGATION	0.13	77.0	
SOUTHFIELD LAND & LIVESTOCK LLC	36-2517A	Decreed	09/11/1961	IRRIGATION	1.06	124.0	
SOUTHFIELD LAND & LIVESTOCK LLC	36-2517B	Decreed	09/11/1961	IRRIGATION	0.21	25.0	
SOUTHFIELD LAND & LIVESTOCK LLC	36-2520A	Decreed	10/02/1961	IRRIGATION	1.37	77.0	
SOUTHFIELD LAND & LIVESTOCK LLC	36-2535	Decreed	12/23/1961	IRRIGATION	1.42	98.0	
SOUTHFIELD LAND & LIVESTOCK LLC	37-22803	Decreed	07/14/1967	IRRIGATION	0.27	686.0	
SOUTHFIELD LAND & LIVESTOCK LLC	37-23009	Decreed	07/14/1967	COMMERCIAL, STOCKWATER	0.38	0.0	
SOUTHFIELD LAND & LIVESTOCK LLC	37-2761B	Decreed	07/14/1967	IRRIGATION	4.30	545.0	
SOUTHFIELD LAND & LIVESTOCK LLC	36-7157A	Decreed	02/16/1971	IRRIGATION	3.30	436.0	
SOUTHFIELD LAND & LIVESTOCK LLC	36-17035	Decreed	09/07/1973	COMMERCIAL, STOCKWATER	0.16	0.0	
SOUTHFIELD LAND & LIVESTOCK LLC	36-7377D	Decreed	09/07/1973	COMMERCIAL, STOCKWATER	0.79	0.0	
SOUTHFIELD LAND & LIVESTOCK LLC	36-7377F	Decreed	09/07/1973	IRRIGATION	0.03	118.0	
SOUTHFIELD LAND & LIVESTOCK LLC	36-7377G	Decreed	09/07/1973	IRRIGATION	1.04	139.0	
SOUTHFIELD LAND & LIVESTOCK LLC	36-7377H	Decreed	09/07/1973	IRRIGATION	0.05	7.0	
SOUTHFIELD LAND & LIVESTOCK LLC	36-7295A	Decreed	12/11/1973	IRRIGATION	2.43	177.0	
SOUTHFIELD LAND & LIVESTOCK LLC	36-7295B	Decreed	12/11/1973	IRRIGATION	2.80	190.9	
SOUTHFIELD LAND & LIVESTOCK LLC	36-7295C	Decreed	12/11/1973	COMMERCIAL, STOCKWATER	0.32	0.0	
SOUTHFIELD LAND & LIVESTOCK LLC	36-7460B	Decreed	03/25/1974	IRRIGATION	1.04	99.0	
SOUTHFIELD LAND & LIVESTOCK LLC	36-7460E	Decreed	03/25/1974	IRRIGATION	0.13	8.0	
SOUTHFIELD LAND & LIVESTOCK LLC	36-7460F	Decreed	03/25/1974	IRRIGATION	0.12	8.0	
SOUTHFIELD LAND & LIVESTOCK LLC	37-7370	Decreed	07/22/1974	IRRIGATION	3.26	686.0	
SOUTHFIELD LAND & LIVESTOCK LLC	36-17037	Decreed	05/13/1975	COMMERCIAL, STOCKWATER	0.18	0.0	

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SOUTHFIELD LAND & LIVESTOCK LLC	36-7547D	Decreed	05/13/1975	COMMERCIAL, STOCKWATER	1.14	0.0	
SOUTHFIELD LAND & LIVESTOCK LLC	36-7547F	Decreed	05/13/1975	IRRIGATION	0.04	118.0	
SOUTHFIELD LAND & LIVESTOCK LLC	36-7547G	Decreed	05/13/1975	IRRIGATION	1.51	139.0	
SOUTHFIELD LAND & LIVESTOCK LLC	36-7547H	Decreed	05/13/1975	IRRIGATION	0.08	7.0	
SOUTHFIELD LAND & LIVESTOCK LLC	37-7572	Decreed	03/21/1977	IRRIGATION	2.53	686.0	
SOUTHFIELD LAND & LIVESTOCK LLC	37-7634	Decreed	05/23/1977	IRRIGATION	1.31	686.0	
SOUTHFIELD LAND & LIVESTOCK LLC	36-8063C	License	02/21/1982	IRRIGATION	0.30	99.0	
SOUTHFIELD LAND & LIVESTOCK LLC	36-8252E	License	10/17/1984	IRRIGATION	0.10	99.0	
SOUTHFIELD LAND & LIVESTOCK LLC	36-8313A	License	08/20/1986	IRRIGATION	1.20	60.0	
SOUTHFIELD LAND & LIVESTOCK LLC	37-22802	License	01/06/1988	IRRIGATION	0.12	686.0	
SOUTHFIELD LAND & LIVESTOCK LLC	37-8326	License	01/07/1988	IRRIGATION	1.24	545.0	
SOUTHFIELD LAND & LIVESTOCK LLC	36-8529	License	04/05/1990	IRRIGATION	0.66	33.0	
SOUTHFIELD LAND & LIVESTOCK LLC	36-2907	Decreed	04/26/1990	IRRIGATION	0.80	436.0	
SOUTHFIELD LAND & LIVESTOCK LLC	36-8560A	License	09/07/1990	IRRIGATION	1.03	135.0	
SOUTHFIELD LAND & LIVESTOCK LLC	36-8560B	License	09/07/1990	IRRIGATION	0.12	6.0	
SOUTHFIELD LAND & LIVESTOCK LLC	36-8760	Decreed	12/04/1990	IRRIGATION	1.52	436.0	
SOUTHFIELD LAND & LIVESTOCK LLC	36-8582	License	02/20/1991	IRRIGATION	0.46	23.0	
SOUTHFIELD LAND & LIVESTOCK LLC	37-8732	License	04/13/1991	IRRIGATION	3.00	686.0	
SPARKS JR, RULAND G	36-7050	Decreed	01/10/1969	IRRIGATION	2.23	183.0	
SSJ FARMS LLC	36-16979	Decreed	03/15/1962	IRRIGATION	0.04	995.0	
SSJ FARMS LLC	36-16416	Decreed	03/17/1963	IRRIGATION	4.38	995.0	
SSJ FARMS LLC	36-16418	Decreed	09/24/1968	IRRIGATION	3.45	995.0	
SSJ FARMS LLC	36-7193	Decreed	06/29/1971	IRRIGATION	0.28	1257.0	
SSJ FARMS LLC	36-16622	Decreed	07/03/1974	IRRIGATION	2.95	172.0	
SSJ FARMS LLC	36-16424	Decreed	05/01/1976	IRRIGATION	0.85	995.0	Yes
SSJ FARMS LLC	36-16420	Decreed	12/30/1983	IRRIGATION	1.95	995.0	
SSJ FARMS LLC	36-16826	Decreed	09/13/1984	IRRIGATION	2.34	1257.0	
SSJ FARMS LLC	36-16924	Decreed	07/25/1987	IRRIGATION	2.74	1257.0	
SSJ FARMS LLC	36-16980	Decreed	07/25/1987	IRRIGATION	0.29	995.0	
STALLINGS FARMS INC	36-2631	Decreed	12/15/1965	IRRIGATION	1.05	52.0	
STANDER LAND LLC	35-14470	Decreed	02/19/1963	IRRIGATION	1.87	142.3	
STANDER LAND LLC	35-14472	Decreed	08/05/1969	IRRIGATION	1.85	142.3	
STANDER LAND LLC	35-7301	Decreed	06/27/1973	IRRIGATION	2.54	158.0	
STANDER LAND LLC	35-14471	License	01/24/1978	IRRIGATION	0.54	142.3	
STANDER LAND LLC	35-8334	License	06/22/1983	IRRIGATION	1.32	312.0	
STANDER, GAYLEN	35-8816	License	07/25/1989	IRRIGATION	2.22	111.0	
STANDER, GAYLEN; STANDER, JEANETTE	35-7108	Decreed	12/29/1969	IRRIGATION	1.78	114.0	
STANDER, GAYLEN; STANDER, JEANETTE	35-12202	Decreed	02/24/1974	IRRIGATION	0.06	114.0	Yes

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STANDING 16 RANCH LAND CO LLC	36-16767	Decreed	09/12/1973	COMMERCIAL, STOCKWATER	0.16	0.0	
STANDING 16 RANCH LAND CO LLC	36-7337H	Decreed	11/25/1977	COMMERCIAL, STOCKWATER	0.30	0.0	
STANDING 16 RANCH LAND CO LLC	36-16707	License	04/26/1990	COMMERCIAL, STOCKWATER	0.03	0.0	
STANDING 16 RANCH LAND CO LLC	36-16708	License	04/26/1990	COMMERCIAL, STOCKWATER	0.06	0.0	
STANDLEE FAMILY LIMITED PARTNERSHIP	36-16527	Decreed	04/01/1955	IRRIGATION	4.48	345.0	
STANDLEE FAMILY LIMITED PARTNERSHIP	36-2303	Decreed	06/11/1956	IRRIGATION	3.26	456.0	
STANDLEE FAMILY LIMITED PARTNERSHIP	36-15119	Decreed	03/01/1975	IRRIGATION	1.28	534.0	Yes
STANDLEE FAMILY LIMITED PARTNERSHIP	36-15178	Decreed	03/01/1975	IRRIGATION	0.04	456.0	Yes
STANDLEE FAMILY LIMITED PARTNERSHIP	36-16500	Decreed	04/01/1984	IRRIGATION	0.51	345.0	Yes
STANDLEY LAND & INVESTMENTS LLC	36-17148	Decreed	04/13/1976	IRRIGATION	0.15	7.7	
STANFIELD, JEFFREY	35-13425	License	04/05/1983	DOMESTIC, IRRIGATION, STOCKWATER	0.10	4.0	
STANLEY AND KENT SEARLE PARTNERSHIP	35-8920	License	09/26/1990	IRRIGATION	0.20	392.0	
STAR FALLS AG INC	36-2151	Decreed	11/14/1957	IRRIGATION	2.32	200.0	
STAR FALLS AG INC	36-7417	Decreed	12/11/1973	IRRIGATION	0.51	200.0	
STAR FALLS FARMS LLC	36-16947	Decreed	08/24/1976	IRRIGATION	0.52	471.0	
STARGAZER LAND & CATTLE LP	36-2324	Decreed	04/24/1957	IRRIGATION	1.20	633.0	
STARGAZER LAND & CATTLE LP	36-7019	Decreed	04/20/1968	IRRIGATION	1.78	160.0	
STARGAZER LAND & CATTLE LP	36-7554	Decreed	07/05/1975	IRRIGATION	5.35	633.0	
STARGAZER LAND & CATTLE LP	36-7620	License	03/15/1976	IRRIGATION	1.76	137.0	
STARGAZER LAND & CATTLE LP	36-7829	Decreed	11/09/1978	IRRIGATION	4.80	633.0	
STARGAZER LAND & CATTLE LP	36-15152	Decreed	08/30/1984	IRRIGATION	0.08	633.0	Yes
STAUB, DEBRA	27-12153	Decreed	12/27/1961	IRRIGATION	0.02	1.1	
STECKLEIN LAND LLC	27-2126	Decreed	08/11/1961	IRRIGATION	4.74	237.0	
STECKLEIN LAND LLC	27-2125A	Decreed	12/27/1961	IRRIGATION	1.52	76.0	
STECKLEIN LAND LLC	27-7065	Decreed	11/09/1976	IRRIGATION	0.28	14.0	
STECKLEIN LAND LLC	27-7093	Decreed	06/24/1977	IRRIGATION	0.54	27.0	
STECKLEIN LAND LLC	27-7306	Decreed	03/24/1982	IRRIGATION	3.70	219.0	
STECKLEIN LAND LLC	27-7399	License	02/20/1985	IRRIGATION	2.29	115.0	
STEEL INVESTMENTS LLC	35-2500A	Decreed	04/12/1957	IRRIGATION	0.46	437.0	
STEEL INVESTMENTS LLC	35-2661C	Decreed	02/21/1961	IRRIGATION	4.68	437.0	
STEEL INVESTMENTS LLC	35-13064	Decreed	04/01/1978	IRRIGATION	0.88	437.0	Yes
STEELE HILL FARM LLC	35-2905	Decreed	03/25/1958	IRRIGATION	4.30	773.0	
STEELE HILL FARM LLC	35-2761	Decreed	02/23/1965	IRRIGATION	3.87	389.0	
STEELE HILL FARM LLC	35-14505	Decreed	05/14/1968	IRRIGATION	0.13	15.0	
STEELE HILL FARM LLC	35-7062	Decreed	11/11/1968	IRRIGATION	5.75	305.0	
STEELE HILL FARM LLC	35-7289	Decreed	03/28/1973	IRRIGATION	6.40	773.0	
STEELE HILL FARM LLC	35-7455	Decreed	06/27/1983	IRRIGATION	2.60	389.0	
STEELE HILL FARM LLC	35-8849	License	08/25/1989	IRRIGATION	3.90	769.0	

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STEELE LAND HOLDINGS LLC	35-2554	Decreed	01/12/1959	DOMESTIC, IRRIGATION	3.84	626.0	
STEELE LAND HOLDINGS LLC	35-2764	Decreed	03/08/1965	IRRIGATION	5.24	312.0	
STEELE LAND HOLDINGS LLC	35-7796	Decreed	03/30/1978	IRRIGATION	5.02	626.0	
STEELE LAND HOLDINGS LLC	35-8000	Decreed	11/14/1981	IRRIGATION	0.21	311.0	
STEELE LAND HOLDINGS LLC	25-7526	License	09/27/1989	STOCKWATER	0.10	0.0	
STEELE, JAMES; STEELE, TRACY	35-14672	License	01/23/1992	IRRIGATION	0.22	11.0	
STEIDLEY, LAYNE M; STEIDLEY, NEELEY	35-13341	Decreed	11/13/1972	IRRIGATION	0.15	7.5	
STEIDLEY, LAYNE M; STEIDLEY, NEELEY	35-13363	Decreed	11/13/1972	IRRIGATION	0.01	7.5	Yes
STEIDLEY, LAYNE M; STEIDLEY, NEELEY	35-13443	Decreed	10/23/1973	IRRIGATION	0.09	5.5	
STEVE NEIBAUR FARMS INC	36-15209	Decreed	03/15/1970	IRRIGATION	0.71	335.0	Yes
STEVEN BURTENSHAW LEGACY LLC	31-2336	Decreed	11/10/1954	IRRIGATION	3.50	440.0	
STEVEN BURTENSHAW LEGACY LLC	31-12394	Decreed	11/01/1967	IRRIGATION	0.45	593.4	
STEVEN BURTENSHAW LEGACY LLC	31-7003	Decreed	11/01/1967	IRRIGATION	3.55	308.0	
STEVEN BURTENSHAW LEGACY LLC	31-11706	Decreed	10/06/1976	IRRIGATION	3.32	312.8	
STEVEN BURTENSHAW LEGACY LLC	31-7209	Decreed	10/06/1976	IRRIGATION	7.04	472.0	
STEVEN BURTENSHAW LEGACY LLC	31-7271	Decreed	10/07/1977	IRRIGATION	2.54	440.0	
STEVEN BURTENSHAW LEGACY LLC	31-11345	Decreed	04/01/1981	IRRIGATION	0.33	308.0	Yes
STEVEN BURTENSHAW LEGACY LLC	31-12395	Decreed	04/01/1981	IRRIGATION	0.04	593.4	Yes
STEVENSON BROTHERS FARMS	36-2727	Decreed	03/10/1961	IRRIGATION	5.10	320.0	
STEVENSON BROTHERS FARMS	36-7495	Decreed	08/13/1974	IRRIGATION	4.58	320.0	
STEVENSON BROTHERS FARMS	36-16872	Decreed	03/28/1975	IRRIGATION	0.01	3.2	
STEVENSON BROTHERS FARMS	36-16873	Decreed	03/28/1975	IRRIGATION	0.01	3.2	
STEVENSON BROTHERS FARMS	36-7529C	Decreed	03/28/1975	IRRIGATION	4.28	316.0	
STEVENSON, ALLAN B; STEVENSON, PATRICIA L	36-4079	Decreed	05/01/1961	IRRIGATION	2.41	134.0	
STEVENSON, DEAN F; STEVENSON, ELLEN W	36-2454C	Decreed	12/08/1960	IRRIGATION	3.16	884.0	
STEVENSON, DEAN F; STEVENSON, ELLEN W	36-2454D	Decreed	12/08/1960	IRRIGATION	0.22	884.0	
STEVENSON, DEAN F; STEVENSON, ELLEN W	36-2630A	Decreed	11/01/1965	IRRIGATION	4.65	884.0	
STEVENSON, DEAN F; STEVENSON, ELLEN W	36-2630B	Decreed	11/01/1965	IRRIGATION	0.81	884.0	
STEVENSON, DEAN F; STEVENSON, ELLEN W	36-7007C	Decreed	09/11/1967	IRRIGATION	1.31	884.0	
STEVENSON, DEAN F; STEVENSON, ELLEN W	36-7007D	Decreed	09/11/1967	IRRIGATION	0.09	884.0	
STEVENSON, DEAN F; STEVENSON, ELLEN W	36-7956A	Decreed	01/16/1981	IRRIGATION	2.15	884.0	
STEVENSON, DEAN F; STEVENSON, ELLEN W	36-7956B	Decreed	01/16/1981	IRRIGATION	0.15	884.0	
STEVENSON, DEAN F; STEVENSON, ELLEN W	36-8619A	License	11/13/1991	IRRIGATION	1.13	884.0	
STEVENSON, DEAN F; STEVENSON, ELLEN W	36-8619B	License	11/13/1991	IRRIGATION	0.20	884.0	
STEVENSON, JOHN A	36-7529Q	Decreed	03/28/1975	IRRIGATION	0.69	158.0	
STEVENSON, SCOTT A; STEVENSON, TAMARA LYNN	36-2562	Decreed	01/24/1963	IRRIGATION	2.09	446.0	
STEVENSON, SCOTT A; STEVENSON, TAMARA LYNN	36-16459	Decreed	09/23/1965	IRRIGATION	0.04	5.1	
STEVENSON, SCOTT A; STEVENSON, TAMARA LYNN	36-16461	Decreed	02/15/1974	IRRIGATION	0.04	5.1	

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STEVENSON, SCOTT A; STEVENSON, TAMARA LYNN	36-7651	Decreed	10/28/1976	IRRIGATION	4.50	316.0	
STEVENSON, SCOTT A; STEVENSON, TAMARA LYNN	36-8161	Decreed	03/31/1983	IRRIGATION	1.80	446.0	
STEWART INDUSTRIES INC	31-2334E	Decreed	09/04/1954	IRRIGATION	1.37	203.0	
STEWART INDUSTRIES INC	31-2338	Decreed	12/01/1954	IRRIGATION	2.50	133.0	
STEWART INDUSTRIES INC	31-10660F	Decreed	04/01/1962	IRRIGATION	3.53	203.0	
STEWART, CAROLYN L; STEWART, DENNIS G	37-7628	Decreed	06/16/1977	IRRIGATION	3.40	170.0	
STEWART, CLINTON B	35-8036	Decreed	04/30/1982	DOMESTIC, IRRIGATION	0.10	2.0	
STEWART, CORDELL E	27-7467	License	05/26/1989	DOMESTIC, IRRIGATION	0.03	2.0	
STEWART, HOMER; STEWART, LELA	35-2904A	Decreed	07/18/1957	IRRIGATION	0.20	10.0	
STEWART, SUSAN	31-2334A	Decreed	09/04/1954	IRRIGATION	1.10	160.0	
STEWART, SUSAN	31-2334B	Decreed	09/04/1954	IRRIGATION	1.26	183.0	
STIBAL, BETTY; STIBAL, CHAD	35-7598	Decreed	03/30/1976	IRRIGATION	1.50	432.0	
STIEGLITZ, JEFFREY BRIAN	27-7542	License	06/11/1991	IRRIGATION, WILDLIFE	0.70	72.2	
STODDARD, JOAN R; STODDARD, ROY	31-12158	Decreed	07/25/1955	IRRIGATION	1.02	312.0	
STODDARD, JOAN R; STODDARD, ROY S	31-12163	Decreed	07/26/1961	IRRIGATION	0.64	312.0	
STOKER, DAN WILLIAM; STOKER, KAREN JANE	35-13530	Decreed	04/27/1964	IRRIGATION	0.60	15.0	
STOKER, DIANA; STOKER, TAD	27-7143B	Decreed	12/13/1979	IRRIGATION	0.10	5.0	
STOKES, SHIRLEY W	36-8409	License	01/23/1989	IRRIGATION	0.20	10.0	
STOLWORTHY, BRENDA	35-13305	Decreed	08/16/1961	IRRIGATION	8.65	523.0	
STOLWORTHY, BRENDA; STOLWORTHY, DAVID	35-7000B	Decreed	07/28/1967	IRRIGATION	3.41	523.0	
STOLWORTHY, BRENDA; STOLWORTHY, DAVID	35-7000E	Decreed	07/28/1967	IRRIGATION	1.41	236.5	
STOLWORTHY, BRENDA; STOLWORTHY, DAVID	35-7000F	Decreed	07/28/1967	IRRIGATION	0.48	179.0	
STOLWORTHY, BRENDA; STOLWORTHY, DAVID	35-7368B	Decreed	01/11/1974	IRRIGATION	1.82	523.0	
STOLWORTHY, BRENDA; STOLWORTHY, DAVID	35-7419	Decreed	05/14/1974	IRRIGATION	1.80	179.0	
STOLWORTHY, BRENDA; STOLWORTHY, DAVID	35-7420	Decreed	05/14/1974	IRRIGATION	1.89	236.5	
STOLWORTHY, BRENDA; STOLWORTHY, DAVID	35-7493	Decreed	03/24/1975	IRRIGATION	4.24	523.0	
STOLWORTHY, BRENDA; STOLWORTHY, DAVID	35-8689	License	01/26/1989	DOMESTIC, IRRIGATION	0.08	3.0	
STOLWORTHY, BRENDA; STOLWORTHY, DAVID	35-8691	License	02/02/1989	IRRIGATION	1.60	80.0	
STOLWORTHY, BRENT	35-13462	License	07/12/1991	IRRIGATION	3.00	151.0	
STOLWORTHY, JAY L	35-8911	License	09/12/1990	IRRIGATION	1.30	426.0	
STOLWORTHY, JAY L	35-13377	License	09/26/1990	IRRIGATION	0.22	543.0	
STOLWORTHY, JAY L	35-13378	License	09/26/1990	IRRIGATION	0.12	426.0	
STOLWORTHY, JAY L	35-8912	License	09/26/1990	IRRIGATION	0.61	543.0	
STOLWORTHY, JAY L	35-8913	License	09/26/1990	IRRIGATION	0.17	426.0	
STOLWORTHY, JAY L	35-8914	License	09/26/1990	IRRIGATION	0.20	426.0	
STOLWORTHY, JAY L	35-8915	License	09/26/1990	IRRIGATION	0.37	426.0	
STOLWORTHY, JAY L; STOLWORTHY, MERRI LYNN	35-7000A	Decreed	07/28/1967	IRRIGATION	4.77	298.0	
STOLWORTHY, JAY L; STOLWORTHY, MERRI LYNN	35-7000C	Decreed	07/28/1967	IRRIGATION	7.97	498.0	

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STOLWORTHY, JAY L; STOLWORTHY, MERRI LYNN	35-7368A	Decreed	01/11/1974	IRRIGATION	1.19	298.0	
STOLWORTHY, JAY L; STOLWORTHY, MERRI LYNN	35-7368C	Decreed	01/11/1974	IRRIGATION	1.99	498.0	
STONE, ROXINE	27-7076	Decreed	02/28/1977	IRRIGATION	0.98	49.0	
STONE, ROXINE	35-13987	Decreed	05/02/1977	IRRIGATION	0.97	48.7	
STONE, ROXINE	35-8956	License	09/25/1991	INDUSTRIAL	1.00	0.0	
STONE, ROXINE	25-13999	License	10/08/2003	COMMERCIAL, IRRIGATION	0.12	1.0	
STOUDER HOLSTEINS LLP	36-8225A	License	11/19/1983	COMMERCIAL, IRRIGATION, STOCKWATER	0.54	1.5	
STOUDER HOLSTEINS LLP	36-8225B	License	11/19/1983	STOCKWATER	0.18	0.0	
STOUDER HOLSTEINS LLP	36-8350	License	04/05/1988	COMMERCIAL, STOCKWATER	0.31	0.0	
STRICKLAND, CAROL M; STRICKLAND, JERRY A	36-7450B	Decreed	03/06/1974	IRRIGATION	0.76	37.0	
STRICKLAND, JEANNE KAY; STRICKLAND, THOMAS KEITH	35-13767	Decreed	03/20/1956	IRRIGATION	0.01	1.4	
SUCHAN, CHEYENNE B; SUCHAN, RUSSELL F	36-7052	Decreed	01/14/1969	IRRIGATION	6.58	800.0	
SUCHAN, CHEYENNE B; SUCHAN, RUSSELL F	36-12454	Decreed	07/04/1974	IRRIGATION	0.51	800.0	Yes
SUCHAN, FRANK J	36-2357	Decreed	08/18/1958	IRRIGATION	2.52	716.0	
SUCHAN, FRANK J	36-2574	Decreed	07/22/1963	IRRIGATION	0.90	716.0	
SUCHAN, FRANK J	36-7629	Decreed	06/24/1976	IRRIGATION	2.00	716.0	
SUCHAN, FRANK J	36-7828	Decreed	10/23/1978	IRRIGATION	2.32	716.0	
SUCHAN, FRANK J	36-7839	License	01/20/1979	IRRIGATION	0.80	716.0	
SUHR, DANIEL A; SUHR, DONNA DEE	36-2900	Decreed	08/22/1961	IRRIGATION	2.08	153.0	
SUHR, DANIEL A; SUHR, DONNA DEE	36-14317	Decreed	03/20/1976	IRRIGATION	0.67	153.0	Yes
SUHR, FRANKLIN	36-4092	Decreed	05/05/1960	IRRIGATION	0.24	70.0	
SULLIVAN LTD PARTNERSHIP	32-13224	Decreed	07/20/1973	DOMESTIC, IRRIGATION, STOCKWATER	4.74	275.0	
SULLIVAN LTD PARTNERSHIP	32-13225	Decreed	07/20/1973	IRRIGATION	0.68	132.0	
SULLIVAN LTD PARTNERSHIP	32-13227	Decreed	12/24/1973	IRRIGATION	0.28	132.0	
SULLIVAN LTD PARTNERSHIP	32-13287	Decreed	12/24/1973	IRRIGATION	0.23	290.5	
SULLIVAN LTD PARTNERSHIP	32-13230	Decreed	09/24/1974	IRRIGATION	2.16	139.0	
SULLIVAN LTD PARTNERSHIP	32-13231	Decreed	09/24/1974	IRRIGATION	0.29	132.0	
SULLIVAN LTD PARTNERSHIP	32-7029B	Decreed	09/24/1974	IRRIGATION	0.03	131.0	
SULLIVAN LTD PARTNERSHIP	32-13223	Decreed	03/02/1981	IRRIGATION	0.24	132.0	
SULLIVAN LTD PARTNERSHIP	32-7110B	Decreed	03/02/1981	IRRIGATION	0.17	131.0	
SULLIVAN LTD PARTNERSHIP	32-13232	Decreed	04/07/1981	IRRIGATION	2.07	132.0	
SULLIVAN LTD PARTNERSHIP	32-13233	Decreed	04/07/1981	IRRIGATION	0.41	132.0	
SULLIVAN LTD PARTNERSHIP	32-7112B	Decreed	04/07/1981	IRRIGATION	0.03	131.0	
SULLIVAN LTD PARTNERSHIP	32-13228	Decreed	08/06/1981	IRRIGATION	2.28	132.0	
SULLIVAN LTD PARTNERSHIP	32-13229	Decreed	08/06/1981	IRRIGATION	0.26	132.0	
SULLIVAN LTD PARTNERSHIP	32-7055A	Decreed	04/23/1983	IRRIGATION	3.13	215.0	
SULLIVAN LTD PARTNERSHIP	32-7055B	Decreed	04/23/1983	IRRIGATION	0.66	290.5	
SULLIVAN LTD PARTNERSHIP	32-7045A	Decreed	08/11/1983	IRRIGATION	3.47	290.5	

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SULLIVAN LTD PARTNERSHIP	32-7045B	Decreed	08/11/1983	IRRIGATION	1.69	131.0	
SULLIVAN, M FRANK	31-2333	Decreed	04/02/1954	DOMESTIC, IRRIGATION	3.10	155.0	
SULLIVAN, M FRANK	32-13286	Decreed	12/24/1973	IRRIGATION	2.65	132.5	
SULLIVAN, M FRANK	32-13222	Decreed	03/02/1981	IRRIGATION	3.87	288.0	
SUN VALLEY POTATOES INC	36-8349	License	07/20/1988	COMMERCIAL	0.29	0.0	
SUNNYSIDE PARK UTILITIES INC	25-13979	License	05/17/2002	COMMERCIAL, INDUSTRIAL	0.28	0.0	
SUNRISE ORGANIC DAIRY LLC	36-16994	Decreed	05/16/1955	COMMERCIAL, STOCKWATER	0.28	0.0	
SUNRISE ORGANIC DAIRY LLC	36-17044	Decreed	05/16/1955	IRRIGATION	0.43	73.8	
SUNRISE ORGANIC DAIRY LLC	36-2284	Decreed	05/16/1955	IRRIGATION	2.35	520.0	
SUNRISE ORGANIC DAIRY LLC	36-16049	Decreed	11/20/1956	IRRIGATION	4.80	1572.0	
SUNRISE ORGANIC DAIRY LLC	36-16050	Decreed	11/20/1956	COMMERCIAL, STOCKWATER	0.71	0.0	
SUNRISE ORGANIC DAIRY LLC	36-2310B	Decreed	11/20/1956	COMMERCIAL, STOCKWATER	0.31	0.0	
SUNRISE ORGANIC DAIRY LLC	36-16047	Decreed	05/11/1957	IRRIGATION	3.00	1572.0	
SUNRISE ORGANIC DAIRY LLC	36-16048	Decreed	05/11/1957	COMMERCIAL, STOCKWATER	0.08	0.0	
SUNRISE ORGANIC DAIRY LLC	36-16051	Decreed	02/20/1959	IRRIGATION	0.54	1572.0	
SUNRISE ORGANIC DAIRY LLC	36-16052	Decreed	02/20/1959	COMMERCIAL, STOCKWATER	0.08	0.0	
SUNRISE ORGANIC DAIRY LLC	36-2376B	Decreed	02/20/1959	COMMERCIAL, STOCKWATER	0.04	0.0	
SUNRISE ORGANIC DAIRY LLC	36-2430	Decreed	04/21/1960	IRRIGATION	3.50	1572.0	
SUNRISE ORGANIC DAIRY LLC	36-16053	Decreed	07/16/1973	IRRIGATION	1.38	1572.0	
SUNRISE ORGANIC DAIRY LLC	36-16054	Decreed	07/16/1973	COMMERCIAL, STOCKWATER	0.21	0.0	
SUNRISE ORGANIC DAIRY LLC	36-7351B	Decreed	07/16/1973	COMMERCIAL, STOCKWATER	0.09	0.0	
SUNRISE ORGANIC DAIRY LLC	36-17154	Decreed	11/21/1973	IRRIGATION	0.81	345.0	
SUNRISE ORGANIC DAIRY LLC	36-17155	Decreed	01/29/1976	IRRIGATION	0.78	345.0	
SUNRISE ORGANIC DAIRY LLC	36-17153	Decreed	03/03/1976	IRRIGATION	2.41	345.0	
SUNRISE ORGANIC DAIRY LLC	36-7688	Decreed	04/06/1977	IRRIGATION	8.36	513.0	
SUNRISE ORGANIC DAIRY LLC	36-7801	Decreed	08/24/1978	COMMERCIAL, STOCKWATER	0.89	0.0	
SUNRISE ORGANIC DAIRY LLC	36-16045	Decreed	10/19/1981	IRRIGATION	1.95	1572.0	
SUNRISE ORGANIC DAIRY LLC	36-16046	Decreed	10/19/1981	COMMERCIAL, STOCKWATER	0.05	0.0	
SUNRISE ORGANIC DAIRY LLC	36-8014	Decreed	11/04/1981	COMMERCIAL, DOMESTIC, STOCKWATER	0.26	0.0	
SUNRISE ORGANIC DAIRY LLC	36-16055	Decreed	12/08/1981	IRRIGATION	4.12	1572.0	
SUNRISE ORGANIC DAIRY LLC	36-16056	Decreed	12/08/1981	COMMERCIAL, STOCKWATER	0.61	0.0	
SUNRISE ORGANIC DAIRY LLC	36-16396	Decreed	12/08/1981	COMMERCIAL, STOCKWATER	0.75	0.0	
SUNRISE ORGANIC DAIRY LLC	36-8005B	Decreed	12/08/1981	COMMERCIAL, STOCKWATER	0.27	0.0	
SUNRISE ORGANIC DAIRY LLC	36-8008	Decreed	12/08/1981	IRRIGATION	0.84	1572.0	
SUNRISE ORGANIC DAIRY LLC	36-8011A	Decreed	12/24/1981	DOMESTIC	0.15	0.0	
SUNRISE ORGANIC DAIRY LLC	36-8011B	Decreed	12/24/1981	STOCKWATER	0.14	0.0	
SUNRISE ORGANIC DAIRY LLC	36-8015	Decreed	12/24/1981	COMMERCIAL, STOCKWATER	0.46	0.0	
SUNRISE ORGANIC DAIRY LLC	36-16995	License	11/28/1988	COMMERCIAL, STOCKWATER	0.06	0.0	

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SUNRISE ORGANIC DAIRY LLC	36-17045	License	11/28/1988	IRRIGATION	0.10	73.8	
SUNRISE ORGANIC DAIRY LLC	36-8401	License	11/28/1988	IRRIGATION	0.52	520.0	
SUNRISE ORGANIC DAIRY LLC	36-8402	License	11/28/1988	IRRIGATION	0.84	1572.0	
SUNRISE ORGANIC DAIRY, LLC	36-2369	Decreed	12/31/1958	IRRIGATION	3.95	524.0	
SUNRISE ORGANIC DAIRY, LLC	36-15708	Decreed	03/10/1960	IRRIGATION	3.10	524.0	
SUNRISE ORGANIC DAIRY, LLC	36-7949	Decreed	02/04/1981	IRRIGATION	1.41	524.0	
SUNRISE ORGANIC DAIRY, LLC	36-16395	Decreed	12/08/1981	IRRIGATION	0.62	524.0	
SUNSET TRAILER RANCH	35-7919	Decreed	09/27/1980	DOMESTIC, IRRIGATION	0.24	4.0	
SWEET, WILLIAM G	37-7692	License	12/21/1977	IRRIGATION	4.00	196.0	
SWINGLE, ARTICE M; WORDIN, JOHN J	27-7131	Decreed	03/22/1979	IRRIGATION	0.17	9.0	
SWISS MILL DAIRY INC	35-2593	Decreed	10/24/1961	IRRIGATION	1.63	146.0	
SWISS MILL DAIRY INC	35-7232B	Decreed	04/28/1972	IRRIGATION	2.88	195.0	
SWISS MILL DAIRY INC	35-7347	Decreed	10/30/1973	IRRIGATION	3.96	310.0	
SWISS MILL DAIRY INC	35-14476	Decreed	12/04/1975	IRRIGATION	0.31	17.0	
SWISS MILL DAIRY INC	35-14477	Decreed	12/04/1975	IRRIGATION	0.05	3.0	
SWISS MILL DAIRY INC	35-7735	Decreed	07/29/1977	COMMERCIAL, DOMESTIC	0.06	0.0	
SYDNOR, CARLA; SYDNOR, CHARLES	45-7661	License	06/29/1989	DOMESTIC, IRRIGATION	0.05	2.0	
T B & R INVESTMENTS LLC	31-7203	Decreed	07/30/1976	IRRIGATION	7.53	462.0	
T B & R INVESTMENTS LLC	31-10503	Decreed	04/01/1987	IRRIGATION	0.66	462.0	Yes
TABER, BEVERLY	37-7877A	Decreed	02/05/1981	IRRIGATION	0.02	1.0	
TABER, BEVERLY; TABER, DONALD E	37-7617A	Decreed	06/02/1977	IRRIGATION	3.64	186.0	
TABER, BEVERLY; TABER, DONALD E	37-7617B	Decreed	06/02/1977	COMMERCIAL, STOCKWATER	0.14	0.0	
TABER, DONALD C; TABER, LYNDA L	37-2654	Decreed	03/03/1961	IRRIGATION	2.13	234.0	
TABER, DONALD C; TABER, LYNDA L	37-8078	License	05/15/1983	IRRIGATION	2.00	116.0	
TABER, DONALD E	37-7197	Decreed	01/23/1973	IRRIGATION	4.46	466.0	
TABER, DONALD E	37-10158	Decreed	04/01/1974	IRRIGATION	1.78	466.0	Yes
TABOR ROAD FARM LLC	35-2383	Decreed	08/05/1954	IRRIGATION	4.55	268.0	
TABOR ROAD FARM LLC	35-2478A	Decreed	10/18/1956	IRRIGATION	4.04	316.0	
TABOR ROAD FARM LLC	35-2479	Decreed	10/18/1956	IRRIGATION	9.16	686.0	
TABOR ROAD FARM LLC	35-2510	Decreed	08/06/1957	IRRIGATION	2.88	317.0	
TABOR ROAD FARM LLC	35-13670	Decreed	04/26/1961	IRRIGATION	1.82	493.4	
TABOR ROAD FARM LLC	35-2807	Decreed	02/01/1966	IRRIGATION	7.34	390.0	
TABOR ROAD FARM LLC	35-13225	Decreed	08/01/1968	IRRIGATION	0.34	390.0	Yes
TABOR ROAD FARM LLC	35-13668	Decreed	05/06/1969	IRRIGATION	3.63	493.4	
TABOR ROAD FARM LLC	35-8014	Decreed	03/28/1982	IRRIGATION	3.52	317.0	
TABOR ROAD FARM LLC	35-12654A	Decreed	04/01/1985	IRRIGATION	0.60	461.0	Yes
TAJO LLC	45-2761	Decreed	10/18/1962	IRRIGATION	1.04	75.0	
TAJO LLC	45-7214	Decreed	12/24/1974	IRRIGATION	1.00	50.0	

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TALBOT, H EUGENE; TALBOT, JOYCE C	35-13506	Decreed	11/25/1963	IRRIGATION	0.03	2.5	
TALBOT, H EUGENE; TALBOT, JOYCE C	35-13504	Decreed	12/04/1975	IRRIGATION	0.01	2.5	
TAMA LAND NORTHWEST LLC	37-2564	Decreed	11/23/1954	IRRIGATION	2.94	247.0	
TAMA LAND NORTHWEST LLC	35-2528	Decreed	02/28/1958	IRRIGATION	4.14	318.0	
TAMA LAND NORTHWEST LLC	37-2644A	Decreed	10/31/1960	IRRIGATION	3.78	658.0	
TAMA LAND NORTHWEST LLC	37-2666	Decreed	06/14/1961	IRRIGATION	1.44	71.8	
TAMA LAND NORTHWEST LLC	37-8063	License	01/06/1983	IRRIGATION	2.00	658.0	
TANNER LANE RANCH LLLP	27-7003	Decreed	03/19/1968	IRRIGATION, STOCKWATER	5.24	289.2	
TANNER LANE RANCH LLLP	27-7303A	Decreed	03/17/1982	IRRIGATION	3.55	180.0	
TANNER LANE RANCH LLLP	27-7292	Decreed	09/06/1982	IRRIGATION	4.70	255.5	
TAR LLC	35-14569	Decreed	03/24/1982	INDUSTRIAL	0.08	0.0	
TAR LLC	35-14571	Decreed	03/24/1982	INDUSTRIAL	0.04	0.0	
TARPLEY, JIM W	32-13236	Decreed	06/13/1974	IRRIGATION	0.19	256.0	
TARPLEY, JIM W	32-7120	Decreed	09/25/1981	IRRIGATION	1.06	256.0	
TATEOKA, NADINE; TATEOKA, PAUL K	36-7522	Decreed	01/29/1975	IRRIGATION	1.07	153.0	
TATEOKA, REBECCA A; TATEOKA, THEODORE J	36-17030	Decreed	01/29/1975	IRRIGATION	1.08	154.0	
TAY JO LC	36-7699	Decreed	05/02/1977	IRRIGATION	2.15	107.5	
TAYLOR, CARL	35-14268	License	01/14/1983	IRRIGATION	0.30	912.5	
TAYLOR, JOY; TAYLOR, WAYNE	35-10593	Decreed	05/01/1954	IRRIGATION	6.87	474.0	
TAYLOR, R JAY	25-7189	Decreed	04/03/1980	DOMESTIC, IRRIGATION	0.04	1.0	
TDW ENTERPRISES LLC	36-8438	License	07/24/1989	IRRIGATION	0.09	4.5	
TED MILLER DAIRY	36-16187	Decreed	10/28/1977	IRRIGATION	0.01	3.0	
TEED, VIRGINIA	35-2428B	Decreed	07/01/1955	IRRIGATION	0.08	4.0	
TEIXEIRA, HUMBERTO AZEVEDO	36-16732	Decreed	08/21/1973	IRRIGATION	0.16	8.0	
TELFORD LANDS LLC	34-2459	Decreed	04/19/1965	IRRIGATION	4.17	2223.8	
TELFORD LANDS LLC	34-2460	Decreed	04/19/1965	IRRIGATION	4.17	2223.8	
TELFORD LANDS LLC	34-2461	Decreed	05/03/1965	IRRIGATION	2.08	2223.8	
TELFORD LANDS LLC	34-2462	Decreed	05/03/1965	IRRIGATION	2.08	2223.8	
TELFORD LANDS LLC	34-7037	Decreed	05/04/1973	IRRIGATION	12.00	2223.8	
TELFORD LANDS LLC	34-10925	Decreed	05/01/1982	IRRIGATION	7.60	2223.8	Yes
TELFORD, CODY; TELFORD, ROBERT K	31-7337	Decreed	04/25/1980	IRRIGATION	0.30	75.0	
TELFORD, MARK	34-2486	License	06/07/2002	IRRIGATION	3.76	188.0	
TELFORD, MICHAEL S	36-2408	Decreed	02/29/1960	IRRIGATION	3.80	238.0	
TELFORD, MICHAEL S	36-2552	Decreed	11/14/1962	IRRIGATION	4.42	298.8	
TELFORD, MICHAEL S	36-10024	Decreed	05/31/1976	IRRIGATION	1.15	298.8	Yes
TELFORD, MICHAEL S	36-10025	Decreed	05/31/1976	IRRIGATION	0.77	238.0	Yes
TELFORD, MICHAEL S	37-7650	Decreed	09/04/1977	DOMESTIC, STOCKWATER	0.17	0.0	
TELFORD, MICHAEL S	36-15984	Decreed	12/07/1979	IRRIGATION	2.91	444.0	

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TELFORD, MICHAEL S	36-15985	Decreed	12/07/1979	IRRIGATION	0.94	308.0	
TELFORD, MICHAEL S	37-7949	Decreed	11/04/1981	COMMERCIAL, STOCKWATER	0.25	0.0	
TELFORD, MICHAEL S	36-8189	License	05/11/1983	IRRIGATION	0.96	48.0	
TELFORD, MICHAEL S	36-8191	License	05/11/1983	IRRIGATION	1.97	98.3	
TELFORD, MICHAEL S; TELFORD, SHANNON J	36-2416	Decreed	01/20/1960	IRRIGATION	2.20	257.0	
TELFORD, MICHAEL S; TELFORD, SHANNON J	36-2417	Decreed	01/20/1960	IRRIGATION	1.20	291.0	
TELFORD, MICHAEL S; TELFORD, SHANNON J	36-7002A	Decreed	08/01/1967	IRRIGATION	4.36	291.0	
TELFORD, MICHAEL S; TELFORD, SHANNON J	36-7002B	Decreed	08/01/1967	IRRIGATION	2.84	257.0	
TENNEY, RENNY; TENNEY, TRACY	35-9058	License	08/20/1996	DOMESTIC	0.09	0.0	
TERNUS, BRENDA; TERNUS, GARY A	35-13858	Decreed	04/27/1964	IRRIGATION	0.32	8.0	
TETON TREES LLC	36-16556	Decreed	03/15/1962	COMMERCIAL, IRRIGATION	0.30	51.7	
TETON TREES LLC	36-16827	Decreed	09/13/1984	IRRIGATION	0.10	51.7	
TETON WEST STEEL INC	35-8761	License	05/23/1989	COMMERCIAL	0.04	0.0	
THAIN, CORY S	36-16702	Decreed	03/13/1981	IRRIGATION	0.86	43.0	
THAIN, GREG S	36-16701	Decreed	03/13/1981	IRRIGATION	0.30	15.0	
THAIN, JOHN T	36-8413	License	03/02/1989	IRRIGATION	1.00	183.5	
THE BAKER FAMILY TRUST	36-7405	Decreed	11/08/1973	IRRIGATION	1.16	240.0	
THE BENEDICTINE MONKS OF IDAHO INC	36-7904	Decreed	03/26/1980	IRRIGATION	0.38	425.0	
THE GARY W & SHIRLEY SEAMONS FAMILY TRUST	35-7981	Decreed	06/05/1981	IRRIGATION	0.82	86.0	
THE JACK E DETMER LIVING TRUST	35-8148	Decreed	05/24/1983	DOMESTIC, IRRIGATION	0.03	1.0	
THE MANUEL ARIAS CHILDRENS TRUST	35-8198	License	07/02/1983	DOMESTIC, IRRIGATION, STOCKWATER	0.09	2.0	
THE WATKINS CO LLC	35-13663	Decreed	02/08/1956	IRRIGATION	2.62	280.3	
THE WATKINS CO LLC	35-13661	Decreed	11/06/1969	IRRIGATION	5.11	257.4	
THE WULF A LEBRECHT TESTAMENTARY FAMILY TRUST	35-7585	Decreed	02/25/1976	IRRIGATION	6.36	318.0	
THIBAULT, DONALD F; THIBAULT, PHYLLIS N	36-7447	Decreed	02/21/1974	IRRIGATION	3.91	282.0	
THIEL, WILLIAM J	35-2659	Decreed	04/20/1961	IRRIGATION	4.48	671.0	
THIEL, WILLIAM J	35-7002	Decreed	07/28/1967	IRRIGATION	3.29	671.0	
THOMAS, JED A; THOMAS, TRACEY	36-8522	License	04/11/1990	DOMESTIC, IRRIGATION, STOCKWATER	0.14	5.0	
THOMAS, KIMBER L; THOMAS, L RICHARD	35-2750B	Decreed	07/29/1964	IRRIGATION	0.13	6.3	
THOMPSON BROTHERS LLC	27-12146	Decreed	11/14/1960	IRRIGATION	0.12	304.0	
THOMPSON BROTHERS LLC	35-14703	Decreed	06/16/1966	IRRIGATION	0.04	65.4	
THOMPSON BROTHERS LLC	35-2837A	Decreed	06/16/1966	IRRIGATION	2.68	468.5	
THOMPSON BROTHERS LLC	35-2837B	Decreed	06/16/1966	IRRIGATION	0.83	284.1	
THOMPSON BROTHERS LLC	35-2838	Decreed	06/16/1966	IRRIGATION	3.82	468.5	
THOMPSON BROTHERS LLC	35-2836	Decreed	07/18/1967	IRRIGATION	2.50	468.5	
THOMPSON BROTHERS LLC	35-14704	Decreed	07/22/1969	IRRIGATION	0.21	65.4	
THOMPSON BROTHERS LLC	35-7088	Decreed	07/22/1969	IRRIGATION	4.40	284.1	
THOMPSON BROTHERS LLC	35-7296B	Decreed	06/12/1973	IRRIGATION	0.80	94.0	

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THOMPSON BROTHERS LLC	35-7386B	Decreed	02/26/1974	IRRIGATION	0.72	94.0	
THOMPSON BROTHERS LLC	35-7394	Decreed	03/20/1974	IRRIGATION	1.48	74.0	
THOMPSON BROTHERS LLC	35-7927	Decreed	11/14/1980	IRRIGATION	1.11	77.0	
THOMPSON BROTHERS LLC	27-7299	Decreed	01/26/1982	IRRIGATION	1.89	304.0	
THOMPSON BROTHERS LLC	35-8027	Decreed	02/22/1982	IRRIGATION	0.81	58.0	
THOMPSON BROTHERS LLC	27-7324	Decreed	07/13/1982	IRRIGATION	1.94	97.0	
THOMPSON BROTHERS LLC	35-8173A	License	08/22/1983	IRRIGATION, STOCKWATER	2.80	137.0	
THOMPSON BROTHERS LLC	27-7412	License	06/20/1985	IRRIGATION	2.32	304.0	
THOMPSON BROTHERS LLC	35-8845	License	03/15/1993	IRRIGATION	1.04	65.4	
THOMPSON, DARYL; THOMPSON, GARTH	35-7296A	Decreed	06/12/1973	IRRIGATION	1.59	159.0	
THOMPSON, DARYL; THOMPSON, GARTH	35-7386A	Decreed	02/26/1974	IRRIGATION	1.57	159.0	
THOMPSON, DEBORAH M; THOMPSON, GARY C	36-15171	Decreed	08/23/1962	IRRIGATION	4.65	317.0	
THOMPSON, DEBORAH M; THOMPSON, GARY C	36-11839	Decreed	03/15/1976	IRRIGATION	0.25	317.0	Yes
THOMPSON, DIRK; THOMPSON, SARAH	35-14482	License	06/11/1985	IRRIGATION	0.02	1.1	
THOMPSON, KURT; THOMPSON, LINDA B	36-8615	License	10/30/1991	IRRIGATION	0.05	1.5	
THOMPSON, LAURIE; THOMPSON, PAUL D	35-7733	Decreed	07/25/1977	IRRIGATION	0.72	36.0	
TLD PROPERTIES LLC	36-16657	Decreed	12/09/1968	IRRIGATION	6.07	929.0	
TLD PROPERTIES LLC	36-16659	Decreed	10/10/1969	IRRIGATION	6.07	929.0	
TLD PROPERTIES LLC	36-16661	Decreed	01/17/1973	IRRIGATION	1.52	929.0	
TLD PROPERTIES LLC	36-16663	Decreed	11/15/1973	IRRIGATION	3.03	929.0	
TLD PROPERTIES LLC	36-16665	Decreed	05/01/1984	IRRIGATION	1.19	929.0	Yes
TOEVS, JOANNE; TOEVS, WILLIAM R	35-14040	Decreed	10/16/1974	IRRIGATION	0.08	320.0	
TOLEDO, JOHN B	36-7265	Decreed	09/25/1972	COMMERCIAL, IRRIGATION, STOCKWATER	0.76	15.0	
TOLEDO, JOHN B; TOLEDO, MARIA R	36-7460AF	Decreed	03/25/1974	COMMERCIAL, STOCKWATER	0.20	0.0	
TOMINAGA, FRANK	35-7040	Decreed	10/16/1968	IRRIGATION	2.45	152.0	
TOMINAGA, JOANN; TOMINAGA, RAY; TOMINAGA, RICHARD	27-7120	Decreed	01/02/1978	IRRIGATION	3.76	195.8	
TOMINAGA, JOANN; TOMINAGA, RAY; TOMINAGA, RICHARD	27-11968	Decreed	04/01/1978	IRRIGATION	3.76	196.0	Yes
TOMINAGA, JOANN; TOMINAGA, RAY; TOMINAGA, RICHARD	27-7261	Decreed	03/10/1981	IRRIGATION	1.32	75.0	
TOMINAGA, JOANN; TOMINAGA, RAY; TOMINAGA, RICHARD	27-10151	Decreed	04/01/1983	IRRIGATION	0.13	75.0	Yes
TOMINAGA, JOANN; TOMINAGA, RAY; TOMINAGA, RICHARD; TOMINAGA, ROSEMARY	27-7422	License	07/30/1986	IRRIGATION	0.70	35.0	
TOMITA, CARA; TOMITA, TRAVIS	25-14362	License	02/28/1992	IRRIGATION	0.01	0.3	
TOMS, ALLEN; TOMS, BARBARA	25-4286	Decreed	03/06/1963	DOMESTIC, IRRIGATION	0.04	1.0	
TOONE, MARK S; TOONE, SALLY J	37-7412	Decreed	12/18/1974	IRRIGATION	2.25	247.0	
TOONE, MARK S; TOONE, SALLY J	37-7816	Decreed	12/26/1979	IRRIGATION	2.25	138.0	
TORGERSON, LINDA RAY; TORGERSON, RONALD	31-7298	Decreed	04/03/1978	IRRIGATION	0.68	34.0	
TORIX, LARRY J; TORIX, MARY ANN	36-8449	License	10/12/1989	IRRIGATION	0.03	1.0	
TORNGREN FARM LLC	35-14522	Decreed	01/19/1961	IRRIGATION	4.92	461.0	

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TORNGREN FARM LLC	35-14523	Decreed	10/01/1965	IRRIGATION	0.84	461.0	
TORNGREN FARM LLC	35-2829	Decreed	05/31/1966	IRRIGATION	8.82	469.0	
TORNGREN, JANET; TORNGREN, WILLIAM N	35-12371	Decreed	10/01/1965	IRRIGATION	3.98	318.0	
TORNGREN, JANET; TORNGREN, WILLIAM N	35-14546	Decreed	10/01/1965	IRRIGATION	1.99	160.0	
TOWN & COUNTRY GARDENS	25-7303	Decreed	02/01/1983	COMMERCIAL, DOMESTIC, IRRIGATION	0.15	2.0	
TOWN & COUNTRY MOBILE HOME PARK LLC	35-8366	Decreed	01/04/1985	DOMESTIC, IRRIGATION	0.24	2.0	
TOWNSHIP PARK ESTATES WATER ASSN INC	25-14410	Decreed	01/27/1976	IRRIGATION	0.06	31.8	
TOWNSHIP PARK ESTATES WATER ASSN INC	25-14432	Decreed	01/27/1976	IRRIGATION	0.04	31.8	
TOWNSHIP PARK ESTATES WATER ASSN INC	25-14411	Decreed	10/31/1986	IRRIGATION	0.02	31.8	Yes
TOWNSHIP PARK ESTATES WATER ASSN INC	25-14433	Decreed	10/31/1986	IRRIGATION	0.01	31.8	Yes
TOWNSHIP PARK ESTATES WATER ASSN INC	25-7583	License	07/26/1994	DOMESTIC, IRRIGATION	0.57	31.8	
TRACY, CHARLES R	36-7733	Decreed	07/22/1977	DOMESTIC, IRRIGATION	0.12	3.5	
TRAU, GARRETT E; TRAU, HELEN	36-8464B	License	10/12/1989	IRRIGATION, STOCKWATER	0.16	5.0	
TREYES, MARIA; TREYES, VICENTE	36-7276	Decreed	12/05/1972	COMMERCIAL	0.04	0.0	
TREYES, MARIA; TREYES, VICENTE	36-7460AD	Decreed	03/25/1974	COMMERCIAL, STOCKWATER	0.06	0.0	
TREYES, MARIA; TREYES, VICENTE	36-8774	License	03/10/1998	DOMESTIC, STOCKWATER	0.13	0.0	
TRF LAND LLC	36-14618	Decreed	06/04/1959	IRRIGATION	4.32	311.0	
TRF LAND LLC	36-14619	Decreed	05/01/1965	IRRIGATION	1.32	311.0	Yes
TRIANGLE P LLC	36-16474	Decreed	05/12/1954	IRRIGATION	1.67	120.0	
TRIANGLE P LLC	36-10852	Decreed	01/01/1968	IRRIGATION	0.14	470.9	
TRIBLE, MARLA C; TRIBLE, THOMAS C	35-2915	Decreed	12/04/1959	IRRIGATION	0.09	5.0	
TRIPLE ACE INC	36-2558	Decreed	12/14/1962	IRRIGATION	3.08	459.0	
TRIPLE C CONCRETE INC	36-8791	License	06/17/1999	INDUSTRIAL	1.68	0.0	
TRIPLE C CONCRETE INC	36-8792	License	06/17/1999	INDUSTRIAL	1.68	0.0	
TRIPLE S FARMS LLC	36-7110	Decreed	12/22/1969	IRRIGATION	4.68	313.0	
TRIPLE S FARMS LLC	36-7111	Decreed	12/22/1969	IRRIGATION	5.13	264.0	
TRIPLE S FARMS LLC	36-7153	Decreed	01/20/1971	IRRIGATION	2.80	140.0	
TRIPLE S FARMS LLC	36-7173	Decreed	04/30/1971	IRRIGATION	1.00	154.0	
TRIPLE S FARMS LLC	36-7365A	Decreed	08/10/1973	IRRIGATION	1.12	106.0	
TRIPLE S FARMS LLC	36-7365B	Decreed	08/10/1973	COMMERCIAL, STOCKWATER	0.33	0.0	
TRIPLE S FARMS LLC	36-7386	Decreed	10/09/1973	IRRIGATION	3.20	160.0	
TRIPLE S FARMS LLC	36-15328	Decreed	07/06/1974	IRRIGATION	5.19	263.0	
TRIPLE S FARMS LLC	36-7563	Decreed	09/26/1974	IRRIGATION	4.38	219.0	
TRIPLE S FARMS LLC	36-7572	Decreed	10/14/1975	IRRIGATION	2.64	132.0	
TRIPLE S FARMS LLC	36-7337K	Decreed	11/25/1977	COMMERCIAL, STOCKWATER	1.30	0.0	
TRIPLE S FARMS LLC	37-8901	Decreed	11/25/1977	STOCKWATER	0.20	0.0	
TRIPLE S FARMS LLC	37-8152	Decreed	06/30/1983	STOCKWATER	0.25	0.0	
TRIPLE S FARMS LLC	36-8263	License	02/03/1985	IRRIGATION	0.85	128.0	

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TRIPLE S FARMS LLC	36-8164	License	06/27/1985	IRRIGATION	2.08	104.0	
TRIPLE T FARMS	36-15360	Decreed	12/31/1958	IRRIGATION	6.12	639.5	
TRIPLE T FARMS	36-7882B	Decreed	12/07/1979	IRRIGATION	7.85	639.5	
TRIPP, EVAN J; TRIPP, RANAE	35-8866	License	07/25/1989	IRRIGATION	0.01	1.0	
TROEDSON, LORETTA; TROEDSON, THADLEY	35-8871	License	01/02/1990	IRRIGATION, STOCKWATER	0.17	7.3	
TROST, KEN R; TROST, PAM J	36-7996	Decreed	07/24/1981	IRRIGATION	0.22	11.0	
TRUE WEST BEEF LLC	36-2283	Decreed	05/10/1955	IRRIGATION	0.67	946.0	
TRUE WEST BEEF LLC	36-2386	Decreed	05/14/1959	IRRIGATION	4.81	946.0	
TRUE WEST BEEF LLC	36-2531	Decreed	03/16/1962	IRRIGATION	1.94	320.0	
TRUE WEST BEEF LLC	36-2556	Decreed	10/19/1962	IRRIGATION	2.43	320.0	
TRUE WEST BEEF LLC	36-16951	Decreed	09/26/1963	IRRIGATION	0.17	946.0	
TRUE WEST BEEF LLC	36-16952	Decreed	09/26/1963	IRRIGATION	5.34	287.8	
TRUE WEST BEEF LLC	36-2608	Decreed	02/08/1965	IRRIGATION	5.20	946.0	
TRUE WEST BEEF LLC	36-14617	Decreed	05/01/1982	IRRIGATION	0.12	946.0	Yes
TRUE WEST BEEF LLC	36-17172	Decreed	05/01/1982	INDUSTRIAL	0.63	0.0	
TURNER, CHARLES K; TURNER, STACEY	37-7415A	Decreed	01/06/1975	IRRIGATION	1.39	69.4	
TURNER, CHARLES K; TURNER, STACEY	37-7415B	Decreed	01/06/1975	COMMERCIAL, STOCKWATER	0.21	0.0	
TURNER, LOVELL J	45-13548	Decreed	01/19/1978	IRRIGATION	0.03	5.6	
TURPIN, APRIL P ; TURPIN, RANDY D	35-8153	License	05/25/1983	IRRIGATION	0.40	20.0	
TURPIN, DONALD BRUCE	35-8841	License	05/16/1989	IRRIGATION	0.46	23.0	
TWIGGS FARMS	35-2710	Decreed	04/16/1962	IRRIGATION	1.94	114.0	
TWIGGS FARMS	35-7223	Decreed	04/11/1972	IRRIGATION	0.34	114.0	
TWIGGS FARMS	35-7245	Decreed	09/06/1972	IRRIGATION	2.97	151.0	
TWIGGS FARMS	35-7297	Decreed	06/12/1973	IRRIGATION	1.16	129.0	
TWIGGS FARMS	35-7298A	Decreed	06/12/1973	IRRIGATION	4.22	211.0	
TWIGGS FARMS	35-7298B	Decreed	06/12/1973	IRRIGATION	0.14	7.0	
TWIGGS FARMS	35-7470	Decreed	01/28/1975	IRRIGATION	1.42	129.0	
TWIGGS FARMS	35-8584	License	05/25/1985	IRRIGATION	1.87	93.5	
TWIGGS FARMS	35-8945	License	06/17/1991	IRRIGATION	0.79	39.5	
TWIGGS FARMS	35-8946	License	06/17/1991	IRRIGATION	0.76	38.0	
TWIN STOCK LLC	36-17108	Decreed	11/28/1977	IRRIGATION	0.23	11.4	
TYNER, JAMES L	36-16727	Decreed	03/07/1978	IRRIGATION	0.03	1.3	
UNDERWOOD, FRANK S	35-8777	License	06/06/1989	IRRIGATION, STOCKWATER	0.14	8.0	
UNIT 3 WATER ASSN INC	36-8090	License	06/16/1982	DOMESTIC, FIRE PROTECTION, IRRIGATION, STOCKWATER	0.51	24.0	
UNIT 3 WATER ASSN INC	36-8727	License	05/05/1994	DOMESTIC	0.45	0.0	
UR FARMS	36-15647	Decreed	12/03/1966	COMMERCIAL, STOCKWATER	0.12	0.0	
UR FARMS	36-15645	Decreed	10/18/1968	COMMERCIAL, STOCKWATER	0.15	0.0	

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UR FARMS	36-15649	Decreed	02/18/1971	COMMERCIAL, STOCKWATER	0.06	0.0	
UR FARMS	36-16192	Decreed	01/07/1974	COMMERCIAL, STOCKWATER	0.03	0.0	
UR FARMS	36-16378	Decreed	01/07/1974	COMMERCIAL, STOCKWATER	0.10	0.0	
UR FARMS	37-21142	Decreed	01/07/1974	IRRIGATION, MITIGATION	0.08	4.9	
UR FARMS	37-21160	Decreed	02/27/1979	MITIGATION	0.12	0.0	
UR FARMS	36-8549	License	06/28/1990	COMMERCIAL, STOCKWATER	0.09	0.0	
US BUREAU OF LAND MANAGEMENT	36-2415B	Decreed	02/18/1960	IRRIGATION	0.34	24.5	
US BUREAU OF LAND MANAGEMENT	35-2586D	Decreed	03/22/1960	IRRIGATION	0.19	16.0	
US BUREAU OF LAND MANAGEMENT	35-2586F	Decreed	03/22/1960	IRRIGATION	0.57	52.5	
US BUREAU OF LAND MANAGEMENT	35-2611B	Decreed	09/16/1960	IRRIGATION	0.16	11.0	
US BUREAU OF LAND MANAGEMENT	37-20841	Decreed	11/29/1960	IRRIGATION	0.24	12.2	
US BUREAU OF LAND MANAGEMENT	35-2907B	Decreed	07/07/1961	IRRIGATION	0.20	10.0	
US BUREAU OF LAND MANAGEMENT	36-16950	Decreed	05/01/1967	IRRIGATION	0.22	11.1	
US BUREAU OF LAND MANAGEMENT	35-7364D	Decreed	01/08/1974	IRRIGATION	0.14	16.0	
US BUREAU OF LAND MANAGEMENT	35-7364F	Decreed	01/08/1974	IRRIGATION	0.48	52.5	
US BUREAU OF LAND MANAGEMENT	35-7645B	Decreed	12/11/1976	IRRIGATION	0.06	11.0	
US BUREAU OF LAND MANAGEMENT	36-7611A	Decreed	02/25/1977	IRRIGATION	1.67	119.0	
US BUREAU OF LAND MANAGEMENT	37-20849	Decreed	10/06/1977	IRRIGATION	0.42	30.0	
US BUREAU OF LAND MANAGEMENT	36-7830A	Decreed	11/09/1978	IRRIGATION	0.67	119.0	
US BUREAU OF LAND MANAGEMENT	35-7534B	Decreed	08/04/1979	IRRIGATION	1.09	57.0	
US BUREAU OF LAND MANAGEMENT	35-10054B	Decreed	08/10/1979	IRRIGATION	0.02	16.0	Yes
US BUREAU OF LAND MANAGEMENT	36-8056B	Decreed	01/21/1982	IRRIGATION	0.70	46.0	
US BUREAU OF LAND MANAGEMENT	36-8110B	Decreed	08/19/1982	IRRIGATION	0.12	46.0	
US BUREAU OF LAND MANAGEMENT	37-20851	Decreed	03/15/1983	IRRIGATION	0.02	30.0	Yes
US BUREAU OF LAND MANAGEMENT	35-12654B	Decreed	04/01/1985	IRRIGATION	0.01	6.0	Yes
US BUREAU OF LAND MANAGEMENT	36-16583	Decreed	03/15/1987	IRRIGATION	0.03	4.0	Yes
US CORE FARMLAND FUND OP LP	36-2461A	Decreed	01/12/1961	IRRIGATION	3.48	640.0	
US CORE FARMLAND FUND OP LP	36-2554A	Decreed	08/31/1962	IRRIGATION	2.52	640.0	
US FISH & WILDLIFE SERVICE	31-7324	Decreed	08/24/1979	IRRIGATION	1.33	80.0	
V & L DAIRY	36-7569	Decreed	09/24/1975	IRRIGATION	6.02	302.0	
VADER, BONNIE; VADER, ORVAL E	36-16836	Decreed	02/08/1971	IRRIGATION	0.03	2.3	
VADNAIS, LARRY; VADNAIS, RICHARD	31-7081	Decreed	03/19/1973	IRRIGATION	1.57	152.0	
VALADAO, JOE; VALADAO, YVONNE	36-2289C	Decreed	12/02/1955	IRRIGATION	0.43	70.0	
VALCARCE, DIANE SAVAGE	31-11661	Decreed	04/01/1956	IRRIGATION	2.81	100.0	
VALCARCE, DIANE SAVAGE	31-2389	Decreed	07/22/1961	IRRIGATION	2.00	100.0	
VALENTINE, JULIA WADA	35-14186	Decreed	04/01/1972	IRRIGATION	0.01	6.7	Yes
VALLEY COOPS INC	36-8452	License	08/22/1989	COMMERCIAL	0.16	0.0	
VALLEY VIEW DAIRY LLC	36-17013	Decreed	04/27/1954	COMMERCIAL, STOCKWATER	0.08	0.0	

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VALLEY VIEW DAIRY LLC	36-17015	Decreed	04/27/1954	COMMERCIAL, STOCKWATER	0.20	0.0	
VALLEY VIEW DAIRY LLC	36-17062	Decreed	04/27/1954	IRRIGATION	0.14	507.6	
VALLEY VIEW DAIRY LLC	36-2257	Decreed	04/27/1954	IRRIGATION	4.61	497.8	
VALLEY VIEW DAIRY LLC	36-16467	Decreed	07/14/1954	DOMESTIC, IRRIGATION	1.21	507.6	
VALLEY VIEW DAIRY LLC	36-16468	Decreed	07/14/1954	COMMERCIAL, STOCKWATER	0.22	0.0	
VALLEY VIEW DAIRY LLC	36-17005	Decreed	07/14/1954	COMMERCIAL, STOCKWATER	0.11	0.0	
VALLEY VIEW DAIRY LLC	36-16470	Decreed	04/10/1958	COMMERCIAL, STOCKWATER	0.39	0.0	
VALLEY VIEW DAIRY LLC	36-17009	Decreed	04/10/1958	COMMERCIAL, STOCKWATER	0.19	0.0	
VALLEY VIEW DAIRY LLC	36-16469	Decreed	04/11/1958	IRRIGATION	2.18	507.6	
VALLEY VIEW DAIRY LLC	36-2673	Decreed	08/03/1966	IRRIGATION	2.28	114.0	
VALLEY VIEW DAIRY LLC	36-7471	License	05/03/1974	IRRIGATION, STOCKWATER	0.08	507.6	
VALLEY VIEW DAIRY LLC	36-17012	Decreed	12/17/1974	COMMERCIAL, STOCKWATER	0.06	0.0	
VALLEY VIEW DAIRY LLC	36-17014	Decreed	12/17/1974	COMMERCIAL, STOCKWATER	0.16	0.0	
VALLEY VIEW DAIRY LLC	36-17063	Decreed	12/17/1974	IRRIGATION	0.11	507.6	
VALLEY VIEW DAIRY LLC	36-7517	Decreed	12/17/1974	IRRIGATION	3.67	497.8	
VAN BEEK, DIANNE; VAN BEEK, JACK	36-2395	Decreed	06/12/1959	IRRIGATION	3.42	369.0	
VAN BEEK, DIANNE; VAN BEEK, JACK	36-2580	Decreed	11/21/1963	IRRIGATION	1.93	369.1	
VAN BEEK, DIANNE; VAN BEEK, JACK	36-7958	License	01/09/1981	IRRIGATION	5.80	290.0	
VAN BEEK, DIANNE; VAN BEEK, JOHN W	36-16710	Decreed	02/06/1958	COMMERCIAL, STOCKWATER	0.09	0.0	
VAN BEEK, DIANNE; VAN BEEK, JOHN W	36-2645D	Decreed	02/06/1958	STOCKWATER	0.09	0.0	
VAN BEEK, DIANNE; VAN BEEK, JOHN W	36-16716	Decreed	05/23/1962	COMMERCIAL, STOCKWATER	0.18	0.0	
VAN BEEK, DIANNE; VAN BEEK, JOHN W	36-16717	Decreed	05/23/1962	COMMERCIAL, STOCKWATER	0.09	0.0	
VAN BEEK, DIANNE; VAN BEEK, JOHN W	36-16719	Decreed	03/15/1975	COMMERCIAL, STOCKWATER	0.08	0.0	Yes
VAN BEEK, DIANNE; VAN BEEK, JOHN W	36-16720	Decreed	03/15/1975	COMMERCIAL, STOCKWATER	0.05	0.0	Yes
VAN BEEK, DIANNE; VAN BEEK, JOHN W	36-8021	Decreed	01/02/1982	COMMERCIAL, STOCKWATER	0.22	0.0	
VAN BEEK, DIANNE; VAN BEEK, JOHN W	36-8398	License	02/14/1995	COMMERCIAL, STOCKWATER	0.51	0.0	
VAN BEEK, JOHN W	36-16709	Decreed	02/06/1958	COMMERCIAL, STOCKWATER	0.08	0.0	
VAN BEEK, JOHN W	36-2645C	Decreed	02/06/1958	IRRIGATION	1.24	520.0	
VAN DYK & SONS A GENERAL PARTNERSHIP	36-10767A	Decreed	05/01/1961	COMMERCIAL, IRRIGATION, STOCKWATER	0.45	2.0	
VAN DYK & SONS A GENERAL PARTNERSHIP	36-10767B	Decreed	05/01/1961	COMMERCIAL, STOCKWATER	0.58	0.0	
VAN DYK & SONS A GENERAL PARTNERSHIP	36-7319	Decreed	03/22/1973	IRRIGATION	1.11	74.0	
VAN DYK & SONS A GENERAL PARTNERSHIP	36-7454	Decreed	03/11/1974	IRRIGATION	0.28	74.0	
VAN DYK, MARIE C; VAN DYK, RICHARD B	36-7738	Decreed	09/07/1977	IRRIGATION	2.50	125.0	
VAN DYK, RICHARD B; VAN DYK, TAMMY D	36-2457	Decreed	09/29/1961	IRRIGATION	1.00	222.0	
VAN DYK, RICHARD B; VAN DYK, TAMMY D	36-7760	Decreed	11/07/1977	IRRIGATION	2.30	222.0	
VAN DYK, RICHARD B; VAN DYK, TAMMY D	36-8389	License	09/01/1988	COMMERCIAL, STOCKWATER	0.18	0.0	
VAN EVERY, BRENT; VAN EVERY, EMMA	36-17113	License	05/31/1983	IRRIGATION	0.08	3.9	
VAN ORDEN BROTHERS LAND	35-4058A	Decreed	05/01/1962	IRRIGATION	0.78	39.0	

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VAN ORDEN BROTHERS LAND	35-2862B	Decreed	02/15/1967	IRRIGATION	1.42	79.0	
VAN ORDEN BROTHERS LAND	35-2875	Decreed	04/06/1967	IRRIGATION	3.66	274.0	
VAN ORDEN BROTHERS LAND	35-7172	Decreed	04/13/1971	IRRIGATION	2.67	155.0	
VAN ORDEN BROTHERS LAND	35-7190	Decreed	10/24/1971	IRRIGATION	0.63	39.0	
VAN ORDEN BROTHERS LAND	35-7241	Decreed	08/12/1972	IRRIGATION	2.32	116.0	
VAN ORDEN BROTHERS LAND	35-7454	Decreed	11/07/1974	IRRIGATION	1.00	51.0	
VAN ORDEN BROTHERS LAND	35-7781	Decreed	01/31/1978	IRRIGATION	4.18	264.0	
VAN ORDEN, ALLIE; VAN ORDEN, JOSEPH	35-14863	License	06/11/1985	IRRIGATION	0.02	1.1	
VAN ORDEN, CATRINA	35-2515B	Decreed	06/17/1957	IRRIGATION	0.03	4.0	
VAN ORDEN, GARTH	35-8792	License	06/07/1989	IRRIGATION	0.10	3.5	
VAN ORDEN, GARTH; VAN ORDEN, JULIE	35-2693A	Decreed	07/28/1961	IRRIGATION	1.06	78.0	
VAN ORDEN, GARTH; VAN ORDEN, JULIE	35-7230	Decreed	04/14/1972	IRRIGATION	0.27	78.0	
VAN ORDEN, GARTH; VAN ORDEN, JULIE	35-8017B	Decreed	04/05/1982	IRRIGATION	0.55	29.0	
VAN ORDEN, GARTH; VAN ORDEN, JULIE	27-12267	License	05/27/1989	IRRIGATION	1.54	186.0	
VAN ORDEN, GARTH; VAN ORDEN, JULIE	27-12268	License	02/12/1991	IRRIGATION	1.16	186.0	
VAN ORDEN, GARTH; VAN ORDEN, JULIE A	35-13783	Decreed	07/28/1961	IRRIGATION	0.66	33.0	
VAN ORDEN, KAREN T	35-2512	Decreed	08/19/1957	IRRIGATION	1.80	156.0	
VAN ORDEN, KAREN T	35-2747	Decreed	02/15/1965	IRRIGATION	3.50	241.0	
VAN ORDEN, KAREN T	35-10093	Decreed	04/15/1969	IRRIGATION	0.25	241.0	Yes
VAN ORDEN, KAREN T	35-8031	Decreed	03/29/1982	IRRIGATION	2.57	138.0	
VAN ORDEN, KAREN T	35-8681	License	10/12/1988	IRRIGATION	1.82	91.0	
VAN ORDEN, MICHAEL	35-8121	License	03/30/1983	IRRIGATION	0.14	10.0	
VAN ORDEN, MICHELLE; VAN ORDEN, STEVEN	35-7309	Decreed	07/13/1973	IRRIGATION	1.00	100.0	
VAN ORDEN, SHELLI	35-8609B	License	06/28/1985	IRRIGATION	0.07	4.0	
VAN TASSELL, AFTON	36-2437	Decreed	07/06/1960	IRRIGATION	2.95	175.0	
VAN TASSELL, AFTON	36-2438	Decreed	07/29/1960	IRRIGATION	2.95	191.0	
VAN TASSELL, AFTON	36-2569	Decreed	04/03/1963	IRRIGATION	0.90	45.0	
VAN TASSELL, AFTON; VAN TASSELL, GAIL	36-7512	License	11/25/1974	IRRIGATION	9.20	837.0	
VAN TASSELL, AFTON; VAN TASSELL, GAIL	36-7966	License	02/23/1981	IRRIGATION	0.37	837.0	
VAN TASSELL, PERRY	36-2351	Decreed	05/01/1958	IRRIGATION	5.00	250.0	
VAN TASSELL, PERRY	36-2387	Decreed	05/18/1959	IRRIGATION	1.30	65.0	
VAN TASSELL, PERRY	36-7010	Decreed	09/28/1967	IRRIGATION	3.79	305.0	
VAN TASSELL, PERRY	36-7784A	Decreed	03/17/1978	IRRIGATION	3.23	272.0	
VAN TASSELL, PERRY	36-7784B	Decreed	03/17/1978	IRRIGATION	1.11	305.0	
VANDEN BOSCH SR, MARVIN L; VANDEN BOSCH, JEANNETTE	36-7954	Decreed	12/30/1980	DOMESTIC, IRRIGATION	0.07	2.0	
VANDERHAM BROTHERS DAIRY	36-7379A	Decreed	09/18/1973	IRRIGATION	1.96	132.0	
VANDERHAM BROTHERS DAIRY	36-7379B	Decreed	09/18/1973	COMMERCIAL, STOCKWATER	0.27	0.0	
VANDERHAM BROTHERS DAIRY	36-8554	License	05/13/1990	COMMERCIAL, DOMESTIC, STOCKWATER	0.23	0.0	

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VANDERVEGT, RAY	36-7350	Decreed	07/18/1973	IRRIGATION	2.34	132.0	
VANDERVEGT, RAY	36-7460J	Decreed	03/25/1974	IRRIGATION	1.23	69.0	
VASQUAZ, DUFIA; VASQUAZ, J REUBEN	36-2399	Decreed	08/11/1959	IRRIGATION	3.36	205.0	
VASQUAZ, DUFIA; VASQUAZ, J REUBEN	36-10243	Decreed	05/01/1985	IRRIGATION	0.40	205.0	Yes
VAUGHN, J ADAIRE; VAUGHN, RICHARD	27-12103	Decreed	03/22/1983	DOMESTIC, IRRIGATION	0.02	0.6	
VEENHOUWER FAMILY FARMS LLC	36-7255	Decreed	07/13/1972	IRRIGATION	2.00	108.0	
VEENHOUWER FAMILY FARMS LLC	36-8060	Decreed	02/09/1982	COMMERCIAL	0.20	0.0	
VEENHOUWER FAMILY FARMS LLC	36-8224	Decreed	06/29/1983	COMMERCIAL, DOMESTIC, IRRIGATION, STOCKWATER	0.17	2.0	
VEENHOUWER FAMILY FARMS LLC	36-8422	License	04/20/1989	COMMERCIAL, STOCKWATER	0.20	0.0	
VEENSTRA FAMILY LIMITED PARTNERSHIP	36-16706	Decreed	03/25/1974	IRRIGATION	2.34	132.0	
VEENSTRA, FRANK W	36-16744	Decreed	04/29/1958	COMMERCIAL, STOCKWATER	0.22	0.0	
VEENSTRA, FRANK W	36-16753	Decreed	04/29/1958	STOCKWATER	0.05	0.0	
VEENSTRA, FRANK W	36-2470	Decreed	01/31/1961	IRRIGATION	0.98	49.0	
VEENSTRA, FRANK W	36-2532	Decreed	12/29/1961	IRRIGATION	2.56	198.5	
VEENSTRA, FRANK W	36-16746	Decreed	09/15/1972	COMMERCIAL, STOCKWATER	0.16	0.0	
VEENSTRA, FRANK W	36-16748	Decreed	08/16/1973	COMMERCIAL, STOCKWATER	0.05	0.0	
VEENSTRA, FRANK W	36-7666A	Decreed	01/05/1977	IRRIGATION	1.64	82.0	
VEENSTRA, FRANK W	36-7666B	Decreed	01/05/1977	COMMERCIAL, STOCKWATER	0.66	0.0	
VEENSTRA, FRANK W	36-15077	Decreed	04/01/1982	IRRIGATION	0.91	198.5	Yes
VEENSTRA, FRANK W; VEENSTRA, MARY JANE	37-20590	Decreed	07/22/1971	IRRIGATION	1.74	113.0	
VEENSTRA, FRANK W; VEENSTRA, MARY JANE	36-7274	Decreed	11/17/1972	IRRIGATION	0.80	50.0	
VEENSTRA, FRANK W; VEENSTRA, MARY JANE	36-7341	Decreed	06/18/1973	IRRIGATION	2.06	103.0	
VEENSTRA, FRANK W; VEENSTRA, MARY JANE	36-7526	Decreed	03/24/1975	IRRIGATION	5.08	306.0	
VEENSTRA, FRANK W; VEENSTRA, MARY JANE	36-8100	Decreed	07/13/1982	DOMESTIC, IRRIGATION, STOCKWATER	0.15	5.0	
VERBREE III, JACK	36-16704	Decreed	10/11/1966	IRRIGATION	0.03	2.0	
VERBREE LAND HOLDINGS LLC	36-16722	Decreed	04/29/1958	COMMERCIAL, STOCKWATER	0.53	0.0	
VERBREE LAND HOLDINGS LLC	36-15359	Decreed	05/04/1959	IRRIGATION	4.38	258.0	
VERBREE LAND HOLDINGS LLC	36-16566	Decreed	07/20/1960	IRRIGATION	3.90	616.0	
VERBREE LAND HOLDINGS LLC	36-16567	Decreed	07/20/1960	COMMERCIAL, STOCKWATER	0.56	0.0	
VERBREE LAND HOLDINGS LLC	36-2452A	Decreed	11/14/1960	IRRIGATION	3.22	889.0	
VERBREE LAND HOLDINGS LLC	36-2452B	Decreed	11/14/1960	IRRIGATION	1.41	88.0	
VERBREE LAND HOLDINGS LLC	36-2456	Decreed	12/13/1960	IRRIGATION	5.10	500.0	
VERBREE LAND HOLDINGS LLC	36-2458	Decreed	12/19/1960	IRRIGATION	5.08	616.0	
VERBREE LAND HOLDINGS LLC	36-2498B	Decreed	07/14/1961	COMMERCIAL, STOCKWATER	0.12	0.0	
VERBREE LAND HOLDINGS LLC	36-2498C	Decreed	07/14/1961	IRRIGATION	0.46	121.4	
VERBREE LAND HOLDINGS LLC	36-2498D	Decreed	07/14/1961	IRRIGATION	1.29	66.0	
VERBREE LAND HOLDINGS LLC	36-2499	Decreed	07/14/1961	IRRIGATION	1.00	121.4	

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VERBREE LAND HOLDINGS LLC	36-16458	Decreed	09/23/1965	IRRIGATION	7.30	477.7	
VERBREE LAND HOLDINGS LLC	36-2642	Decreed	02/11/1966	IRRIGATION	3.12	500.0	
VERBREE LAND HOLDINGS LLC	36-16745	Decreed	09/15/1972	IRRIGATION	1.01	100.0	
VERBREE LAND HOLDINGS LLC	36-7318A	Decreed	03/21/1973	COMMERCIAL	0.24	0.0	
VERBREE LAND HOLDINGS LLC	36-7318B	Decreed	03/21/1973	DOMESTIC, STOCKWATER	0.10	0.0	
VERBREE LAND HOLDINGS LLC	36-7318C	Decreed	03/21/1973	STOCKWATER	0.09	0.0	
VERBREE LAND HOLDINGS LLC	36-7318D	Decreed	03/21/1973	COMMERCIAL, STOCKWATER	0.26	0.0	
VERBREE LAND HOLDINGS LLC	36-7318E	Decreed	03/21/1973	IRRIGATION	0.05	2.6	
VERBREE LAND HOLDINGS LLC	36-16747	Decreed	08/16/1973	IRRIGATION	0.38	100.0	
VERBREE LAND HOLDINGS LLC	36-16460	Decreed	02/15/1974	IRRIGATION	7.30	471.5	
VERBREE LAND HOLDINGS LLC	36-15998	Decreed	04/08/1975	IRRIGATION	0.38	211.5	
VERBREE LAND HOLDINGS LLC	36-15999	Decreed	04/08/1975	COMMERCIAL, STOCKWATER	0.30	0.0	
VERBREE LAND HOLDINGS LLC	36-16633	Decreed	04/08/1975	IRRIGATION	2.20	211.5	
VERBREE LAND HOLDINGS LLC	36-7535	Decreed	04/09/1975	IRRIGATION	4.34	305.0	
VERBREE LAND HOLDINGS LLC	36-7571	Decreed	10/14/1975	IRRIGATION	1.50	305.0	
VERBREE LAND HOLDINGS LLC	36-7604	Decreed	03/11/1976	IRRIGATION	5.74	906.0	
VERBREE LAND HOLDINGS LLC	36-7640	Decreed	10/08/1976	IRRIGATION	2.13	108.0	
VERBREE LAND HOLDINGS LLC	36-7706	Decreed	05/25/1977	IRRIGATION	1.45	136.0	
VERBREE LAND HOLDINGS LLC	36-7788A	Decreed	04/08/1978	IRRIGATION	1.94	889.0	
VERBREE LAND HOLDINGS LLC	36-7788B	Decreed	04/08/1978	IRRIGATION	0.28	500.0	
VERBREE LAND HOLDINGS LLC	36-7882A	License	12/07/1979	IRRIGATION	2.06	200.0	
VERBREE LAND HOLDINGS LLC	36-8079	Decreed	04/15/1982	COMMERCIAL, DOMESTIC, STOCKWATER	0.06	0.0	
VERBREE LAND HOLDINGS LLC	36-8199	Decreed	06/15/1983	COMMERCIAL, STOCKWATER	0.20	0.0	
VERBREE LAND HOLDINGS LLC	36-8265	Decreed	03/07/1985	COMMERCIAL, STOCKWATER	0.15	0.0	
VERBREE LAND HOLDINGS LLC	36-8351	License	06/15/1988	COMMERCIAL, DOMESTIC, STOCKWATER	0.19	0.0	
VERBREE LAND HOLDINGS LLC	36-8666	License	07/10/1992	COMMERCIAL, DOMESTIC, STOCKWATER	0.27	0.0	
VERBREE LAND HOLDINGS LLC	36-8667	License	07/10/1992	COMMERCIAL, STOCKWATER	0.27	0.0	
VERWOLF, DANIEL D; VERWOLF, MARY C	35-13333	Decreed	08/05/1969	IRRIGATION	0.03	3.0	
VICTOR, SALLY; VICTOR, STEVE	36-8128	License	12/30/1982	COMMERCIAL	0.03	0.0	
VILLAGE ENTERPRISES LLC	45-7662A	License	08/02/1989	COMMERCIAL, DOMESTIC, IRRIGATION, RECREATION	0.60	5.0	
VILLAGE ENTERPRISES LLC	45-7662B	License	08/02/1989	IRRIGATION, RECREATION	0.46	20.0	
VIRGIL & AMA LEE BROCKMAN FAMILY TRUST	36-7623	Decreed	04/13/1976	COMMERCIAL, IRRIGATION	0.29	9.3	
VOA LAND LLC	35-2602	Decreed	06/28/1960	IRRIGATION	5.00	310.0	
VOA LAND LLC	35-13061	Decreed	06/01/1963	IRRIGATION	0.27	17.0	Yes
VOA LAND LLC	35-2796	Decreed	10/28/1965	IRRIGATION	5.86	397.0	
VP IDAHO DAIRY LLC	36-17023	Decreed	08/10/1973	IRRIGATION	2.07	147.0	
VP IDAHO DAIRY LLC	36-17025	Decreed	08/10/1973	IRRIGATION	1.97	144.6	

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VP IDAHO DAIRY LLC	36-7364A	Decreed	08/10/1973	IRRIGATION	2.35	125.0	
VP IDAHO DAIRY LLC	36-17024	Decreed	10/28/1977	IRRIGATION	0.70	144.6	
VP IDAHO DAIRY LLC	36-17026	Decreed	10/28/1977	IRRIGATION	0.74	147.0	
VP IDAHO DAIRY LLC	36-8223	License	03/11/1984	COMMERCIAL, DOMESTIC, IRRIGATION, STOCKWATER	0.62	5.0	
W 4 DAIRY LP	36-7264	Decreed	09/21/1972	IRRIGATION	3.52	310.0	
W 4 DAIRY LP	36-7850C	Decreed	03/30/1979	IRRIGATION	0.39	290.0	
W 4 DAIRY LP	36-8106C	Decreed	08/10/1982	IRRIGATION	1.26	290.0	
W 4 DAIRY LP	36-8187	License	05/27/1983	IRRIGATION	1.40	310.0	
WADA FAMILY LLC	35-13902	Decreed	08/25/1954	IRRIGATION	0.06	131.0	
WADA FAMILY LLC	35-7049	Decreed	09/04/1968	IRRIGATION	2.78	151.0	
WADA HOLDINGS LLLP	35-2393	Decreed	01/06/1955	IRRIGATION	4.20	279.0	
WADA HOLDINGS LLLP	35-2763A	Decreed	05/20/1965	IRRIGATION	6.76	590.0	
WADA, ALBERT T	35-2816	Decreed	02/17/1966	IRRIGATION	1.55	98.0	
WADA, ALBERT T; WADA, CHRISTINE	35-13901	Decreed	08/25/1954	IRRIGATION	1.64	323.1	
WADA, ALBERT T; WADA, CHRISTINE	35-2440	Decreed	09/09/1955	IRRIGATION	0.60	38.0	
WADA, ALBERT T; WADA, CHRISTINE	35-2706	Decreed	04/09/1962	IRRIGATION	0.16	38.0	
WADA, ALBERT T; WADA, CHRISTINE	35-7791	Decreed	02/23/1978	IRRIGATION	1.38	69.0	
WADSWORTH, DEANN; WADSWORTH, KIP	35-13740	Decreed	04/28/1980	IRRIGATION	0.03	1.7	
WAGONER, MICHAEL T; WAGONER, PAMELA J	35-7692	Decreed	04/15/1977	IRRIGATION	1.63	154.0	
WAHLSTROM, LESLIE; WAHLSTROM, RON	36-8612	License	10/24/1991	IRRIGATION	0.03	1.0	
WAITE, RICHARD H	36-2366B	Decreed	12/16/1958	IRRIGATION	0.76	181.0	
WALBOM, JEFFERY	35-8809	License	09/14/1989	DOMESTIC, IRRIGATION, STOCKWATER	0.14	5.0	
WALKER LAND & CATTLE LLC	35-2442	Decreed	11/17/1955	IRRIGATION	3.30	175.0	
WALKER LAND & CATTLE LLC	35-12366	Decreed	03/17/1961	DOMESTIC, STOCKWATER	0.39	0.0	
WALKER LAND & CATTLE LLC	35-13314	Decreed	03/17/1961	IRRIGATION	12.14	849.0	
WALKER, ELMA; WALKER, PAUL	31-2450	Decreed	08/18/1965	IRRIGATION	0.03	2.6	
WALKING G RANCH LLC	36-7293	Decreed	01/24/1973	IRRIGATION	1.80	130.0	
WALKING G RANCH LLC	36-7425	Decreed	12/28/1973	IRRIGATION	0.80	130.0	
WALKING G RANCH LLC	36-8789	License	03/23/1999	IRRIGATION	0.39	12.0	
WALLACE, ALDON RAOEL; WALLACE, KRYSTAL ALLYSON	27-12159	Decreed	09/11/1974	IRRIGATION	0.09	5.0	
WALTERS, DAN; WALTERS, PATRICIA	35-2914	Decreed	03/08/1962	IRRIGATION	1.40	70.0	
WANSTROM, JOSEPH SCOTT	34-14314	License	07/08/1992	IRRIGATION	0.22	36.0	
WARD, AMY RAE; WARD, STANLEY	37-7695	Decreed	02/07/1977	IRRIGATION	2.59	198.0	
WARD, BRADLEY; WARD, BRITTANY; WARD, NEAL; WARD, SHELLY	35-13969	Decreed	06/07/1957	IRRIGATION	1.67	469.0	
WARD, BRADLEY; WARD, BRITTANY; WARD, NEAL; WARD, SHELLY	35-13963	Decreed	08/04/1979	IRRIGATION	3.92	469.0	
WARD, DAVE; WARD, MELISSA	31-12347	Decreed	11/28/1961	IRRIGATION	0.05	39.0	
WARD, DAVID Z; WARD, MELISSA	31-12265	Decreed	07/25/1955	IRRIGATION	0.18	129.0	

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WARD, DAVID Z; WARD, MELISSA	31-12266	Decreed	07/25/1955	IRRIGATION	0.07	265.0	
WARD, DAVID Z; WARD, MELISSA	31-12274	Decreed	07/25/1955	IRRIGATION	0.26	275.0	
WARD, DAVID Z; WARD, MELISSA	31-11732	Decreed	06/22/1960	IRRIGATION	1.30	259.0	
WARD, DAVID Z; WARD, MELISSA	32-13331	Decreed	06/22/1960	IRRIGATION	1.36	272.0	
WARD, DAVID Z; WARD, MELISSA	31-12267	Decreed	07/26/1961	IRRIGATION	0.11	129.0	
WARD, DAVID Z; WARD, MELISSA	31-12268	Decreed	07/26/1961	IRRIGATION	0.04	265.0	
WARD, DAVID Z; WARD, MELISSA	31-12275	Decreed	07/26/1961	IRRIGATION	0.17	275.0	
WARD, DAVID Z; WARD, MELISSA	32-4001D	Decreed	02/01/1963	IRRIGATION	1.01	246.8	
WARD, DAVID Z; WARD, MELISSA	32-13366	Decreed	04/02/1964	IRRIGATION	0.04	246.8	
WARD, DAVID Z; WARD, MELISSA	32-2116A	Decreed	04/02/1964	IRRIGATION	0.32	482.1	
WARD, DAVID Z; WARD, MELISSA	31-12272	Decreed	01/26/1966	IRRIGATION	2.02	259.0	
WARD, DAVID Z; WARD, MELISSA	32-13207	Decreed	01/26/1966	IRRIGATION	2.13	272.0	
WARD, DAVID Z; WARD, MELISSA	32-13209	Decreed	01/26/1966	IRRIGATION	4.26	281.0	
WARD, DAVID Z; WARD, MELISSA	32-13367	Decreed	12/28/1970	IRRIGATION	0.02	246.8	
WARD, DAVID Z; WARD, MELISSA	32-7005C	Decreed	12/28/1970	IRRIGATION	0.14	482.1	
WARD, DAVID Z; WARD, MELISSA	32-13240	Decreed	09/28/1973	IRRIGATION	0.83	482.1	
WARD, DAVID Z; WARD, MELISSA	32-13369	Decreed	09/28/1973	IRRIGATION	0.09	246.8	
WARD, DAVID Z; WARD, MELISSA	32-7088A	Decreed	02/15/1978	IRRIGATION	1.65	246.6	
WARD, DAVID Z; WARD, MELISSA	31-7617	Decreed	05/02/1978	IRRIGATION	1.51	181.7	
WARD, DAVID Z; WARD, MELISSA	32-13370	Decreed	05/02/1978	IRRIGATION	0.11	246.8	
WARD, DAVID Z; WARD, MELISSA	32-7091A	Decreed	05/02/1978	IRRIGATION	1.46	486.4	
WARD, DAVID Z; WARD, MELISSA	32-7091B	Decreed	05/02/1978	IRRIGATION	1.46	486.4	
WARD, DAVID Z; WARD, MELISSA	32-7093A	Decreed	05/02/1978	IRRIGATION	2.58	463.4	
WARD, DAVID Z; WARD, MELISSA	32-7093E	Decreed	05/02/1978	IRRIGATION	1.05	482.1	
WARD, DAVID Z; WARD, MELISSA	32-13371	Decreed	07/27/1979	IRRIGATION	0.05	246.8	
WARD, DAVID Z; WARD, MELISSA	32-7102A	Decreed	07/27/1979	IRRIGATION	0.44	482.1	
WARD, DAVID Z; WARD, MELISSA	32-13203	Decreed	04/23/1983	IRRIGATION	2.61	499.0	
WARD, DAVID Z; WARD, MELISSA	32-13204	Decreed	04/23/1983	IRRIGATION	0.17	486.4	
WARD, DAVID Z; WARD, MELISSA	32-13334	Decreed	04/23/1983	IRRIGATION	0.27	246.8	
WARD, DAVID Z; WARD, MELISSA	32-13364	Decreed	04/23/1983	IRRIGATION	0.08	246.8	
WARD, DAVID Z; WARD, MELISSA	32-13365	Decreed	04/23/1983	IRRIGATION	0.07	246.8	
WARD, DAVID Z; WARD, MELISSA	32-13372	Decreed	04/23/1983	IRRIGATION	0.06	246.8	
WARD, DAVID Z; WARD, MELISSA	32-7053E	Decreed	04/23/1983	IRRIGATION	3.05	499.0	
WARD, DAVID Z; WARD, MELISSA	32-7056A	Decreed	04/23/1983	IRRIGATION	3.82	463.4	
WARD, DAVID Z; WARD, MELISSA	32-7056E	Decreed	04/23/1983	IRRIGATION	0.57	482.1	
WARD, DAVID Z; WARD, MELISSA	32-13360	Decreed	03/29/1984	IRRIGATION	0.16	246.8	
WARD, DAVID Z; WARD, MELISSA	32-13361	Decreed	03/29/1984	IRRIGATION	0.12	246.8	
WARD, DAVID Z; WARD, MELISSA	32-13362	Decreed	03/29/1984	IRRIGATION	0.07	246.8	

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WARD, DAVID Z; WARD, MELISSA	32-13363	Decreed	03/29/1984	IRRIGATION	0.43	246.8	
WARD, DAVID Z; WARD, MELISSA	32-13368	Decreed	03/29/1984	IRRIGATION	0.36	246.8	
WARD, DAVID Z; WARD, MELISSA	32-7022AA	Decreed	03/29/1984	IRRIGATION	3.22	242.6	
WARD, DAVID Z; WARD, MELISSA	32-7022AE	Decreed	03/29/1984	IRRIGATION	2.87	463.4	
WARD, DAVID Z; WARD, MELISSA	32-7022K	Decreed	03/29/1984	IRRIGATION	4.28	246.8	
WARD, DAVID Z; WARD, MELISSA	32-7022M	Decreed	03/29/1984	IRRIGATION	3.32	482.1	
WARD, DAVID Z; WARD, MELISSA	32-7022X	Decreed	03/29/1984	IRRIGATION	1.58	246.6	
WARD, DAVID Z; WARD, MELISSA	31-7614	Decreed	06/01/1987	IRRIGATION	1.55	181.7	
WARD, DAVID Z; WARD, MELISSA	32-7054A	Decreed	06/01/1987	IRRIGATION	3.43	486.4	
WARD, DAVID Z; WARD, MELISSA	32-7054B	Decreed	06/01/1987	IRRIGATION	3.43	486.4	
WARD, DAVID Z; WARD, MELISSA	32-7034D	License	01/02/1996	IRRIGATION	0.61	246.8	
WARD, DE LOY Z	35-2567D	Decreed	03/12/1959	IRRIGATION	0.50	25.0	
WARD, DE LOY Z	35-7631	Decreed	08/03/1976	IRRIGATION	5.04	311.0	
WARD, DE LOY Z; WARD, NEAL D; WARD, SHELLY M; WARD, VIOLA J	35-2397	Decreed	01/18/1955	IRRIGATION	4.22	365.0	
WARD, DE LOY Z; WARD, NEAL D; WARD, SHELLY M; WARD, VIOLA J	35-2441	Decreed	10/21/1955	IRRIGATION	3.94	744.0	
WARD, DE LOY Z; WARD, NEAL D; WARD, SHELLY M; WARD, VIOLA J	35-13968	Decreed	06/07/1957	IRRIGATION	0.29	744.0	
WARD, DE LOY Z; WARD, NEAL D; WARD, SHELLY M; WARD, VIOLA J	35-13465	Decreed	05/10/1968	IRRIGATION	4.64	289.0	
WARD, DE LOY Z; WARD, NEAL D; WARD, SHELLY M; WARD, VIOLA J	35-13466	Decreed	05/10/1968	IRRIGATION	1.09	345.0	
WARD, DE LOY Z; WARD, NEAL D; WARD, SHELLY M; WARD, VIOLA J	35-13469	Decreed	04/01/1969	IRRIGATION	4.06	276.0	
WARD, DE LOY Z; WARD, NEAL D; WARD, SHELLY M; WARD, VIOLA J	35-13470	Decreed	04/01/1969	IRRIGATION	0.21	345.0	
WARD, DE LOY Z; WARD, NEAL D; WARD, SHELLY M; WARD, VIOLA J	35-14406	Decreed	04/01/1969	IRRIGATION	0.53	289.0	
WARD, DE LOY Z; WARD, NEAL D; WARD, SHELLY M; WARD, VIOLA J	35-14526	Decreed	04/01/1969	IRRIGATION	0.21	12.0	
WARD, DE LOY Z; WARD, NEAL D; WARD, SHELLY M; WARD, VIOLA J	35-7075	Decreed	04/01/1969	IRRIGATION	4.83	271.0	
WARD, DE LOY Z; WARD, NEAL D; WARD, SHELLY M; WARD, VIOLA J	35-7279	Decreed	02/20/1973	IRRIGATION	3.46	345.0	
WARD, DE LOY Z; WARD, NEAL D; WARD, SHELLY M; WARD, VIOLA J	35-13230	Decreed	04/01/1980	IRRIGATION	0.41	365.0	Yes
WARD, DE LOY Z; WARD, NEAL D; WARD, SHELLY M; WARD, VIOLA J	35-13601	Decreed	04/01/1984	IRRIGATION	0.40	744.0	Yes
WARD, DE LOY Z; WARD, NEAL D; WARD, SHELLY M; WARD, VIOLA J	35-13468	License	05/29/1985	IRRIGATION	0.64	345.0	
WARD, DE LOY Z; WARD, NEAL D; WARD, SHELLY M; WARD, VIOLA J	35-13639	Decreed	04/01/1987	IRRIGATION	0.68	744.0	Yes
WARD, DE LOY Z; WARD, VIOLA J	35-2431	Decreed	08/08/1955	IRRIGATION	3.77	316.0	
WARD, DE LOY Z; WARD, VIOLA J	35-2450	Decreed	02/13/1956	IRRIGATION	3.00	377.0	
WARD, DE LOY Z; WARD, VIOLA J	35-2466	Decreed	05/21/1956	IRRIGATION	4.00	314.0	
WARD, DE LOY Z; WARD, VIOLA J	35-2478D	Decreed	10/18/1956	IRRIGATION	2.68	212.0	
WARD, DE LOY Z; WARD, VIOLA J	35-4225	Decreed	04/01/1961	IRRIGATION	0.20	320.0	
WARD, DE LOY Z; WARD, VIOLA J	35-4004	Decreed	04/01/1962	IRRIGATION	1.80	377.0	
WARD, DE LOY Z; WARD, VIOLA J	35-2848	Decreed	11/17/1966	IRRIGATION	3.51	241.1	
WARD, DE LOY Z; WARD, VIOLA J	35-7021	Decreed	04/22/1968	IRRIGATION	4.97	318.0	
WARD, DE LOY Z; WARD, VIOLA J	35-13257	Decreed	04/01/1969	IRRIGATION	0.38	931.0	Yes
WARD, DE LOY Z; WARD, VIOLA J	35-14456	Decreed	04/01/1969	IRRIGATION	0.10	40.0	Yes

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WARD, DE LOY Z; WARD, VIOLA J	35-7378	Decreed	01/28/1974	IRRIGATION	2.06	144.0	
WARD, DE LOY Z; WARD, VIOLA J	35-7444	Decreed	09/30/1974	IRRIGATION	4.00	315.0	
WARD, DE LOY Z; WARD, VIOLA J	35-7538	Decreed	10/29/1975	IRRIGATION	0.78	931.0	
WARD, DE LOY Z; WARD, VIOLA J	35-7770	Decreed	01/24/1978	IRRIGATION	4.56	377.0	
WARD, DE LOY Z; WARD, VIOLA J	35-7847	Decreed	03/21/1979	IRRIGATION	1.78	931.0	
WARD, DE LOY Z; WARD, VIOLA J	35-8607	License	06/28/1985	IRRIGATION	2.98	207.0	
WARD, DE LOY Z; WARD, VIOLA J	35-8608	License	06/28/1985	IRRIGATION	2.05	103.5	
WARD, DE LOY Z; WARD, VIOLA J	35-8613	Decreed	06/28/1985	IRRIGATION	2.98	184.0	
WARD, DE LOY Z; WARD, VIOLA J	35-13231	Decreed	04/01/1987	IRRIGATION	0.39	184.0	Yes
WARD, DELOY Z; WARD, HOLLY; WARD, PERRY; WARD, VIOLA J	35-13924	Decreed	02/10/1975	IRRIGATION	6.49	553.1	
WARD, DELOY Z; WARD, HOLLY; WARD, PERRY; WARD, VIOLA J	35-13926	Decreed	05/25/1976	IRRIGATION	2.31	553.1	
WARD, DELOY Z; WARD, NEAL D; WARD, SHELLY M; WARD, VIOLA J	35-13714	Decreed	04/02/1968	IRRIGATION	0.06	109.6	
WARD, DELOY Z; WARD, NEAL D; WARD, SHELLY M; WARD, VIOLA J	35-7018A	Decreed	04/02/1968	IRRIGATION	0.17	109.6	
WARD, DELOY Z; WARD, NEAL D; WARD, SHELLY M; WARD, VIOLA J	35-13712	Decreed	04/28/1972	IRRIGATION	0.04	109.6	
WARD, DELOY Z; WARD, NEAL D; WARD, SHELLY M; WARD, VIOLA J	35-13962	Decreed	08/04/1979	IRRIGATION	0.67	744.0	
WARD, DELOY Z; WARD, NEAL D; WARD, SHELLY M; WARD, VIOLA J	35-8070	License	12/16/1982	IRRIGATION	1.70	109.6	
WARD, DELOY Z; WARD, VIOLA J	35-2856	Decreed	01/16/1967	IRRIGATION	3.72	294.3	
WARD, DELOY Z; WARD, VIOLA J	35-7237	Decreed	07/04/1972	IRRIGATION	2.06	332.0	
WARD, DELOY Z; WARD, VIOLA J	35-13929	Decreed	05/01/1979	IRRIGATION	0.12	138.8	Yes
WARD, DELOY Z; WARD, VIOLA J	35-8580	Decreed	05/30/1985	IRRIGATION	2.72	332.0	
WARD, HOLLY; WARD, PERRY	35-14309	Decreed	11/17/1966	IRRIGATION	0.52	90.0	
WARD, HOLLY; WARD, PERRY	35-14310	Decreed	01/16/1967	IRRIGATION	0.15	90.0	
WARD, HOLLY; WARD, PERRY	35-14314	Decreed	05/21/1974	IRRIGATION	0.20	90.0	
WARD, HOLLY; WARD, PERRY	35-7421	Decreed	05/21/1974	IRRIGATION	4.26	337.0	
WARD, HOLLY; WARD, PERRY	35-14312	Decreed	02/10/1975	IRRIGATION	0.09	90.0	
WARD, HOLLY; WARD, PERRY	35-14458	Decreed	02/10/1975	IRRIGATION	0.10	38.9	
WARD, HOLLY; WARD, PERRY	35-7476B	Decreed	02/10/1975	IRRIGATION	6.45	539.1	
WARD, HOLLY; WARD, PERRY	35-14459	Decreed	05/25/1976	IRRIGATION	0.04	38.9	
WARD, HOLLY; WARD, PERRY	35-13930	Decreed	05/01/1979	IRRIGATION	0.13	138.2	Yes
WARD, HOLLY; WARD, PERRY	35-14313	License	01/15/1992	IRRIGATION	0.11	90.0	
WARD, HOLLY; WARD, PERRY	35-8977	License	01/15/1992	IRRIGATION	1.73	317.4	
WARDLE, JANICE F	35-10758	Decreed	02/03/1977	IRRIGATION	1.36	71.0	
WARNER JR, THOMAS F; WARNER, PAULINE	36-7262	Decreed	09/19/1972	IRRIGATION	1.90	99.0	
WARNER LAND & LIVESTOCK	36-2306	Decreed	08/20/1956	IRRIGATION	2.30	128.0	
WARNER LAND & LIVESTOCK	36-7263	Decreed	09/19/1972	IRRIGATION	0.26	128.0	
WARNER, GARALD; WARNER, SARA	37-7679	Decreed	09/23/1977	IRRIGATION	0.02	1.0	
WARNER, THOMAS	36-7213	Decreed	12/30/1971	IRRIGATION	4.80	240.0	
WARNER, THOMAS	36-7486	Decreed	06/27/1974	IRRIGATION	2.40	120.0	

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WARNER, THOMAS	36-7498	Decreed	08/19/1974	IRRIGATION	0.80	40.0	
WARTLUFT, HAROLD; WARTLUFT, LOIS	37-8375	License	08/11/1988	DOMESTIC, IRRIGATION	0.15	3.5	
WASIA FARMS	27-7435	License	07/10/1987	IRRIGATION	1.30	65.0	
WASIA, DICK; WASIA, LINDA	27-7459	License	04/24/1989	DOMESTIC, IRRIGATION, STOCKWATER	0.10	2.0	
WATERS, LINDA K; WATERS, TIM H	36-2409E	Decreed	12/02/1959	IRRIGATION	4.70	701.0	
WATERS, LINDA K; WATERS, TIM H	36-2440A	Decreed	06/01/1960	IRRIGATION	1.74	701.0	
WATERS, LINDA K; WATERS, TIM H	36-2543A	Decreed	06/18/1962	IRRIGATION	1.12	701.0	
WATERS, LINDA K; WATERS, TIM H	36-2637B	Decreed	01/27/1966	IRRIGATION	1.54	701.0	
WATERS, LINDA K; WATERS, TIM H	36-7096A	Decreed	12/01/1969	IRRIGATION	0.77	701.0	
WATERS, LINDA K; WATERS, TIM H	36-7613	Decreed	02/26/1976	IRRIGATION	1.60	701.0	
WATERS, LINDA K; WATERS, TIM H	36-7703	Decreed	05/10/1977	IRRIGATION	3.57	198.0	
WATT EQUIPMENT LLC	35-7012B	Decreed	01/16/1968	IRRIGATION	0.61	36.0	
WATT EQUIPMENT LLC	35-7113A	Decreed	01/26/1970	IRRIGATION	1.15	74.0	
WATT EQUIPMENT LLC	35-7464A	Decreed	01/09/1975	IRRIGATION	1.54	77.0	
WATT EQUIPMENT LLC	35-7464B	Decreed	01/09/1975	IRRIGATION	1.54	77.0	
WATT EQUIPMENT LLC	35-7522	Decreed	07/03/1975	IRRIGATION	1.60	148.0	
WATT EQUIPMENT LLC	35-7599	Decreed	03/29/1976	IRRIGATION	1.13	77.0	
WATT EQUIPMENT LLC	35-7294B	Decreed	02/18/1987	IRRIGATION	1.54	77.0	
WATT EQUIPMENT LLC	35-8741A	License	04/17/1989	IRRIGATION	0.08	4.0	
WATT, AMY; WATT, JEFFREY; WATT, L LISA; WATT, TYLER	35-13883	Decreed	06/05/1979	IRRIGATION	0.66	33.0	
WATT, JEFF	35-13882	Decreed	06/05/1979	IRRIGATION	0.78	39.0	
WATT, JEFFREY; WATT, L LISA	35-8720	Decreed	04/17/1989	IRRIGATION	1.43	140.0	
WATT, LARRY E; WATT, RICHARD D; WATT, RONNIE D	35-7056	Decreed	11/07/1984	IRRIGATION	0.64	32.0	
WATT, MAX D; WATT, SERENA B	35-10295	Decreed	06/17/1957	DOMESTIC, IRRIGATION	0.14	3.4	
WATT, RICHARD D; WATT, RONNIE D	35-7054	Decreed	09/04/1968	IRRIGATION	2.28	114.0	
WAUNA VISTA PARK HOMEOWNERS ASSN	36-8720	License	02/04/1994	IRRIGATION	0.03	0.7	
WAYNE PROPERTIES LLC	35-14750	License	06/28/1980	IRRIGATION	0.12	7.0	
WAYNE PROPERTIES LLC	35-14751	License	06/28/1980	IRRIGATION	0.10	7.0	
WAYNE PROPERTIES LLC	35-8021	Decreed	02/19/1982	IRRIGATION	4.02	201.2	
WAYNE PROPERTIES LLC	35-14746	License	01/14/1983	IRRIGATION	3.53	912.5	
WAYNE PROPERTIES LLC	35-14748	License	04/14/1983	IRRIGATION	1.41	70.3	
WEBB JR, EDWARD M	35-13452	License	07/03/1989	IRRIGATION	0.55	208.0	
WEBB, BRUCE E; WEBB, JANET L	35-13593	Decreed	09/18/1956	IRRIGATION	0.39	20.0	
WEBB, BRUCE E; WEBB, JANET L	35-13595	Decreed	04/01/1964	IRRIGATION	0.01	20.0	Yes
WEBBER CREEK RANCH LLC	32-13342	Decreed	11/12/1974	IRRIGATION	1.15	120.5	
WEBBER CREEK RANCH LLC	32-7081B	Decreed	06/20/1977	IRRIGATION	4.16	250.0	
WEBBER CREEK RANCH LLC	32-13344	Decreed	03/29/1984	IRRIGATION	0.98	120.5	
WEBBER CREEK RANCH LLC	32-13346	Decreed	04/01/1987	IRRIGATION	0.16	120.5	Yes

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WEBER, JEFF L; WEBER, KERI JO	37-7089	Decreed	03/22/1971	IRRIGATION	4.37	288.0	
WEBER, JEFF L; WEBER, KERI JO	37-20848	Decreed	10/06/1977	IRRIGATION	8.28	634.0	
WEBER, JEFF L; WEBER, KERI JO	37-20850	Decreed	03/15/1983	IRRIGATION	0.40	634.0	Yes
WEISS, CODY R; WEISS, KARAH L	37-22166	Decreed	09/20/1974	IRRIGATION	0.03	2.7	
WEL IDAHO REAL ESTATE LLC	37-8289	Decreed	02/23/1987	COMMERCIAL	0.11	0.0	
WELLS, DORIS A; WELLS, ELLIS F	35-2846	Decreed	11/08/1966	IRRIGATION	1.20	30.0	
WELLS, JEANIE; WELLS, KEVIN	27-7027	Decreed	05/29/1973	IRRIGATION	0.04	2.0	
WELLS, LISA; WELLS, WILLIAM E	27-7005	Decreed	01/21/1970	DOMESTIC, IRRIGATION	0.36	16.0	
WENDELL CEMETERY DISTRICT	36-8242	License	04/10/1984	IRRIGATION	0.20	10.0	
WENDT, ANNETTE; WENDT, KRAIG	35-7764A	Decreed	01/10/1978	DOMESTIC, IRRIGATION	0.09	5.5	
WERNETTE, KENNETH F	27-7392	License	06/12/1984	IRRIGATION	2.80	140.0	
WERNETTE, KENNETH F; WERNETTE, OLIVIA	27-7285	Decreed	06/03/1981	IRRIGATION	5.75	287.6	
WERT, LOREN; WERT, RITA	36-8000	Decreed	09/11/1981	IRRIGATION	0.80	40.0	
WERT, WAYNE K	36-7310	Decreed	03/02/1973	IRRIGATION	2.56	144.0	
WEST DESERT LLC	31-7055	Decreed	12/27/1971	IRRIGATION	4.49	310.0	
WESTERN DAIRYMEN COOPERATIVE INC	36-7492B	Decreed	07/31/1974	IRRIGATION	2.39	119.7	
WG FARMS LLC	36-16796	Decreed	01/21/1957	IRRIGATION	6.46	4382.7	
WG FARMS LLC	36-2315A	Decreed	01/21/1957	IRRIGATION	4.38	4382.7	
WG FARMS LLC	36-2315C	Decreed	01/21/1957	IRRIGATION	0.92	4382.7	
WG FARMS LLC	36-2315D	Decreed	01/21/1957	IRRIGATION	2.83	4382.7	
WG FARMS LLC	36-2315E	Decreed	01/21/1957	IRRIGATION	3.44	4382.7	
WG FARMS LLC	36-2415A	Decreed	02/18/1960	IRRIGATION	3.77	4382.7	
WG FARMS LLC	36-2501	Decreed	07/25/1961	IRRIGATION	0.80	4382.7	
WG FARMS LLC	36-2550	Decreed	08/27/1962	IRRIGATION	4.01	4382.7	
WG FARMS LLC	36-7189	Decreed	06/29/1971	IRRIGATION	0.52	135.0	
WG FARMS LLC	36-7186	Decreed	05/19/1972	IRRIGATION	0.26	4382.7	
WG FARMS LLC	36-7187	Decreed	05/19/1972	IRRIGATION	0.40	4382.7	
WG FARMS LLC	36-7188	Decreed	05/19/1972	IRRIGATION	0.51	158.0	
WG FARMS LLC	36-7190	Decreed	05/19/1972	IRRIGATION	0.84	156.0	
WG FARMS LLC	36-7191	Decreed	05/19/1972	IRRIGATION	0.70	153.0	
WG FARMS LLC	36-15356A	Decreed	06/30/1973	IRRIGATION	0.22	4382.7	Yes
WG FARMS LLC	36-7393	Decreed	10/12/1973	IRRIGATION	0.78	312.0	
WG FARMS LLC	36-7399	Decreed	10/30/1973	IRRIGATION	4.83	4382.7	
WG FARMS LLC	36-15380	Decreed	04/01/1974	IRRIGATION	0.26	4382.7	Yes
WG FARMS LLC	36-7531	Decreed	03/31/1975	IRRIGATION	1.60	80.0	
WG FARMS LLC	36-8107	Decreed	08/10/1982	IRRIGATION	0.76	312.0	
WG FARMS LLC	36-8212	License	06/22/1983	IRRIGATION	1.16	4382.7	
WG FARMS LLC	36-8213	License	06/22/1983	IRRIGATION	2.04	4382.7	

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WG FARMS LLC	36-8257	License	12/06/1984	IRRIGATION	4.42	4382.7	
WG FARMS LLC	36-8258	License	12/06/1984	IRRIGATION	8.70	4382.7	
WG FARMS LLC	36-8259	License	12/06/1984	IRRIGATION	5.20	4382.7	
WHEELER, DARRIN J; WHEELER, GWEN; WHEELER, LARRY; WHEELER, STEVEN L	35-8614	License	06/28/1985	IRRIGATION	3.98	199.0	
WHEELER, DEE RAY	36-8601	License	09/05/1991	IRRIGATION	0.06	2.0	
WHEELER, JAMES D	35-13967	Decreed	06/07/1957	IRRIGATION	0.01	2.0	
WHEELER, JAMES D	35-13961	Decreed	08/04/1979	IRRIGATION	0.02	2.0	
WHITE, SARA C	36-2365A	Decreed	11/21/1958	IRRIGATION	0.37	79.0	
WHITE, SARA C	36-2365B	Decreed	11/21/1958	IRRIGATION	0.63	133.0	
WHITE, SARA C	36-2473C	Decreed	02/09/1961	IRRIGATION	0.15	79.0	
WHITE, SARA C	36-2473D	Decreed	02/09/1961	IRRIGATION	0.26	133.0	
WHITE, SARA C	36-7011A	Decreed	11/27/1967	IRRIGATION	1.01	79.0	
WHITE, SARA C	36-7011B	Decreed	11/27/1967	IRRIGATION	1.71	133.0	
WHITE, SARA C	36-8282	License	06/13/1985	IRRIGATION	1.63	293.4	
WHITEHEAD, LA VAL	35-2519	Decreed	11/18/1957	IRRIGATION	1.60	120.0	
WHITTAKER, KEITH	36-8553	License	07/09/1990	IRRIGATION	0.13	4.3	
WICKEL LAND COMPANY LLP	45-14468	Decreed	10/29/1964	IRRIGATION	0.09	1081.0	
WICKEL LAND COMPANY LLP	45-14474	Decreed	10/29/1964	IRRIGATION	0.04	1081.0	
WICKEL LAND COMPANY LLP	45-13773	Decreed	03/15/1968	IRRIGATION	0.66	999.9	Yes
WICKEL LAND COMPANY LLP	45-14453	Decreed	11/29/1971	IRRIGATION	0.07	999.9	
WICKEL LAND COMPANY LLP	45-14454	Decreed	11/29/1971	IRRIGATION	0.01	999.9	
WICKEL LAND COMPANY LLP	45-7336	Decreed	01/24/1978	IRRIGATION	4.38	999.9	
WICKEL LAND COMPANY LLP	45-14466	Decreed	10/30/1979	IRRIGATION	0.80	1081.0	
WICKEL LAND COMPANY LLP	45-7449	Decreed	07/15/1980	IRRIGATION, STOCKWATER	0.41	999.9	
WICKEL LAND COMPANY LLP	45-7471	Decreed	05/22/1981	IRRIGATION	1.36	999.9	
WILCOX BROTHERS LLC	31-2346	Decreed	07/22/1955	IRRIGATION	6.94	738.0	
WILCOX BROTHERS LLC	31-2357	Decreed	11/13/1956	IRRIGATION	4.60	1134.4	
WILCOX BROTHERS LLC	31-2376	Decreed	03/23/1959	IRRIGATION	3.26	738.0	
WILCOX BROTHERS LLC	31-2395	Decreed	10/09/1961	IRRIGATION	3.65	1134.4	
WILCOX BROTHERS LLC	31-2428	Decreed	10/09/1964	IRRIGATION	2.16	738.0	
WILCOX BROTHERS LLC	31-2449	Decreed	03/17/1973	IRRIGATION	1.54	738.0	
WILCOX BROTHERS LLC	31-7216	Decreed	11/22/1976	IRRIGATION	2.16	738.0	
WILCOX BROTHERS LLC	31-11845	Decreed	04/23/1979	IRRIGATION	4.99	1134.4	
WILCOX BROTHERS LLC	31-7311	Decreed	04/23/1979	IRRIGATION	4.62	1134.4	
WILCOX, FRANCIS; WILCOX, MARGARET	36-8515	License	03/02/1990	IRRIGATION	0.03	1.0	
WILCOX, GILBERT	35-8168	Decreed	06/29/1983	DOMESTIC, STOCKWATER	0.57	0.0	
WILCOX, JOY W; WILCOX, NORMAN D	35-7242	Decreed	08/08/1972	IRRIGATION	0.48	193.0	

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WILCOX, JOY W; WILCOX, NORMAN D	35-7431	Decreed	07/15/1974	IRRIGATION	1.98	193.0	
WILD WEST INC	37-21719	License	03/22/2006	DOMESTIC	0.11	0.0	
WILDE, ARIC; WILDE, HAILEY	25-14353	License	02/28/1992	IRRIGATION	0.01	0.2	
WILDE, AVON	35-8944A	License	06/03/1991	IRRIGATION	0.01	0.5	
WILFERTH, CONNIE; WILFERTH, DON E	36-7594	Decreed	12/16/1975	IRRIGATION	0.14	7.0	
WILLIAM N JENSEN ET AL	35-2903	Decreed	04/12/1957	IRRIGATION	1.76	113.0	
WILLIAMS, C GAYLE	35-7269	Decreed	12/20/1972	IRRIGATION	2.04	147.0	
WILLIAMS, DARRELL S	27-7011	Decreed	03/27/1970	IRRIGATION	2.60	140.0	
WILLIAMS, DARRELL S	27-11969	Decreed	04/01/1977	IRRIGATION	0.16	140.0	Yes
WILLIAMS, J STANLEY	35-2565	Decreed	03/04/1959	IRRIGATION	0.64	154.0	
WILLIAMS, J STANLEY	35-7043	Decreed	09/04/1968	IRRIGATION	0.90	154.0	
WILLIAMS, J STANLEY	35-7428	Decreed	06/21/1974	IRRIGATION	1.00	154.0	
WILLIAMS, J STANLEY	35-8117	License	03/15/1983	IRRIGATION	2.64	157.0	
WILLIAMS, J STANLEY; WILLIAMS, NANCY	35-2374	Decreed	04/23/1954	IRRIGATION	3.10	155.0	
WILLIAMS, J STANLEY; WILLIAMS, NANCY	35-2375	Decreed	04/23/1954	IRRIGATION	3.18	159.0	
WILLIAMS, J STANLEY; WILLIAMS, NANCY	35-2438A	Decreed	08/29/1955	IRRIGATION	2.08	157.0	
WILLIAMS, J STANLEY; WILLIAMS, NANCY	35-7214	Decreed	03/09/1972	IRRIGATION	1.40	70.0	
WILLIAMS, J STANLEY; WILLIAMS, NANCY	35-7473	Decreed	01/31/1975	IRRIGATION	1.48	74.0	
WILLIAMS, J STANLEY; WILLIAMS, NANCY	35-7474	Decreed	01/31/1975	IRRIGATION	0.25	12.3	
WILLIAMS, J STANLEY; WILLIAMS, NANCY	35-8801	License	06/19/1989	IRRIGATION	0.74	39.0	
WILLIAMS, STEPHEN GAYLE	35-7044	Decreed	09/04/1968	IRRIGATION	2.43	155.0	
WILLIAMS, TIMOTHY E	35-11454	Decreed	06/30/1959	IRRIGATION	0.16	8.0	
WILLIE, DANIEL L	36-16113	Decreed	11/11/1959	MITIGATION	0.20	30.2	
WILLIE, DANIEL L	36-16114	Decreed	11/15/1970	MITIGATION	0.29	30.2	
WILLIE, DANIEL L	36-16124	Decreed	05/26/1971	MITIGATION	0.03	30.2	Yes
WILLIE, DANIEL L	36-16116	Decreed	05/16/1980	MITIGATION	0.07	30.2	
WILLIS, HOLLY MCKENZIE; WILLIS, MATTHEW MCKAY	25-7651	License	06/29/1989	DOMESTIC, IRRIGATION	0.04	1.5	
WINDER, COLLEEN J; WINDER, GEORGE T	35-11411	Decreed	05/01/1974	IRRIGATION	0.79	317.0	Yes
WIXOM, KEN J; WIXOM, PAULINE W	35-2422	Decreed	05/03/1955	IRRIGATION	2.76	149.0	
WIXOM, KEN J; WIXOM, PAULINE W	35-2527	Decreed	02/21/1958	IRRIGATION	2.48	160.0	
WIXOM, KEN J; WIXOM, PAULINE W	35-2907A	Decreed	07/07/1961	IRRIGATION	2.52	126.0	
WIXOM, LESLIE F	27-7046	Decreed	05/29/1974	DOMESTIC, IRRIGATION	0.04	1.0	
WLR LC	36-16568	Decreed	02/08/1977	IRRIGATION	10.14	1076.0	
WLR LC	36-16569	Decreed	02/08/1977	IRRIGATION	2.89	308.0	
WLR LC	36-16586	Decreed	03/15/1987	IRRIGATION	0.09	1076.0	
WLR LC	36-16587	Decreed	03/15/1987	IRRIGATION	0.03	308.0	Yes
WLR LC	36-16577	License	02/20/1990	IRRIGATION	1.50	1076.0	
WLR LC	36-16578	License	02/20/1990	IRRIGATION	0.42	308.0	

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WOLFENSBERGER, AUDREY; WOLFENSBERGER, RYAN	25-14357	License	02/28/1992	IRRIGATION	0.02	1.0	
WOLFLEY, KIM; WOLFLEY, PAUL	35-8731	License	05/23/1989	COMMERCIAL	0.23	0.0	
WOLFLEY, PATRICIA; WOLFLEY, R KIM	35-2427A	Decreed	06/29/1955	IRRIGATION	0.08	4.0	
WOLFLEY, R KIM	35-2427	Decreed	06/29/1955	IRRIGATION	4.40	276.0	
WOLFLEY, R KIM	35-14419	Decreed	01/03/1974	IRRIGATION	0.05	3.5	
WOLFLEY, R KIM	35-7357B	Decreed	01/03/1974	IRRIGATION	2.30	152.5	
WOMACK , DE RAY; WOMACK, SHAWNA; WOODHOUSE, KYLE; WOODHOUSE, MARLA	27-7377	Decreed	06/27/1983	DOMESTIC, IRRIGATION, STOCKWATER	0.06	1.0	
WOOD, DEAN; WOOD, JANE C	35-7731	Decreed	07/19/1977	IRRIGATION	1.01	81.0	
WOOD, DEE LYNN	31-4123	Decreed	02/12/1959	DOMESTIC, IRRIGATION, STOCKWATER	0.08	1.0	
WOOD, OWEN M	35-8206	License	08/05/1983	IRRIGATION	0.12	6.0	
WOODARD, PERRY L	31-2408A	Decreed	11/27/1963	IRRIGATION	0.67	173.8	
WOODARD, PERRY L	31-7095A	Decreed	04/22/1974	IRRIGATION	2.36	173.8	
WOODLAND, ALAN; WOODLAND, DEBRA	36-16515	Decreed	08/30/1954	IRRIGATION	3.65	307.0	
WOODLAND, ALAN; WOODLAND, DEBRA	36-16516	Decreed	08/30/1954	IRRIGATION	0.46	32.0	
WOODLAND, ALAN; WOODLAND, DEBRA	36-16698	Decreed	07/12/1964	IRRIGATION	5.02	606.0	
WOODLAND, ALAN; WOODLAND, DEBRA	36-16517	Decreed	03/15/1984	IRRIGATION	0.93	307.0	Yes
WOODLAND, ALAN; WOODLAND, DEBRA	36-16518	Decreed	03/15/1984	IRRIGATION	0.12	32.0	Yes
WOODLAND, DE VON R; WOODLAND, L DEAN	27-7099	Decreed	07/18/1977	IRRIGATION	2.16	137.7	
WOODLAND, MICHAEL D	36-7930	License	08/11/1980	IRRIGATION	3.68	200.0	
WOODLAND, MICHAEL D; WOODLAND, PATRICIA	36-2302	Decreed	06/04/1956	IRRIGATION	5.78	338.0	
WOODLAND, MICHAEL D; WOODLAND, PATRICIA	36-10197	Decreed	08/11/1959	IRRIGATION	0.72	531.0	
WOODLAND, MICHAEL D; WOODLAND, PATRICIA	36-2567	Decreed	03/07/1963	IRRIGATION	3.40	531.0	
WOODLAND, MICHAEL D; WOODLAND, PATRICIA	36-2674	Decreed	08/25/1966	IRRIGATION	1.04	531.0	
WOODLAND, MICHAEL D; WOODLAND, PATRICIA	36-7055	Decreed	04/07/1969	IRRIGATION	2.40	120.0	
WOODLAND, MICHAEL D; WOODLAND, PATRICIA	36-7461	Decreed	03/26/1974	IRRIGATION	8.35	548.0	
WOODLAND, MICHAEL D; WOODLAND, PATRICIA	36-15179	Decreed	03/15/1975	IRRIGATION	0.94	531.0	Yes
WOODS, ADRIENNE JAN	36-8434	License	07/31/1989	IRRIGATION	0.03	1.0	
WOODVILLE CEMETERY MAINTENANCE DISTRICT	35-8623	License	11/04/1985	IRRIGATION	0.03	1.0	
WOODWARD, ARLEN; WOODWARD, JUDY	36-8194	Decreed	05/24/1983	IRRIGATION	0.03	1.0	
WOODWARD, RODGER; WOODWARD, RUTH	36-8214	Decreed	06/27/1983	DOMESTIC, IRRIGATION	0.04	1.0	
WOOTTON, DANIELLE; WOOTTON, RUSSELL	35-14554	Decreed	02/07/1973	IRRIGATION	0.08	46.0	
WOOTTON, DANIELLE; WOOTTON, RUSSELL	35-7273	Decreed	02/07/1973	IRRIGATION	0.44	22.0	
WRAY, BERKLEY; WRAY, CONNIE	35-14389	Decreed	07/13/1954	IRRIGATION	0.07	12.2	
WRAY, BERKLEY; WRAY, CONNIE	35-4211	Decreed	06/20/1956	IRRIGATION	2.66	194.0	
WRAY, BERKLEY; WRAY, CONNIE	35-2750A	Decreed	07/29/1964	IRRIGATION	1.91	95.7	
WRAY, BERKLEY; WRAY, CONNIE	35-7195	Decreed	12/20/1971	IRRIGATION	2.56	163.0	
WRAY, BERKLEY; WRAY, CONNIE	35-7341	Decreed	10/23/1973	IRRIGATION	2.79	174.0	

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WRAY, BERKLEY; WRAY, CONNIE	35-7342	Decreed	10/23/1973	IRRIGATION	2.79	158.0	
WRAY, BERKLEY; WRAY, CONNIE	35-7343	Decreed	10/23/1973	DOMESTIC, IRRIGATION, STOCKWATER	0.24	10.0	
WRAY, BERKLEY; WRAY, CONNIE	35-7370	Decreed	01/15/1974	IRRIGATION	0.56	35.0	
WRAY, BERKLEY; WRAY, CONNIE	35-14390	Decreed	11/12/1975	IRRIGATION	0.16	12.2	
WREN, DEWANE; WREN, MELANY	27-7472	License	05/31/1989	DOMESTIC, IRRIGATION	0.04	2.0	
WRIGHT, GARY A	27-7524	License	02/25/1991	IRRIGATION	1.71	146.0	
WRIGLEY, LARISSA; WRIGLEY, TYSON	45-7333A	Decreed	01/19/1978	IRRIGATION	0.43	95.8	
WRIGLEY, LARISSA; WRIGLEY, TYSON	45-7731	License	02/12/1996	IRRIGATION	1.19	109.4	
WWWDF LAND LLC	31-11725	Decreed	03/20/1956	IRRIGATION	1.70	157.0	
WWWDF LAND LLC	31-12138	Decreed	11/18/1963	IRRIGATION	2.14	319.0	
WWWDF LAND LLC	31-12139	Decreed	11/18/1963	IRRIGATION	0.22	298.0	
WWWDF LAND LLC	31-2417	Decreed	08/13/1964	IRRIGATION	4.04	319.0	
WWWDF LAND LLC	31-7016	Decreed	01/16/1969	IRRIGATION	5.52	298.0	
WWWDF LAND LLC	31-11623	Decreed	04/01/1979	IRRIGATION	0.14	298.0	Yes
WWWDF LAND LLC	31-11620	Decreed	04/01/1987	IRRIGATION	0.27	319.0	Yes
WWWDF LLC	31-11724	Decreed	03/20/1956	IRRIGATION	0.47	217.0	
WWWDF LLC	31-7176	Decreed	01/02/1976	IRRIGATION	1.78	217.0	
WWWDF LLC	31-11611	Decreed	07/22/1983	IRRIGATION	0.21	217.0	Yes
WWWDF LLC	31-11697	License	03/29/2001	IRRIGATION	0.88	217.0	
YANCEY, CLEM R	35-14239	License	03/14/2012	DOMESTIC	0.06	0.0	
YANCEY, LYLE	35-13540	License	02/14/2005	DOMESTIC	0.09	0.0	
YANCEY, LYLE	35-14379	License	01/16/2014	DOMESTIC	0.12	0.0	
YANCEY, RACHEL; YANCEY, RYAN	35-14409	License	12/26/2014	DOMESTIC	0.12	0.0	
YEARSLEY, KIM	31-7310	License	02/22/1979	IRRIGATION	0.30	15.0	
YERION, GEORGE A; YERION, SUSAN F	37-20717	License	04/29/2002	IRRIGATION	0.10	3.3	
YOCKEY, GEOFFREY DAVID; YOCKEY, JANA LYNN	36-16658	Decreed	12/09/1968	IRRIGATION	0.33	51.0	
YOCKEY, GEOFFREY DAVID; YOCKEY, JANA LYNN	36-16660	Decreed	10/10/1969	IRRIGATION	0.33	51.0	
YOCKEY, GEOFFREY DAVID; YOCKEY, JANA LYNN	36-16662	Decreed	01/17/1973	IRRIGATION	0.08	51.0	
YOCKEY, GEOFFREY DAVID; YOCKEY, JANA LYNN	36-16664	Decreed	11/15/1973	IRRIGATION	0.17	51.0	
YOCKEY, GEOFFREY DAVID; YOCKEY, JANA LYNN	36-16666	Decreed	05/01/1984	IRRIGATION	0.07	51.0	Yes
YOUNG, ADRIAN J; YOUNG, MARGOT B	27-7406	License	04/23/1985	IRRIGATION	1.04	52.0	
YOUNG, ALLEN R; YOUNG, JACQUELINE	35-14413	Decreed	07/13/1954	IRRIGATION	0.72	122.0	
YOUNG, ALLEN R; YOUNG, JACQUELINE	35-14298	Decreed	10/21/1960	IRRIGATION	0.11	97.1	
YOUNG, ALLEN R; YOUNG, JACQUELINE	35-2614	Decreed	10/21/1960	IRRIGATION	2.59	292.6	
YOUNG, ALLEN R; YOUNG, JACQUELINE	35-14300	Decreed	03/15/1961	IRRIGATION	0.11	97.1	
YOUNG, ALLEN R; YOUNG, JACQUELINE	35-2651D	Decreed	03/15/1961	IRRIGATION	3.36	277.6	
YOUNG, ALLEN R; YOUNG, JACQUELINE	35-13505	Decreed	11/25/1963	IRRIGATION	3.50	272.5	
YOUNG, ALLEN R; YOUNG, JACQUELINE	35-14303	Decreed	11/25/1963	IRRIGATION	0.46	97.1	

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YOUNG, ALLEN R; YOUNG, JACQUELINE	35-13247	Decreed	09/23/1974	IRRIGATION	0.52	292.6	Yes
YOUNG, ALLEN R; YOUNG, JACQUELINE	35-14299	Decreed	09/23/1974	IRRIGATION	0.10	97.1	
YOUNG, ALLEN R; YOUNG, JACQUELINE	35-14301	Decreed	09/23/1974	IRRIGATION	0.02	97.1	Yes
YOUNG, ALLEN R; YOUNG, JACQUELINE	35-7442	Decreed	09/23/1974	IRRIGATION	2.25	292.6	
YOUNG, ALLEN R; YOUNG, JACQUELINE	35-14294	Decreed	04/01/1975	IRRIGATION	0.22	97.1	
YOUNG, ALLEN R; YOUNG, JACQUELINE	35-7496	Decreed	04/01/1975	IRRIGATION	2.35	121.8	
YOUNG, ALLEN R; YOUNG, JACQUELINE	35-14414	Decreed	11/12/1975	IRRIGATION	1.60	122.0	
YOUNG, ALLEN R; YOUNG, JACQUELINE	35-7546	Decreed	11/13/1975	IRRIGATION	1.76	259.0	
YOUNG, ALLEN R; YOUNG, JACQUELINE	35-13503	Decreed	12/04/1975	IRRIGATION	0.92	272.5	
YOUNG, ALLEN R; YOUNG, JACQUELINE	35-14302	Decreed	12/04/1975	IRRIGATION	0.12	97.1	
YOUNG, ALLEN R; YOUNG, JACQUELINE	35-14296	Decreed	01/24/1978	IRRIGATION	0.05	97.1	
YOUNG, ALLEN R; YOUNG, JACQUELINE	35-7772	Decreed	01/24/1978	IRRIGATION	1.43	277.6	
YOUNG, ALLEN R; YOUNG, JACQUELINE	35-7989	Decreed	08/22/1981	IRRIGATION	0.22	272.5	
YOUNG, ALLEN R; YOUNG, JACQUELINE	35-8023	Decreed	02/22/1982	IRRIGATION	3.03	179.0	
YOUNG, ALLEN R; YOUNG, JACQUELINE	35-14293	License	04/26/1983	IRRIGATION	0.05	97.1	
YOUNG, ALLEN R; YOUNG, JACQUELINE	35-8134	License	04/26/1983	IRRIGATION	1.17	188.4	
YOUNG, ALLEN; YOUNG, JACQUELINE	35-8611	License	06/28/1985	IRRIGATION	1.18	65.0	
YOUNG, ART C; YOUNG, EVONA H	35-13650	Decreed	04/01/1967	IRRIGATION	0.07	33.5	Yes
YOUNG, ELIZABETH A	37-7782	License	06/05/1979	IRRIGATION	0.12	2.9	
YOUNG, JOHN W	35-8228	License	08/15/1983	DOMESTIC, IRRIGATION	0.09	2.8	
YOUNG, ROBERT G	27-7363	License	06/03/1983	DOMESTIC, IRRIGATION, STOCKWATER	0.06	1.0	
ZAGER, BRENT; ZAGER, DENA	35-8740	License	04/20/1989	DOMESTIC, IRRIGATION	0.27	12.5	
ZOE, HOLLY	35-8068	Decreed	12/10/1982	DOMESTIC, IRRIGATION, STOCKWATER	0.12	2.6	
ZOLLINGER, C S	36-2615	Decreed	06/11/1965	IRRIGATION	5.90	306.0	
ZWEIFEL PROPERTIES LLC	31-2459A	Decreed	06/23/1955	IRRIGATION	5.37	395.0	
ZWEIFEL PROPERTIES LLC	32-7257	Decreed	06/23/1955	IRRIGATION	0.75	408.0	
ZWEIFEL PROPERTIES LLC	31-4010A	Decreed	05/30/1959	IRRIGATION	0.63	395.0	
ZWEIFEL PROPERTIES LLC	32-4074	Decreed	05/30/1959	IRRIGATION	0.09	408.0	
ZWEIFEL PROPERTIES LLC	32-2105A	Decreed	03/13/1961	IRRIGATION	3.65	1144.0	
ZWEIFEL PROPERTIES LLC	32-2105B	Decreed	03/13/1961	IRRIGATION	0.55	408.0	
ZWEIFEL PROPERTIES LLC	32-2104A	Decreed	04/05/1961	IRRIGATION	2.62	1144.0	
ZWEIFEL PROPERTIES LLC	32-2104B	Decreed	04/05/1961	IRRIGATION	0.41	408.0	
ZWEIFEL PROPERTIES LLC	32-2133A	Decreed	04/02/1964	IRRIGATION	5.64	268.0	
ZWEIFEL PROPERTIES LLC	32-2133B	Decreed	04/02/1964	IRRIGATION	0.76	408.0	
ZWEIFEL PROPERTIES LLC	32-2117A	Decreed	05/14/1964	IRRIGATION	3.73	1144.0	
ZWEIFEL PROPERTIES LLC	32-2117B	Decreed	05/14/1964	IRRIGATION	0.48	408.0	
ZWEIFEL PROPERTIES LLC	32-2119A	Decreed	11/05/1965	IRRIGATION	5.11	268.0	
ZWEIFEL PROPERTIES LLC	32-2119B	Decreed	11/05/1965	IRRIGATION	0.91	408.0	

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ZWEIFEL PROPERTIES LLC	32-7011A	Decreed	03/29/1972	IRRIGATION	8.59	1144.0	
ZWEIFEL PROPERTIES LLC	32-7011B	Decreed	03/29/1972	IRRIGATION	0.72	408.0	
ZWEIFEL PROPERTIES LLC	31-7118A	Decreed	04/09/1974	IRRIGATION	6.65	396.0	
ZWEIFEL PROPERTIES LLC	32-7258	Decreed	04/09/1974	IRRIGATION	1.17	408.0	
ZWEIFEL PROPERTIES LLC	31-7182C	Decreed	01/22/1976	IRRIGATION	0.95	66.0	
ZWEIFEL PROPERTIES LLC	32-7259	Decreed	01/22/1976	IRRIGATION	0.19	408.0	
ZWEIFEL PROPERTIES LLC	32-7090A	Decreed	03/20/1978	IRRIGATION	8.14	1144.0	
ZWEIFEL PROPERTIES LLC	32-7090B	Decreed	03/20/1978	IRRIGATION	0.83	408.0	

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1523 LLC	35-14566	Decreed	11/03/1972	IRRIGATION	0.05	2.60	
2 K FARMS	35-8766	License	06/01/1989	COMMERCIAL, DOMESTIC	0.02	0.00	
288S 500W LLC	36-17158	Decreed	02/01/1961	DOMESTIC, IRRIGATION, STOCKWATER	0.03	1.00	
2B LEGACY LLC	31-7043A	Decreed	11/12/1970	COMMERCIAL, STOCKWATER	0.28	0.00	
2-K FARMS	35-8767	License	06/09/1989	COMMERCIAL	0.01	0.00	
3 STRING CATTLE OF IDAHO LLC	37-23203	Decreed	07/24/1973	COMMERCIAL, STOCKWATER	0.16	0.00	
4 BROS DAIRY INC	37-2622	Decreed	10/06/1959	IRRIGATION	1.39	80.00	
A & B IRRIGATION DISTRICT	36-16749	Decreed	04/01/1956	IRRIGATION	0.45	26.00	
A & B IRRIGATION DISTRICT / US BUREAU OF RECLAMATION	36-15127A	Decreed	04/01/1962	IRRIGATION	31.12	0.00	
A & B IRRIGATION DISTRICT / US BUREAU OF RECLAMATION	36-15192	Decreed	04/01/1962	IRRIGATION	0.60	0.00	
A & B IRRIGATION DISTRICT / US BUREAU OF RECLAMATION	36-15193A	Decreed	04/01/1962	IRRIGATION	0.21	0.00	
A & B IRRIGATION DISTRICT / US BUREAU OF RECLAMATION	36-15194A	Decreed	04/01/1962	IRRIGATION	0.23	0.00	
A & B IRRIGATION DISTRICT / US BUREAU OF RECLAMATION	36-15195A	Decreed	04/01/1962	IRRIGATION	0.87	0.00	
A & B IRRIGATION DISTRICT / US BUREAU OF RECLAMATION	36-15196A	Decreed	04/01/1962	IRRIGATION	0.29	0.00	
A & B IRRIGATION DISTRICT / US BUREAU OF RECLAMATION	36-15193B	Decreed	04/01/1965	IRRIGATION	0.31	0.00	Yes
A & B IRRIGATION DISTRICT / US BUREAU OF RECLAMATION	36-15194B	Decreed	04/01/1968	IRRIGATION	2.51	0.00	Yes
A & B IRRIGATION DISTRICT / US BUREAU OF RECLAMATION	36-15195B	Decreed	04/01/1978	IRRIGATION	2.24	0.00	Yes
A & B IRRIGATION DISTRICT / US BUREAU OF RECLAMATION	36-15196B	Decreed	04/01/1981	IRRIGATION	0.08	0.00	Yes
A & B IRRIGATION DISTRICT / US BUREAU OF RECLAMATION	36-15127B	Decreed	04/01/1984	IRRIGATION	28.89	0.00	Yes
ABERDEEN SPRINGFIELD CANAL CO	35-2543	Decreed	08/07/1958	IRRIGATION	6.00	0.00	
ADAMS, CHERYL L; ADAMS, H LYLE; ADAMS, RODDY L	37-7078	Decreed	10/12/1970	COMMERCIAL, DOMESTIC, STOCKWATER	0.08	0.00	
AEI CORP	29-8037	License	11/13/1990	DOMESTIC, INDUSTRIAL	0.06	0.00	
AGRI BEEF CO	29-7104	Decreed	10/25/1972	STOCKWATER	0.67	0.00	
AGRICULTURAL SERVICES INC	35-8857	License	09/06/1989	COMMERCIAL	0.04	0.00	
AKL PROPERTIES LLC	36-8416	License	03/30/1989	COMMERCIAL	0.04	0.00	
ALLEN, CECIL; ALLEN, FLORENCE I	31-7398	Decreed	06/16/1983	COMMERCIAL, DOMESTIC	0.06	0.00	
AMERICAN FALLS RESERVOIR DISTRICT #2	36-11120	Decreed	11/27/1962	DOMESTIC, IRRIGATION	0.07	1.50	
ANDERLAND LLC	45-14554	Decreed	09/27/1972	IRRIGATION	0.19	33.00	
ANDERLAND LLC	45-14555	Decreed	09/27/1972	COMMERCIAL, STOCKWATER	0.24	0.00	
ANDERSON, CHAD ALLEN; ANDERSON, JASHELLE HEATHER	45-7650	License	06/21/1989	DOMESTIC, IRRIGATION	0.06	1.00	
ANDERSON, SAM; ANDERSON, STACIE	25-7490	License	03/15/1989	COMMERCIAL	0.04	0.00	
ARD, CHARLES BRUCE	22-7555	License	08/24/1988	COMMERCIAL, DOMESTIC	0.04	0.00	
ARLENCO INC	22-7423	Decreed	02/24/1983	COMMERCIAL	0.01	0.00	
ARROWSMITH, JOSEPH GLENN	25-7073D	Decreed	08/01/1975	IRRIGATION	0.25	12.30	
ARTCO INC	22-7473	License	12/23/1983	INDUSTRIAL, IRRIGATION	0.84	17.00	

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Owner	Water Right No.	Basis	Priority Date	Water Use List	Diversion Rate (cfs)	Total Acres	Enlargement
ATKINSON, ANDREW ; ATKINSON, MARY	29-13736	License	02/21/2006	DOMESTIC	0.08	0.00	
B & F DISTRIBUTING CO	25-7555	License	10/12/1989	COMMERCIAL	0.04	0.00	
BABEL, PAUL; HAMPTON, WALLACE; PARKS, FRED A	25-7083	License	01/28/1976	DOMESTIC	0.06	0.00	
BAH REXBURG AC PROPERTY LLC	22-11451	Decreed	08/31/1960	IRRIGATION	0.04	2.00	
BAILEY OIL CO INC	36-13218	Decreed	01/01/1960	COMMERCIAL	0.05	0.00	
BAISCH, ROBERT L	35-7481	License	02/21/1975	DOMESTIC	0.08	0.00	
BARBEN, GORDON E; SAMPSON, KEN	27-7025	License	04/02/1973	DOMESTIC	0.08	0.00	
BARBER, BETH; BARBER, KENT	25-7017B	Decreed	03/20/1972	IRRIGATION	0.92	45.30	
BARBER, BETH; BARBER, KENT	25-7073A	Decreed	08/01/1975	IRRIGATION	1.50	75.00	
BARRUS, KEITH; MINKS, ROY; PLOCK, STEPHEN R; SCHNEIDER, SCOT L	25-7080	Decreed	01/28/1976	DOMESTIC	0.11	0.00	
BARTLETT, ERWIN; BARTLETT, JANICE	45-7653	License	06/06/1989	COMMERCIAL	0.04	0.00	
BASIC AMERICAN POTATO CO INC	35-12062	Decreed	12/31/1957	COMMERCIAL	1.00	0.00	
BATES, ROBERT W; BATES, SHARON H; WILKINS, ELMA; WILKINS, LLOYD	25-7357	Decreed	06/16/1983	DOMESTIC	0.06	0.00	
BEAR CREST LTD LLC	22-14440		12/06/2021	COMMERCIAL	1.22	0.00	
BEAR ISLAND WATER ASSN INC	35-8672	License	09/06/1988	DOMESTIC	0.20	0.00	
BECK, DAVID; BECK, SUSAN K	45-11122	Decreed	01/09/1975	DOMESTIC, STOCKWATER	0.07	0.00	
BENNETT, UDO	29-13940	Decreed	10/03/1977	IRRIGATION	0.13	7.50	
BENSON, CLIFFORD; BENSON, LADAWN C	35-8124		03/25/1983	IRRIGATION	6.40	320.00	
BEORCHIA, MICHAEL; BEORCHIA, REVA	35-14830	Decreed	01/26/1962	IRRIGATION	0.02	2.30	
BERGMANN, LARRY	35-14739	Decreed	04/22/1979	DIVERSION TO STORAGE, IRRIGATION, RECREATION STORAGE	0.09	2.00	
BEVAN, DONNA; BEVAN, THOMAS	35-14773	Decreed	04/27/1964	IRRIGATION	0.08	2.00	
BEYER, PATRICK	25-7313	Decreed	04/11/1983	DOMESTIC, IRRIGATION	0.05	0.70	
BIG FIVE WATER ASSN	25-7199	Decreed	07/24/1980	DOMESTIC	0.11	0.00	
BIG SKY DAIRY	37-20858	Decreed	01/01/1971	STOCKWATER	0.04	0.00	
BIG SKY DAIRY	37-20859	Decreed	01/01/1974	STOCKWATER	0.04	0.00	
BIG SKY DAIRY	37-20860	Decreed	01/01/1975	STOCKWATER	0.04	0.00	
BIG SKY DAIRY	37-12833	Decreed	01/01/1977	DOMESTIC, STOCKWATER	0.17	0.00	
BIGGS, DONALD; BIGGS, HELEN ; BUSH, ROBERT; OCKERMAN, JOY ; WINGERT, JEAN M	25-7082	Decreed	01/28/1976	DOMESTIC	0.16	0.00	
BINGHAM, BOYD A; BINGHAM, SHERRY R	36-8425	License	06/23/1989	IRRIGATION	0.88	105.00	
BINGHAM, JENNIFER; BINGHAM, JOSEPH	37-23385	Decreed	11/30/1965	IRRIGATION	0.31	30.00	
BINGHAM, JENNIFER; BINGHAM, JOSEPH	37-23384	Decreed	02/04/1976	IRRIGATION	0.24	30.00	

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BINGHAM, JERRY D; BINGHAM, VALERIE H	35-12226	Decreed	04/01/1987	IRRIGATION	0.59	285.00	Yes
BIRD, WARREN A; FARNES, LYLE R; RICKS, RICHARD; TOMCHAK, TYE	25-7375	Decreed	06/29/1983	DOMESTIC	0.10	0.00	
BLACK, KENNETH S; BLACK, NINA E	45-12776	Decreed	10/30/1960	DOMESTIC, STOCKWATER	0.23	0.00	
BLACKER, LOVEL L; BLACKER, MARVIN L	45-14141	Decreed	07/19/1954	IRRIGATION	0.07	3.70	
BLAINE COUNTY SCHOOL DISTRICT #61	37-22205	Decreed	07/21/1961	MITIGATION	0.30	0.00	
BLAINE COUNTY SCHOOL DISTRICT #61	37-22931	Decreed	11/25/1962	IRRIGATION	0.05	2.30	
BLEDSOE, HELEN M; HACKMAN, ERNEST A	35-7916	License	09/16/1980	DOMESTIC	0.08	0.00	
BLUE SAGE PROPERTIES LLC	36-14759	Decreed	07/15/1955	DOMESTIC, STOCKWATER	0.04	0.00	
BLUE SAGE PROPERTIES LLC	36-17171	Decreed	08/10/1973	IRRIGATION	0.07	5.30	
BOISE PACKAGING & NEWSPRINT LLC	45-2568	Decreed	04/01/1958	DOMESTIC, FIRE PROTECTION FROM STORAGE, FIRE PROTECTION STORAGE, FIRE PROTECTION	0.09	0.00	
BOLINDER, CATHERINE L	27-7322	License	06/08/1982	DOMESTIC	0.06	0.00	
BONNEVILLE ACRES WATER USERS ASSN INC	25-2135	Decreed	07/28/1961	COMMERCIAL, DOMESTIC	0.81	0.00	
BONNEVILLE ACRES WATER USERS ASSN INC	25-2150	Decreed	12/24/1965	COMMERCIAL, DOMESTIC	0.28	0.00	
BONNIE BARTON BANDY IRREVOCABLE TRUST	36-17287	Decreed	05/14/1974	IRRIGATION	0.08	4.00	
BORAN , MICHAEL J	35-8635B	Decreed	12/17/1986	FISH PROPAGATION	0.72	0.00	
BORAN , MICHAEL J	35-8782	License	05/23/1989	FISH PROPAGATION	4.64	0.00	
BORDEAUX, DARREN	35-14702	Decreed	01/26/1962	IRRIGATION	0.03	2.50	
BOWDEN, CHEREE; BOWDEN, GUY	31-12542	Decreed	06/09/1977	IRRIGATION	0.03	7.20	
BOWEN PETROLEUM	22-7464	License	06/29/1983	COMMERCIAL	0.04	0.00	
BRADY, LANCE; BRADY, SHANNON; HAGAN, DANNY D; HAGAN, MARILYNN J ; HOLMES, BILL; HOLMES, LINDA	25-7330	Decreed	06/14/1983	DOMESTIC, IRRIGATION	0.08	0.40	
BRAGA, ROBERT; VAUGHAN, LONNIE	34-14685	Decreed	12/31/1955	DOMESTIC, IRRIGATION	0.04	2.00	
BRAY VALLEY RANCH LLC	37-7942	Decreed	09/22/1981	DOMESTIC, IRRIGATION, STOCKWATER	1.11	141.00	
BRIGGS, DAVID L; BRIGGS, JEANIE K	25-7466	License	11/17/1988	COMMERCIAL	0.04	0.00	
BRINKMANN, GEORGE	35-8893	License	03/29/1990	COMMERCIAL	0.01	0.00	
BROADHEAD, LYNN	35-8765	License	05/23/1989	COMMERCIAL	0.05	0.00	
BROWN, HAROLD	31-7513	License	11/23/1988	COMMERCIAL, DOMESTIC	0.07	0.00	
BROWN, HEATHER; BROWN, WAYNE W	36-14878	Decreed	12/31/1956	DOMESTIC, STOCKWATER	0.06	0.00	
BROWN, JAN A; BROWN, SID E; MOMBERGER, JESSE C	31-7510	License	11/14/1988	DOMESTIC, IRRIGATION, STOCKWATER	0.11	2.00	
BRP INC	25-7622	License	09/23/1998	DOMESTIC	0.23	0.00	
BRP INC	25-14504		10/12/2021	DOMESTIC	0.26	0.00	
BURDETTE INC	25-7532	License	09/20/1989	COMMERCIAL	0.04	0.00	

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BURGESS SUBDIVISION WATER ASSN INC	25-7457	License	10/27/1988	DOMESTIC	0.11	0.00	
BURNS CONCRETE INC	25-13982	License	12/18/2002	COMMERCIAL	3.53	0.00	
BURNS, KIRK E; SZIMHARDT, LINDA J	25-7426	License	06/06/1988	IRRIGATION	0.08	5.60	
BURRELL, GEORGE W; BURRELL, LURANA J; KEETCH, SHYANN; KEETCH, STETSON	29-13900	License	04/03/2009	DOMESTIC	0.08	0.00	
BURRUP, JOHN R; BURRUP, JON R	25-13085	Decreed	07/06/1958	COMMERCIAL, STOCKWATER	0.12	0.00	
BURT, DEBRA L; LIVERMORE, SEAN	25-14531	Decreed	08/01/1975	IRRIGATION	0.10	5.00	
C7 FARMS LLC	36-7460AG	Decreed	03/25/1974	COMMERCIAL, STOCKWATER	0.18	0.00	
CAMPBELL, ALTA	25-4136	Decreed	06/01/1955	IRRIGATION	0.02	0.30	
CANNERS SEED CORP	25-7449	License	10/13/1988	COMMERCIAL, DOMESTIC	0.04	0.00	
CARLSON, LESA J	29-13829	Decreed	06/27/1966	IRRIGATION	0.05	2.40	
CARPENTER, BARBARA; CARPENTER, MAURICE	25-7193B	Decreed	04/30/1980	DOMESTIC, IRRIGATION, STOCKWATER	0.02	2.50	
CARRENO, OSCAR	36-15669	Decreed	02/18/1971	COMMERCIAL, STOCKWATER	0.02	0.00	
CARRENO, OSCAR	36-16240	Decreed	01/07/1974	COMMERCIAL, STOCKWATER	0.01	0.00	
CARSTENS, JULIUS M J	25-7481	License	12/22/1988	IRRIGATION	0.04	1.40	
CASA DEL NORTE LP	37-7081	Decreed	12/08/1970	IRRIGATION	1.67	840.00	
CASSIDY, FRANCIS J; HOFFMAN, RICHARD P; MEYER, DAVID DANIEL; MEYER, JENNY CLUFF; TANNER, TOMMY C	25-7638	License	04/25/1995	DOMESTIC	0.10	0.00	
CEYNAR, MARCENE; FANN, LAVEDA A; FANN, R E; FARNSWORTH, BETH; FARNSWORTH, JAY; PICKERING, CRAIG; PICKERING, VICKY	25-7272	Decreed	02/04/1982	DOMESTIC	0.10	0.00	
CHALLENGER PALLET & SUPPLY	25-7451	License	12/01/1988	COMMERCIAL	0.04	0.00	
CHAMBERS, BOYD; HARRIS, JAMES; HARRIS, MARI; LOREN, RICHAN; STUEVE, KENNETH; SWEARINGER, ALDON; WADE, BILL	25-4210	Decreed	03/21/1960	DOMESTIC, IRRIGATION	0.19	2.40	
CHAMBERS, RALEIGH R	25-7343	License	06/27/1983	DOMESTIC	0.06	0.00	
CHAPMAN, GARY RAY; CHAPMAN, REBECCA LYNN	22-14405	Decreed	04/22/1979	IRRIGATION	0.04	2.00	
CHERRY, MARY ANN; CHERRY, ROBERT	25-14402	Decreed	07/19/1973	IRRIGATION	0.02	1.20	
CHEVRON PIPE LINE CO	29-2488	Decreed	01/28/1964	DOMESTIC, FIRE PROTECTION	1.00	0.00	
CHRISTENSEN, ADAM W; NELSON, DIANE K	37-23133	Decreed	09/20/1974	IRRIGATION	0.02	0.80	
CHURCH OF JESUS CHRIST OF LATTER DAY SAINTS	22-13745	License	07/23/2007	DOMESTIC	0.11	0.00	
CHURCH OF JESUS CHRIST OF THE LATTER DAY SAINTS	25-12186	Decreed	04/01/1962	IRRIGATION	0.17	8.50	
CITY OF BUTTE CITY	34-4027	Decreed	06/20/1960	FIRE PROTECTION, MUNICIPAL	0.23	0.00	
CITY OF DUBOIS	31-7011	Decreed	05/29/1968	MUNICIPAL	1.35	0.00	
CITY OF EDEN	36-4212	Decreed	01/01/1956	MUNICIPAL	0.07	0.00	
CITY OF MUD LAKE	31-10379	Decreed	02/07/1956	MUNICIPAL	1.00	0.00	

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CITY OF MUD LAKE	31-7146	Decreed	11/15/1974	FIRE PROTECTION, MUNICIPAL	2.23	0.00	
CITY OF RIRIE	25-7325	Decreed	05/30/1983	MUNICIPAL	0.78	0.00	
CLARK, COLE	35-14758	Decreed	07/02/1965	IRRIGATION	3.03	192.00	
CLAYSON, CASEY; CLAYSON, SHANE	45-7496	Decreed	01/27/1982	DOMESTIC, IRRIGATION	0.06	0.70	
CLOSE, ROBERT; CLOSE, SALLY	25-11547	Decreed	01/31/1959	DOMESTIC, IRRIGATION	0.07	1.00	
COMMUNITY WELL PROJECT; VAUGHN, BILL	25-4103	Decreed	12/31/1958	DOMESTIC	0.11	0.00	
COOK, CLYDE A; COOK, LA RAE L; LOVELL, RONALD L; LOVELL, TAMMY	25-14064	Decreed	05/20/1955	IRRIGATION	3.76	1120.10	
COOK, CLYDE A; COOK, LA RAE L; LOVELL, RONALD L; LOVELL, TAMMY	25-14066	Decreed	04/01/1961	IRRIGATION	7.56	1120.10	
COOK, CLYDE A; COOK, LA RAE L; LOVELL, RONALD L; LOVELL, TAMMY	25-14060	Decreed	12/22/1971	IRRIGATION	1.78	1120.10	
COOK, DANNY; COOK, DARRELL L	35-7979	License	05/05/1981	DOMESTIC	0.06	0.00	
COOK, DONALD J	35-7362	License	12/27/1973	DOMESTIC, STOCKWATER	0.05	0.00	
COPE, SHELLI G	31-12532	Decreed	10/04/1966	STOCKWATER	0.41	0.00	
CORDES, RONALD A	25-7488	License	02/14/1989	DOMESTIC, IRRIGATION	0.10	3.00	
CORDON TRAILER COURT	25-10195	Decreed	03/11/1960	COMMERCIAL	0.13	0.00	
COUNTRY CLUB ESTATES WATER ASSN INC	36-8607	License	11/18/1991	DOMESTIC, FIRE PROTECTION, STOCKWATER	0.50	0.00	
COUNTRY CLUB WATER	25-14447	Decreed	01/27/1976	IRRIGATION	0.03	18.70	
COUNTRY CLUB WATER	25-14448	Decreed	10/31/1986	IRRIGATION	0.01	18.70	Yes
COUNTRY LIFE ESTATES WATER USERS ASSN	25-7033	Decreed	03/27/1973	DOMESTIC	0.20	0.00	
COUNTRY LIFE ESTATES WATER USERS ASSN	25-7046	Decreed	03/08/1974	DOMESTIC	0.73	0.00	
COUNTY OF JEFFERSON	25-13985	License	05/13/2003	RECREATION STORAGE	0.00	0.00	
COUNTY OF MINIDOKA	36-13721	Decreed	10/02/1962	COMMERCIAL, DOMESTIC	0.12	0.00	
CRANDALL, JEFF; CRANDALL, SUSAN	35-8658	License	11/02/1985	DOMESTIC	0.06	0.00	
CRANE, CALVIN C	45-7303	Decreed	05/10/1977	IRRIGATION, STOCKWATER	1.28	62.00	
CRANE, KARI L; CRANE, TROY W	45-4067B	Decreed	08/01/1962	IRRIGATION	1.46	73.00	
CRANER, DAVID A; CRANER, HELEN B	45-7442	Decreed	04/04/1980	IRRIGATION	0.12	4.00	
CREG & LETA HANSEN FAMILY LTD PARTNERSHIP	37-23353	Decreed	06/07/1977	IRRIGATION	0.73	37.00	
CRESPO TRUCKING INC	37-8355	License	08/09/1988	COMMERCIAL, DOMESTIC	0.04	0.00	
CRESTVIEW CALVES LLC	36-17207	License	12/11/1973	COMMERCIAL, STOCKWATER	0.12	0.00	
CRM CO	25-7554	License	09/08/1989	COMMERCIAL	0.04	0.00	
CROMWELL, VERNAL D	25-7446	License	10/21/1988	DOMESTIC	0.06	0.00	
CROP PRODUCTION SERVICES	25-4250	Decreed	03/08/1963	COMMERCIAL	0.10	0.00	

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CROP PRODUCTION SERVICES	27-7371	Decreed	06/29/1983	COMMERCIAL	0.04	0.00	
CROP PRODUCTION SERVICES	35-8627	Decreed	04/04/1989	COMMERCIAL	0.16	0.00	
CROWN OF LIFE LUTHERAN CHURCH	25-7434	License	08/30/1988	COMMERCIAL	0.04	0.00	
CRUMRINE, ERIC R; CRUMRINE, SAMANTHA MARIE	36-11149	Decreed	05/20/1965	DOMESTIC, STOCKWATER	0.04	0.00	
CRYSTAL POND ANGLERS ASSN INC	22-7577	License	08/24/1988	RECREATION STORAGE	0.00	0.00	
CURT & SUSAN DANIGER FAMILY REVOCABLE TRUST	25-14339	Decreed	02/18/1958	IRRIGATION	0.27	9.50	
CVRH FARM LLC	27-12324	Decreed	05/14/1970	IRRIGATION	0.10	41.00	
D & M WATER ASSN	29-7281	Decreed	08/04/1975	DOMESTIC	0.26	0.00	
D & M WATER ASSN	29-7367	Decreed	02/07/1977	DOMESTIC	0.40	0.00	
DALTON, DOUG	29-7858	License	02/22/1989	COMMERCIAL	0.08	0.00	
DANCE, DAVID P; DANCE, KARAN D	35-8822	License	07/03/1989	COMMERCIAL	0.01	0.00	
DANCING DRAGONFLY LLC	25-4165	Decreed	06/19/1959	DOMESTIC, IRRIGATION	0.16	2.00	
DANIEL, BRENDA	25-7447	License	10/25/1988	IRRIGATION	0.02	1.00	
DANIEL, BRENDA; DANIEL, DAVID S	25-7261	Decreed	10/08/1981	DOMESTIC, IRRIGATION, STOCKWATER	0.04	2.00	
DANIEL, MELVIN R JR	25-7538	License	09/19/1989	COMMERCIAL	0.07	0.00	
DANSIE, CAROL L; DANSIE, CHARLES N	27-12318	Decreed	05/18/1982	IRRIGATION	3.45	215.00	
DASCANIO, ELIZABETH; DASCANIO, JUSTIN	35-14589	Decreed	09/28/1981	IRRIGATION	0.01	15.00	
DAVIS, ERNIE; DAVIS, RHONDA	35-8814	License	09/05/1989	COMMERCIAL	0.04	0.00	
DAVISON, NANCY; DAVISON, RANDY LEE	25-7017A	Decreed	03/20/1972	IRRIGATION	0.42	21.00	
DE MOSS, GARY A; DE MOSS, HELEN	37-22168	Decreed	09/20/1974	IRRIGATION, STOCKWATER	1.61	802.00	
DE MOTT, WILLIAM J; GROVER, LA VAR; RIGBY, WILLIAM F	25-7537	License	09/20/1989	COMMERCIAL	0.08	0.00	
DE VRIES, KRISTY; DE VRIES, WIETZE	45-14556	Decreed	03/10/1960	COMMERCIAL	0.10	0.00	
DE VRIES, KRISTY; DE VRIES, WIETZE	45-14557	Decreed	12/08/1981	COMMERCIAL	0.06	0.00	
DEES, ELDON G; DEES, KATHALINE; DEES, RONALD K; DEES, SHIRLEY	25-7351	Decreed	06/24/1983	DOMESTIC, STOCKWATER	0.06	0.00	
DERBYHAWK LLC	25-7553	License	09/27/1989	DOMESTIC	0.11	0.00	
DIAMOND A LIVESTOCK INC	37-21492	Decreed	06/01/1971	COMMERCIAL	0.04	0.00	
DIXON, ANNIE; JAHN, ROBERT	35-7823	License	11/22/1978	DOMESTIC, STOCKWATER	0.05	0.00	
DOMINICK, TERESA	25-7073F	Decreed	08/01/1975	IRRIGATION	0.10	5.00	
DOUGLASS, RAND; KILLIAN, TERRIE	25-4124	Decreed	07/03/1959	COMMERCIAL	0.04	0.00	
DREW, STAN	29-8237	License	04/17/2000	DOMESTIC	0.11	0.00	
DRISCOLL BROTHERS PARTNERSHIP	35-14823	Decreed	02/04/1972	IRRIGATION	0.10	5.50	
DUFFY & CONNIE ENTERPRISES LLC	22-7605	License	10/19/1988	COMMERCIAL	0.02	0.00	
E Z LIVIN TRAILER COURT	45-10479	Decreed	12/31/1958	COMMERCIAL	0.20	0.00	
EAMES, LINDA J	25-7643	License	12/04/1995	DOMESTIC	0.18	0.00	

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EAST FAIRVIEW WATER WELL CO	25-12791	Decreed	04/01/1961	DOMESTIC	0.11	0.00	
EAST RIVER COMMONS HOME OWNER ASSN	25-7143	Decreed	03/12/1978	DOMESTIC	0.16	0.00	
EDSTROM CONSTRUCTION PROPERTIES LLP	22-14542		03/27/2023	INDUSTRIAL STORAGE, INDUSTRIAL, RECREATION STORAGE	4.00	0.00	
EGANS GREEN HOUSE	25-7433	License	07/25/1988	COMMERCIAL	0.04	0.00	
EL RANCHO NO 3 LLC	25-7077	Decreed	11/04/1975	IRRIGATION	1.39	78.00	
ELK RIDGE RV LLC	36-17283	Decreed	03/01/1975	COMMERCIAL	0.03	0.00	Yes
ESKELSON, BRANDON	35-14508	Decreed	05/01/1959	DOMESTIC, IRRIGATION	0.05	2.00	
EVANS GRAIN & ELEVATOR CO	35-8848	License	11/06/1989	COMMERCIAL	0.04	0.00	
FALL RIVER TRADING POST	21-7412	License	03/01/1989	COMMERCIAL, DOMESTIC	0.04	0.00	
FALLS IRRIGATION DISTRICT / US BUREAU OF RECLAMATION	29-11167	Decreed	04/01/1954	IRRIGATION	1.46	0.00	
FALLS IRRIGATION DISTRICT / US BUREAU OF RECLAMATION	29-11168	Decreed	04/01/1954	IRRIGATION	0.58	0.00	
FALLS IRRIGATION DISTRICT / US BUREAU OF RECLAMATION	29-11169	Decreed	05/16/1962	IRRIGATION	0.59	0.00	
FALLS WATER CO INC	25-14482	Decreed	07/11/1960	IRRIGATION	0.53	6965.70	
FALLS WATER CO INC	25-14287	Decreed	08/10/1966	IRRIGATION	0.02	77.50	
FALLS WATER CO INC	25-14304	Decreed	08/10/1966	IRRIGATION	0.02	77.50	
FALLS WATER CO INC	25-14313	Decreed	08/10/1966	IRRIGATION	0.04	77.50	
FALLS WATER CO INC	25-14327	Decreed	01/27/1976	MUNICIPAL	4.57	0.00	
FALLS WATER CO INC	25-7086	Decreed	03/10/1976	DOMESTIC	0.36	0.00	
FARFAN-CEJA, CASTULO; JUAREZ, ARTEMIO; JUAREZ, GUADALUPE	36-15565	License	02/05/2001	DOMESTIC	0.08	0.00	
FARMERS MERCHANT INC	35-7723	Decreed	07/04/1977	DOMESTIC, INDUSTRIAL	0.04	0.00	
FARMLAND RESERVE INC	35-14654	Decreed	09/08/1980	IRRIGATION	0.58	46.70	
FARMLAND RESERVE INC	35-14655	License	02/08/2012	IRRIGATION	0.15	415.80	
FARMS LLC	35-14705	Decreed	05/14/1954	IRRIGATION	0.07	68.00	
FARMS LLC	35-14710	Decreed	05/14/1954	IRRIGATION	0.05	68.00	
FARMS LLC	35-14711	Decreed	05/14/1954	IRRIGATION	0.10	68.00	
FARMS LLC	35-14759	Decreed	05/14/1954	IRRIGATION	0.02	428.00	
FARMS LLC	35-14712	Decreed	03/13/1957	IRRIGATION	0.06	68.00	
FARMS LLC	35-14713	Decreed	03/31/1960	IRRIGATION	0.04	68.00	
FARMS LLC	35-14708	Decreed	06/22/1961	IRRIGATION	0.05	68.00	
FARMS LLC	35-14714	Decreed	07/18/1964	IRRIGATION	0.08	68.00	
FARMS LLC	35-14718	Decreed	03/11/1966	IRRIGATION	0.08	68.00	
FARMS LLC	35-14764	Decreed	03/11/1966	IRRIGATION	0.10	428.00	
FARMS LLC	35-14709	Decreed	05/15/1967	IRRIGATION	0.14	68.00	

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FARMS LLC	35-14715	Decreed	06/04/1969	IRRIGATION	0.07	68.00	
FARMS LLC	35-14761	Decreed	06/04/1969	IRRIGATION	0.01	428.00	
FARMS LLC	35-14706	Decreed	06/01/1975	IRRIGATION	0.03	68.00	Yes
FARMS LLC	35-14760	Decreed	06/01/1975	IRRIGATION	0.01	428.00	
FARMS LLC	35-14719	Decreed	10/01/1976	IRRIGATION	0.01	68.00	Yes
FARMS LLC	35-14765	Decreed	10/01/1976	IRRIGATION	0.01	428.00	Yes
FEHRINGER, MARTIN	29-14051	Decreed	02/23/1966	IRRIGATION	0.02	1.50	
FELD, TODD	35-13284	Decreed	02/23/1972	COMMERCIAL, STOCKWATER	0.30	0.00	
FERGUSON, DANNY G; FERGUSON, MARCENE M	25-7599	License	09/25/1991	IRRIGATION	2.28	118.00	
FERGUSON, ROGER N	21-7385	License	09/30/1988	COMMERCIAL	0.04	0.00	
FIELDS, KAREN C; FIELDS, VIRGIL	37-7699	Decreed	02/23/1978	DOMESTIC, STOCKWATER	0.20	0.00	
FOSTER FAMILY FARMS INC	35-8773	License	06/07/1989	COMMERCIAL, DOMESTIC	0.04	0.00	
FOSTER FAMILY FARMS INC	35-8774	License	06/20/1989	COMMERCIAL	0.04	0.00	
FOUR SEASONS WATER CO	27-7351	License	04/20/1983	DOMESTIC	0.29	0.00	
FOUR SQUARE WATER WELL CORP	25-7327	Decreed	02/04/1985	DOMESTIC, IRRIGATION	0.16	3.00	
FOWLER, GARY L; SOMSEN, DIANNE L; SOMSEN, G FRANK; SOMSEN, KRISTINE P; SOMSEN-FOWLER, SARA D	45-13574	Decreed	04/28/1954	IRRIGATION	0.49	321.00	
FOWLER, GARY L; SOMSEN, DIANNE L; SOMSEN, G FRANK; SOMSEN, KRISTINE P; SOMSEN-FOWLER, SARA D	45-2491	Decreed	03/25/1955	IRRIGATION	3.14	321.00	
FOWLER, GARY L; SOMSEN, KRISTINE P; SOMSEN-FOWLER, SARA D	45-2743	Decreed	04/14/1966	IRRIGATION	0.78	39.00	
FOWLER, GARY; SOMSEN, G FRANK; SOMSEN, KRISTINE P	45-7192	Decreed	10/07/1974	IRRIGATION, STOCKWATER	0.36	18.00	
FOX WAREHOUSE LLC	25-7424	License	04/01/1988	IRRIGATION	0.09	3.00	
FREMONT COUNTY	22-4015	Decreed	04/01/1962	INDUSTRIAL	0.33	0.00	
FULLMER, APRIL; FULLMER, NICHOLAS	25-4106	Decreed	04/01/1959	IRRIGATION	0.05	1.70	
FUNK, CAROLENE; FUNK, MONTY	35-14814	Decreed	05/10/1974	IRRIGATION	3.16	158.00	
FUNK, LANCE D; FUNK, LISA	35-14828	Decreed	07/26/1960	IRRIGATION	0.48	300.70	
FUNK, LANCE D; FUNK, LISA	35-14832	Decreed	08/14/1961	IRRIGATION	0.87	300.70	
FUNK, LANCE D; FUNK, LISA	35-14833	License	03/14/1975	IRRIGATION	1.01	300.70	
FUNK, LANCE D; FUNK, LISA	35-14834	License	03/14/1975	IRRIGATION	1.52	300.70	
FUNK, LANCE D; FUNK, LISA	35-14836	Decreed	08/12/1976	IRRIGATION	0.50	300.70	
FUNK, LANCE D; FUNK, LISA	35-14835	Decreed	05/01/1979	IRRIGATION	0.10	300.70	Yes
FUNK, LANCE; FUNK, LISA	29-13959	Decreed	03/24/1982	INDUSTRIAL	0.02	0.00	
FUNK, LEROY; FUNK, RONDA	45-2672	Decreed	10/26/1961	IRRIGATION	1.00	71.00	
GARNER, KAY R; GARNER, LESLIE	35-14288	License	11/13/2012	COOLING, HEATING	0.04	0.00	

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GARY & PAMELA ROGERS FAMILY TRUST	34-7118B	Decreed	11/24/1975	IRRIGATION	8.81	440.00	
GAVIN, JOAN; JACK C SHERRILL LIVING TRUST; NOTHWANG, DIXIE	45-10950	Decreed	01/30/1961	DOMESTIC, IRRIGATION	0.15	2.00	
GENERAL MILLS OPERATIONS INC	35-2857B	Decreed	01/16/1967	INDUSTRIAL	0.23	0.00	
GERRATT, LARRY	45-11613	Decreed	07/22/1955	IRRIGATION	0.60	151.00	
GERRATT, LARRY; GERRATT, REX	45-11441	Decreed	04/01/1960	COMMERCIAL, DOMESTIC, STOCKWATER	0.07	0.00	
GILLEN, NORMAN	27-7585	License	04/20/1999	DOMESTIC	0.14	0.00	
GLASER, KRISTIN A; GLASER, MICHAEL E	35-14604	Decreed	03/20/1959	IRRIGATION	0.01	1.00	
GLEN CAPPS INC	36-8176	Decreed	03/31/1983	COMMERCIAL, DOMESTIC	0.04	0.00	
GOLDEN VALLEY MEAT LLC	35-7642	Decreed	10/01/1976	COMMERCIAL	0.05	0.00	
GOLDEN VALLEY MEAT LLC	35-8710	License	03/08/1989	COMMERCIAL	0.94	0.00	
GONZALES, FERNANDO B; GONZALES, IRENE H	29-7238	Decreed	10/31/1974	DOMESTIC, IRRIGATION	0.11	8.00	
GONZALES, FERNANDO B; GONZALES, IRENE H	29-7984	Decreed	04/23/1990	IRRIGATION	0.03	8.00	
GONZALEZ, LAURA; ORTIZ, JULIO	29-14346	Decreed	12/16/1963	IRRIGATION	0.03	2.00	
GOOCH, BEATRICE; GOOCH, ELLIS	37-21156	Decreed	02/18/1971	COMMERCIAL, STOCKWATER	0.02	0.00	
GOODWIN EXCAVATING LLC; POCATELLO READY MIX	35-14326	Decreed	05/02/1977	INDUSTRIAL	0.10	0.00	
GOUGH, SHAUN	37-23373	License	08/22/1988	IRRIGATION	0.03	1.50	
GRAVES, FRANCES M; GRAVES, RICHARD L	37-7371		07/31/1974	DOMESTIC, IRRIGATION, STOCKWATER	6.49	320.00	
GRAYBEAL, EMILY; GRAYBEAL, JASON	37-4052	Decreed	04/01/1962	DOMESTIC, IRRIGATION	0.08	1.40	
GRISENTI, CHEYANNA; GRISENTI, TYSON	36-17209	Decreed	06/21/1960	IRRIGATION	0.08	4.00	
GROVER, ALICE MAE; GROVER, MELVIN G	25-7480	License	01/09/1989	DOMESTIC, IRRIGATION, STOCKWATER	0.07	3.00	
GUNDERSON, ADEN	35-14178	Decreed	09/28/1981	IRRIGATION	0.01	20.00	
GUNDERSON, BONNIE; GUNDERSON, GARTH	35-14585	Decreed	09/28/1981	IRRIGATION	0.01	3.20	
H & T PROPERTIES LLC	36-8312	License	08/15/1986	STOCKWATER	0.05	0.00	
HALL, GORDON; HALL, JERRY G; HALL, RICKI L	25-14234	Decreed	10/09/1961	IRRIGATION	4.38	156.40	
HALL, GORDON; HALL, JERRY G; HALL, RICKI L	25-14235	Decreed	10/09/1961	COMMERCIAL, STOCKWATER	0.32	0.00	
HAMMOND, LORNA O; THE SHELTERED TRUST	35-8016	License	01/18/1982	DOMESTIC, STOCKWATER	0.06	0.00	
HANCOCK, DEAN	25-14496	Decreed	04/22/1979	IRRIGATION	0.02	1.00	
HANEY SEED CO	45-7639	License	03/30/1989	COMMERCIAL	0.04	0.00	
HANSEN FARMS LAND LLC	36-17225	Decreed	02/20/1976	IRRIGATION	0.04	3.50	
HANSEN FARMS LAND LLC	36-17226	Decreed	02/20/1976	IRRIGATION	0.04	2.00	
HANSEN FARMS LAND LLC	36-17227	Decreed	02/20/1976	IRRIGATION	0.04	2.00	
HANSEN FARMS LAND LLC	36-17228	Decreed	02/20/1976	IRRIGATION	0.04	2.00	
HANSEN FARMS LAND LLC	36-17229	Decreed	02/20/1976	IRRIGATION	0.04	2.00	
HANSEN, BRANDON	27-12312	License	03/30/1984	IRRIGATION	0.02	1.00	

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HANSEN, TYLER	27-12313	License	03/30/1984	IRRIGATION	0.02	1.00	
HANSEN, VIRGINIA E	45-4125	Decreed	03/20/1962	DOMESTIC, IRRIGATION	0.04	0.70	
HANSEN, WILLIAM KORBY	25-7458	License	11/08/1988	DOMESTIC, IRRIGATION	0.09	1.70	
HANSENS QUALITY JERSEYS LLC	36-12974	Decreed	06/01/1959	DOMESTIC	0.04	0.00	
HANSENS QUALITY JERSEYS LLC	36-17212	Decreed	11/11/1959	COMMERCIAL, STOCKWATER	0.04	0.00	
HANSENS QUALITY JERSEYS LLC	36-17216	Decreed	11/11/1959	COMMERCIAL, STOCKWATER	0.03	0.00	
HANSENS QUALITY JERSEYS LLC	36-17210	Decreed	09/30/1965	COMMERCIAL, STOCKWATER	0.24	0.00	
HANSENS QUALITY JERSEYS LLC	36-17211	Decreed	09/23/1967	COMMERCIAL, STOCKWATER	0.02	0.00	Yes
HANSENS QUALITY JERSEYS LLC	36-17213	Decreed	11/15/1970	COMMERCIAL, STOCKWATER	0.06	0.00	
HANSENS QUALITY JERSEYS LLC	36-17217	Decreed	11/15/1970	COMMERCIAL, STOCKWATER	0.04	0.00	
HANSENS QUALITY JERSEYS LLC	36-17215	Decreed	05/26/1971	COMMERCIAL, STOCKWATER	0.01	0.00	Yes
HANSENS QUALITY JERSEYS LLC	36-17220	Decreed	05/26/1971	COMMERCIAL, STOCKWATER	0.01	0.00	
HANSENS QUALITY JERSEYS LLC	36-17219	Decreed	05/26/1977	COMMERCIAL, STOCKWATER	0.01	0.00	
HANSENS QUALITY JERSEYS LLC	36-17214	Decreed	05/16/1980	COMMERCIAL, STOCKWATER	0.01	0.00	
HANSENS QUALITY JERSEYS LLC	36-17218	Decreed	05/16/1980	COMMERCIAL, STOCKWATER	0.01	0.00	
HARDY, ANITA KAY	36-17152	Decreed	11/07/1974	IRRIGATION	0.63	31.50	
HAROLDSEN, G ERIC; HAROLDSEN, GRANT O	25-7300	Decreed	01/05/1983	DOMESTIC, STOCKWATER	0.06	0.00	
HARPER, DAVID; HARPER, HEATHER	35-14728	Decreed	09/28/1981	IRRIGATION	0.01	17.20	
HART, BOB; HART, MELANIE	25-7520	License	10/16/1989	COMMERCIAL	0.04	0.00	
HART, BOB; HART, NORMA; JOHNSTON, JACOB; JONES, ROBERT I; STIBAL, JOHN	25-7081	Decreed	01/28/1976	DOMESTIC	0.19	0.00	
HASLAM, LAVORE	35-8629	License	04/08/1986	DOMESTIC, STOCKWATER	0.06	0.00	
HAYES, AMY; HAYES, DESTRY	35-14639	Decreed	09/28/1981	IRRIGATION	0.02	3.30	
HEATH, AFTON M; HEATH, CLEM J	35-8617	Decreed	08/18/1985	COMMERCIAL	0.04	0.00	
HELENA CHEMICAL CO	22-7520	Decreed	11/07/1985	COMMERCIAL	0.02	0.00	
HELSLEY HENDRIX, JEANINE P; HELSLEY, BRIAN T	36-16561	Decreed	02/08/1971	IRRIGATION	0.03	3.00	
HENRIE, JAREM	25-7302	Decreed	01/25/1983	DOMESTIC, IRRIGATION, STOCKWATER	0.05	2.00	
HENSLEY, FLOYD W; LOCKES, DAROLD; REYNOLDS, LYNN; WESSEL, TERESA	25-7084	Decreed	01/28/1976	DOMESTIC	0.06	0.00	
HERITAGE DEVELOPMENT	29-8173	License	07/19/1996	DOMESTIC	0.27	0.00	
HIGHWAY ESTATES WATER USERS INC	25-7038	Decreed	09/20/1973	DOMESTIC	0.20	0.00	
HINCKLEY, LA PREAL	25-14005	License	10/12/2003	IRRIGATION	0.06	3.00	
HK CONTRACTORS INC	25-14468	Decreed	03/20/1959	DIVERSION TO STORAGE, INDUSTRIAL STORAGE, INDUSTRIAL	0.02	0.00	
HOBBS, LAURA LEE	25-7540	License	08/18/1989	DOMESTIC	0.10	0.00	

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HOLDAWAY, CHAD	31-4069	Decreed	12/31/1961	DOMESTIC, STOCKWATER	0.16	0.00	
HONDO, AKIYE I; HONDO, DANIEL A	45-2664	Decreed	08/30/1961	IRRIGATION	2.00	157.00	
HOOPER, LLOYD C	25-7531	License	10/22/1989	COMMERCIAL	0.04	0.00	
HUFF CREEK LLC	37-2676	Decreed	12/11/1961	IRRIGATION	1.85	450.40	
HULTS , JOSEPH; HULTS, KAY A	36-17221	Decreed	01/05/1966	IRRIGATION	1.41	100.40	
HULTZ, JEAN ISLAY	35-4187	Decreed	07/01/1962	COMMERCIAL, DOMESTIC	0.06	0.00	
HUNSTMANS PROPERTIES	27-7511	License	04/20/1990	COMMERCIAL	0.33	0.00	
HUNTER FAMILY PARTNERSHIP	25-2122D	Decreed	04/27/1956	IRRIGATION	1.88	104.80	
HUNTING, AUDREY	25-7453	License	10/28/1988	IRRIGATION	0.03	1.00	
HURST, LOIS E	45-2662	Decreed	07/18/1961	IRRIGATION	1.74	86.80	
HURTADO FARMS LLC	36-17180	License	12/11/1973	COMMERCIAL, STOCKWATER	0.66	0.00	
HUTCHISON, JA NEAL; HUTCHISON, WINSTON	45-4218	Decreed	07/01/1958	IRRIGATION	0.05	1.50	
ID DEPARTMENT OF LANDS	37-12535	Decreed	01/01/1962	COMMERCIAL	0.04	0.00	
ID DEPARTMENT OF LANDS	37-7372		06/30/1999	IRRIGATION, STOCKWATER	6.54	320.00	
ID DEPARTMENT OF PARKS AND RECREATION	29-7511	Decreed	05/27/1969	DOMESTIC	0.07	0.00	
ID DEPARTMENT OF PARKS AND RECREATION	29-7357	Decreed	12/24/1969	DOMESTIC, IRRIGATION	0.13	3.00	
ID DEPARTMENT OF PARKS AND RECREATION	36-17147	Decreed	08/07/1973	IRRIGATION	0.06	5.00	
ID DEPARTMENT OF TRANSPORTATION	36-15466	Decreed	10/01/1955	COMMERCIAL	0.04	0.00	
ID DEPARTMENT OF TRANSPORTATION	22-7317	Decreed	01/31/1980	COMMERCIAL, DOMESTIC	0.04	0.00	
ID DEPARTMENT OF TRANSPORTATION	25-7186	Decreed	01/31/1980	COMMERCIAL, DOMESTIC	0.06	0.00	
ID DEPARTMENT OF TRANSPORTATION	31-7372	Decreed	01/28/1982	INDUSTRIAL	0.05	0.00	
ID DEPARTMENT OF TRANSPORTATION	35-8625	License	01/13/1986	DOMESTIC	0.06	0.00	
IDAHO DEPT OF JUVENILE CORRECTIONS	21-11971	Decreed	01/01/1956	COMMERCIAL	0.68	0.00	
IDAHO FALLS COUNTRY CLUB INC	25-13372	Decreed	12/31/1961	COMMERCIAL, IRRIGATION	0.67	132.00	
IDAHO FALLS FARMS LLC	35-14694	Decreed	04/24/1959	IRRIGATION	0.22	512.00	
IDAHO FALLS FARMS LLC	35-14667	Decreed	04/24/1959	IRRIGATION	0.66	1570.00	
IDAHO FALLS FARMS LLC	35-14788	Decreed	02/09/1961	IRRIGATION	2.64	1410.00	
IDAHO FALLS FARMS LLC	35-14698	Decreed	01/19/1962	IRRIGATION	1.75	512.00	
IDAHO FALLS FARMS LLC	35-14671	Decreed	01/19/1962	IRRIGATION	5.36	1570.00	
IDAHO FALLS FARMS LLC	35-14697	Decreed	02/23/1962	IRRIGATION	0.56	512.00	
IDAHO FALLS FARMS LLC	35-14670	Decreed	02/23/1962	IRRIGATION	1.72	1570.00	
IDAHO FALLS FARMS LLC	35-14673	Decreed	05/31/1962	IRRIGATION	8.97	1123.10	
IDAHO FALLS FARMS LLC	35-14789	Decreed	03/25/1964	IRRIGATION	3.70	1410.00	
IDAHO FALLS FARMS LLC	35-14674	Decreed	12/19/1966	IRRIGATION	5.38	1123.10	
IDAHO FALLS FARMS LLC	35-14678	Decreed	12/19/1966	IRRIGATION	4.81	1079.50	

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IDAHO FALLS FARMS LLC	35-14669	Decreed	01/31/1967	IRRIGATION	1.65	1570.00	
IDAHO FALLS FARMS LLC	35-14769	Decreed	04/27/1967	IRRIGATION	0.61	410.20	
IDAHO FALLS FARMS LLC	35-14681	Decreed	11/29/1971	IRRIGATION	0.28	759.50	
IDAHO FALLS FARMS LLC	35-14682	Decreed	11/29/1971	IRRIGATION	0.03	759.50	
IDAHO FALLS FARMS LLC	35-14676	Decreed	08/28/1973	IRRIGATION	9.47	1079.50	
IDAHO FALLS FARMS LLC	35-14695	Decreed	12/24/1973	IRRIGATION	1.20	512.00	
IDAHO FALLS FARMS LLC	35-14668	Decreed	12/24/1973	IRRIGATION	3.57	1570.00	
IDAHO FALLS FARMS LLC	35-14770	Decreed	04/18/1974	IRRIGATION	1.27	410.20	
IDAHO FALLS FARMS LLC	35-14790	Decreed	07/01/1975	IRRIGATION	5.29	1410.00	
IDAHO FALLS FARMS LLC	35-14791	Decreed	08/15/1975	IRRIGATION	3.70	1410.00	
IDAHO FALLS FARMS LLC	35-14792	Decreed	08/15/1975	IRRIGATION	3.80	1410.00	
IDAHO FALLS FARMS LLC	35-14679	Decreed	12/05/1975	IRRIGATION	2.78	1079.50	
IDAHO FALLS FARMS LLC	35-14675	Decreed	12/15/1975	IRRIGATION	1.24	1123.10	
IDAHO FALLS FARMS LLC	35-14793	Decreed	08/27/1976	IRRIGATION	3.77	1410.00	
IDAHO FALLS FARMS LLC	35-14796	Decreed	08/15/1977	IRRIGATION	0.79	1410.00	
IDAHO PACIFIC CORP	25-2146	Decreed	01/26/1965	IRRIGATION	1.79	228.00	
IDAHO PACIFIC CORP	25-2147	Decreed	01/26/1965	IRRIGATION	1.14	228.00	
IDAHO PACIFIC CORP	25-2148	Decreed	01/26/1965	IRRIGATION	1.14	228.00	
IDAHO PACIFIC CORP	25-7056	Decreed	08/05/1974	INDUSTRIAL	1.20	0.00	
IDAHO PACIFIC CORP	25-7475	Decreed	12/06/1988	INDUSTRIAL	0.93	0.00	
IDAHO POTATO PACKERS CORP	35-8909	License	08/03/1990	COMMERCIAL	0.01	0.00	
IDAHO POWER CO	29-8126	Decreed	01/26/1959	INDUSTRIAL	2.68	0.00	
IDAHO POWER CO	37-8484	License	01/17/1989	COMMERCIAL	0.02	0.00	
IDAHO POWER CO	45-7669	License	01/09/1990	DOMESTIC	0.06	0.00	
IDAHO WATER COMPANY LLC	35-14701	Decreed	05/27/1974	IRRIGATION	0.07	23.80	
IDAHOAN FOODS INC	25-10794	Decreed	10/01/1960	DOMESTIC, INDUSTRIAL	1.26	0.00	
IDAHOAN FOODS INC	25-7002	Decreed	11/21/1968	INDUSTRIAL	0.70	0.00	
IDAHOAN FOODS INC	25-7471	License	11/07/1988	IRRIGATION	0.12	4.00	
INTEGROW MALT LLC	25-13978		05/13/2002	INDUSTRIAL	2.23	0.00	
INTERSTATE MFG	36-8454	License	09/14/1989	COMMERCIAL	0.04	0.00	
IRELAND ACRES #2	25-7273	Decreed	02/01/1982	DOMESTIC	0.05	0.00	
IRELAND ACRES MOBILE HOME PARK	25-7195	Decreed	06/04/1980	DOMESTIC	0.54	0.00	
ISAEFF, PATRICIA	25-10094	Decreed	10/31/1958	DOMESTIC, IRRIGATION, STOCKWATER	0.06	2.00	
J & D PROPERTIES LLC	31-7511	License	11/30/1988	COMMERCIAL	0.03	0.00	

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J & K ESTATES WATER CO INC	25-7036	Decreed	06/13/1973	DOMESTIC	1.30	0.00	
J & L HOLDINGS LLC	25-14481	Decreed	03/20/1959	IRRIGATION	0.03	2.50	
J & L HOLDINGS LLC	25-14509	Decreed	04/22/1979	IRRIGATION	0.04	2.00	
J & L HOLDINGS LLC	25-14497		02/24/2021	DOMESTIC	0.51	0.00	
J & L HOLDINGS LLC	25-14512		01/24/2022	IRRIGATION	0.50	25.00	
J D HEISKELL HOLDINGS LLC	37-22665	Decreed	09/12/1973	COMMERCIAL	0.02	0.00	
J K MERRILL & SONS INC	29-7754	License	06/17/1983	COMMERCIAL	0.81	0.00	
J R SIMPLOT CO	29-7036	Decreed	09/10/1969	DOMESTIC, INDUSTRIAL	0.03	0.00	
J T LAND LLC	36-16301	Decreed	06/11/1957	COMMERCIAL, STOCKWATER	0.02	0.00	
J T LAND LLC	36-17123	Decreed	01/01/1958	COMMERCIAL, STOCKWATER	0.02	0.00	
J T LAND LLC	36-17163	Decreed	01/02/1958	COMMERCIAL, STOCKWATER	0.02	0.00	
J T LAND LLC	36-17114	Decreed	04/01/1960	COMMERCIAL, STOCKWATER	0.06	0.00	
J T LAND LLC	36-17151	Decreed	04/01/1960	COMMERCIAL, STOCKWATER	0.04	0.00	
J T LAND LLC	36-11081	Decreed	10/01/1984	DOMESTIC, STOCKWATER	0.04	0.00	
JACOBS, GEORGE J	25-7321	License	05/09/1983	DOMESTIC, STOCKWATER	0.08	0.00	
JANSS FARMS	37-7351	Decreed	04/12/1974	STOCKWATER	0.14	0.00	
JANSSEN, KARLEEN A	25-12143	Decreed	02/08/1985	COMMERCIAL	0.04	0.00	
JB ENTERPRISE LLC	29-14209	Decreed	02/27/1967	IRRIGATION	0.94	47.00	
JBROC LLC	35-14815	Decreed	02/15/1957	IRRIGATION	1.94	99.00	
JEFFERSON COUNTY	25-14398	Decreed	11/29/1971	IRRIGATION	0.04	68.20	
JEFFERSON COUNTY	25-14399	Decreed	11/29/1971	IRRIGATION	0.00	68.20	
JEFFERSON COUNTY	25-14382	Decreed	07/19/1973	IRRIGATION	0.04	68.20	
JEFFERSON COUNTY	25-14281	License	09/09/2010	COMMERCIAL	0.65	0.00	
JEFFERSON GREENS ESTATES HOMEOWNERS ASSOCIATION INC	25-14491	Decreed	04/22/1979	IRRIGATION	0.36	17.80	
JEFFERSON GREENS ESTATES HOMEOWNERS ASSOCIATION INC	25-14490	License	07/29/1991	IRRIGATION	0.06	3.20	
JEFFERSON GREENS HOMEOWNERS ASSN	25-14478	Decreed	01/24/1978	IRRIGATION	0.06	3.10	
JEFFERSON SCHOOL DISTRICT #251	35-8683	License	12/02/1988	INDUSTRIAL	0.02	0.00	
JEFFERSON SCHOOL DISTRICT #251	25-7472	License	01/23/1989	DOMESTIC	0.07	0.00	
JEFFERSON SCHOOL DISTRICT #251	25-7473	License	01/23/1989	DOMESTIC	0.07	0.00	
JENCO ACRES WATER BOARD ASSN	25-7454	License	11/14/1988	DOMESTIC, IRRIGATION	0.50	33.00	
JENKINS, FRANK L	22-11197	Decreed	06/06/1980	COMMERCIAL, DOMESTIC	0.04	0.00	
JENSEN, BRETT WAYNE; JENSEN, KRISTY	35-14862	Decreed	11/17/1955	IRRIGATION	1.70	90.00	
JENSON, KATHRYN; JENSON, MONTE	25-14065	Decreed	05/20/1955	IRRIGATION	0.06	18.90	
JENSON, KATHRYN; JENSON, MONTE	25-14067	Decreed	04/01/1961	IRRIGATION	0.13	18.90	
JENSON, KATHRYN; JENSON, MONTE	25-14061	Decreed	12/22/1971	IRRIGATION	0.03	18.90	

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JENSON, RONALD; JENSON, SHARON	25-10156	Decreed	10/01/1959	DOMESTIC, IRRIGATION, STOCKWATER	0.09	1.50	
JENTZSCH, RODNEY A	36-13599	Decreed	04/15/1956	COMMERCIAL, DOMESTIC	0.04	0.00	
JEROME COUNTY ROD & GUN CLUB	36-8620	License	11/14/1991	COMMERCIAL, IRRIGATION	0.02	0.50	
JOHNSON, DON A; JOHNSON, LAURIE	25-7493	License	03/08/1989	DOMESTIC	0.06	0.00	
JOHNSON, GARY; JOHNSON, ROBERT	35-7593B	Decreed	03/22/1976	STOCKWATER	0.23	0.00	
JOHNSON, MELISSA	25-7455	License	10/21/1988	DOMESTIC, IRRIGATION	0.07	1.00	
JOHNSON, RODNEY M; JOHNSON, SHERRY L	36-17277	Decreed	11/28/1977	IRRIGATION	0.04	2.00	
JOSEPHSON, JEANETTE; JOSEPHSON, JOHN	35-8719	License	04/14/1989	INDUSTRIAL	0.04	0.00	
JOURNEYS END HOMEOWNERS ASSN	35-13612	License	11/24/2003	DOMESTIC	0.40	0.00	
JOURNEYS END HOMEOWNERS ASSN	35-13611	License	01/13/2007	COMMERCIAL, DOMESTIC	0.11	0.00	
JUNIPER & CEDAR ESTATES WATER ASSN	25-7432	License	07/19/1988	DOMESTIC, IRRIGATION	0.24	5.00	
KAREY LANE WELL ASSN	35-7698	Decreed	08/11/1983	DOMESTIC	0.14	0.00	
KAREY LANE WELL ASSN	35-8943	License	05/03/1991	DOMESTIC	0.09	0.00	
KAY, JUSTINE; KAY, THOMAS F; LEVESQUE, GLENDA R	34-2484	Decreed	08/12/1966	IRRIGATION	0.01	2.00	
KEITH SKAAR FARMS INC	25-13312	Decreed	05/01/1962	COMMERCIAL	0.04	0.00	
KERBS OIL CO INC	45-7643	License	05/19/1989	COMMERCIAL	0.04	0.00	
KERBS OIL CO INC	45-7644	License	05/22/1989	COMMERCIAL	0.04	0.00	
KEYBANK NATIONAL ASSOC	25-7517	License	08/24/1989	COMMERCIAL	0.50	0.00	
KING, FERRIL; KING, RENE	36-8440	License	09/07/1989	COMMERCIAL	0.02	0.00	
KINGHORN, KARL	25-14338	Decreed	02/18/1958	IRRIGATION	1.37	47.90	
KINGHORN, KAYLYNN; KINGHORN, LORAN; PARSONS, KARLA M; PARSONS, WILLIAM T	35-13441	Decreed	05/01/1960	COMMERCIAL	0.04	0.00	
KIRBY, DORIS F; KIRBY, ELWOOD	35-7860	License	06/20/1979	DOMESTIC	0.08	0.00	
KIT CIRCLE LLC	22-7296	Decreed	06/19/1979	DOMESTIC	0.16	0.00	
KITS FOUNDRY & MACHINE SHOP INC	27-7460	License	05/16/1989	DOMESTIC, INDUSTRIAL	0.05	0.00	
KLASSEN, HAROLD J	35-8724	License	04/10/1989	COMMERCIAL	0.02	0.00	
KNIFE RIVER CORPORATION MOUNTAIN WEST	25-14351	Decreed	07/19/1973	MITIGATION	0.05	0.00	
KNIFE RIVER CORPORATION MOUNTAIN WEST	25-14498	Decreed	04/22/1979	INDUSTRIAL	0.08	0.00	
KNIFE RIVER CORPORATION MOUNTAIN WEST	25-14499	License	01/14/1983	INDUSTRIAL	0.07	0.00	
KOCH MATERIALS CO	35-12087	Decreed	05/01/1962	COMMERCIAL, FIRE PROTECTION, INDUSTRIAL	0.11	0.00	
KOON, JACK E	22-7751	License	09/18/1992	DOMESTIC	0.06	0.00	
KOYLE, JOHN DENNIS; KOYLE, SHANNA	37-2663	Decreed	05/31/1961	IRRIGATION	2.12	156.00	
KRUCKEBERG, ALEISHA; KRUCKEBERG, MATTHEW	35-14730	Decreed	09/28/1981	IRRIGATION	0.01	2.40	
KUGLER, DIANE K; KUGLER, JOHN B	35-8359		11/28/1984	IRRIGATION	6.00	313.00	

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L & S LAND HOLDINGS LLC	36-17189	Decreed	11/26/1956	COMMERCIAL, STOCKWATER	0.13	0.00	
L & S LAND HOLDINGS LLC	36-14863	Decreed	03/01/1960	DOMESTIC, STOCKWATER	0.11	0.00	
L & S LAND HOLDINGS LLC	36-15653	Decreed	12/03/1966	COMMERCIAL, STOCKWATER	0.04	0.00	
L & S LAND HOLDINGS LLC	36-15651	Decreed	10/18/1968	COMMERCIAL, STOCKWATER	0.05	0.00	
L & S LAND HOLDINGS LLC	36-15655	Decreed	02/18/1971	COMMERCIAL, STOCKWATER	0.02	0.00	
L & S LAND HOLDINGS LLC	36-17188	Decreed	01/23/1973	COMMERCIAL, STOCKWATER	0.09	0.00	
L & S LAND HOLDINGS LLC	36-17242	Decreed	01/23/1973	COMMERCIAL, STOCKWATER	0.08	0.00	
L & S LAND HOLDINGS LLC	36-17190	Decreed	10/27/1973	COMMERCIAL, STOCKWATER	0.08	0.00	
L & S LAND HOLDINGS LLC	36-17187	License	09/24/1979	COMMERCIAL, STOCKWATER	0.20	0.00	
LACEYS VISTA ACRES WATER CORP	29-7607	License	07/15/1981	DOMESTIC	0.67	0.00	
LAMB WESTON INC	35-14786		04/29/2022	INDUSTRIAL	15.00	0.00	
LAMBERT, LYLE; LAMBERT, NADINE	29-7640	Decreed	05/17/1982	DOMESTIC, IRRIGATION, STOCKWATER	0.04	1.00	
LAMBERT, R J	35-8670	License	09/14/1988	COMMERCIAL	0.04	0.00	
LAND VIEW FERTILIZER INC	36-15347	Decreed	01/01/1961	COMMERCIAL	0.08	0.00	
LAND VIEW INC	36-11048	Decreed	09/01/1954	COMMERCIAL, DOMESTIC	0.15	0.00	
LARSEN, HELEN	35-8127	License	04/28/1983	DOMESTIC, STOCKWATER	0.08	0.00	
LARSEN, PEGGY A; LARSEN, RICHARD J	31-7129	License	07/30/1974	DOMESTIC, STOCKWATER	0.08	0.00	
LARSON, BECKY J; LARSON, CHARLES W	45-4160	Decreed	03/15/1962	IRRIGATION	1.70	173.00	
LAZY EIGHT ESTATES DIVISION 2 HOMEOWNERS ASSN INC	25-14189	License	10/26/2006	DOMESTIC	0.50	0.00	
LCSC ENTERPRISES LLC	35-14646	Decreed	08/28/1961	IRRIGATION	0.21	93.80	
LCSC ENTERPRISES LLC	35-14647	Decreed	08/28/1961	IRRIGATION	0.20	347.30	
LEE, CAROLYN C; LEE, LARRY O	31-7166A		06/27/1975	IRRIGATION	3.20	160.00	
LEE, MARTIN R	36-8410	License	02/10/1989	COMMERCIAL	0.03	0.00	
LEFFLER, JERRY; LEFFLER, PATRICIA	29-7460	Decreed	09/06/1978	DOMESTIC, IRRIGATION	0.20	9.00	
LEISHMAN ELECTRIC	22-7558	License	08/30/1988	COMMERCIAL	0.02	0.00	
LES SCHWAB TIRE CENTERS OF IDAHO	36-11803	Decreed	11/15/1958	COMMERCIAL	0.38	0.00	
LEWISVILLE CEMETERY DISTRICT	25-14389	Decreed	05/01/1962	IRRIGATION	0.04	3.30	
LEWISVILLE CEMETERY DISTRICT	25-14394	Decreed	05/01/1962	IRRIGATION	0.04	3.30	
LEZAMIZ, SID	37-10363	Decreed	09/01/1959	COMMERCIAL	0.11	0.00	
LIMA, GUADALUPE	36-17128	Decreed	09/20/1973	IRRIGATION	0.02	1.20	
LINCOLN LAND CO LLC	25-2119	Decreed	06/10/1955	DOMESTIC	5.56	0.00	
LITTLE BUTTE CEMETERY DISTRICT	25-4048	Decreed	04/18/1956	IRRIGATION	0.28	14.00	
LOOSLI, S LYNN	21-13258	Decreed	07/14/1977	IRRIGATION	6.75	1651.50	
LORDS, DARRELL M	35-8778	License	05/31/1989	IRRIGATION	0.10	4.50	
LOST RIVER FARMS	34-14346	Decreed	08/12/1966	IRRIGATION	0.38	177.00	

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LOVELAND, ANN; LOVELAND, KEVIN	29-2372	Decreed	01/05/1956	IRRIGATION	1.10	55.00	
LOVELL, HOPE; LOVELL, JAMES R	25-7598	License	09/25/1991	IRRIGATION	0.03	1.90	
LOVELL, RONALD L; LOVELL, TAMARA	25-2118	Decreed	03/26/1955	IRRIGATION	3.62	496.00	
LOVELL, RONALD L; LOVELL, TAMARA	25-4288	Decreed	05/01/1959	IRRIGATION	1.06	496.00	
LOWDER, JUSTIN; LOWDER, LUCILE	29-7539	Decreed	04/04/1980	DOMESTIC, IRRIGATION	0.07	2.00	
LYLE, BLAKE; OHARO, VICKIE	35-13701	License	01/14/2008	MUNICIPAL	0.26	0.00	
LYNCH, LESLIE R	36-7154	Decreed	01/25/1971	INDUSTRIAL	0.02	0.00	
M & B INVESTMENTS LLC	25-14163	License	12/09/2004	DOMESTIC	0.30	0.00	
M & B INVESTMENTS LLC	25-14379	License	08/13/2012	DOMESTIC	0.39	0.00	
MAD MOOSE PIZZA IDAHO LLC	22-7633	License	03/02/1989	COMMERCIAL	0.04	0.00	
MADISON SCHOOL DISTRICT #321	22-14474		05/13/2022	DOMESTIC	0.26	0.00	
MAGIC VALLEY GROWERS LTD	37-20612	Decreed	06/01/1956	INDUSTRIAL	0.10	0.00	
MAGIC VALLEY PRODUCE INC	36-13763	Decreed	10/01/1955	COMMERCIAL	0.04	0.00	
MAGNIFY LAND CONSULTING LLC	36-17208	Decreed	04/13/1976	IRRIGATION	0.20	10.00	
MALONY, CAROL	27-12333	Decreed	09/11/1974	IRRIGATION	0.10	5.00	
MARSHALL, DON W	25-7462	License	11/10/1988	DOMESTIC, IRRIGATION	0.07	1.00	
MARTIAN, ERICA; MARTIAN, PETER	35-7855	Decreed	05/01/1979	COMMERCIAL, HEATING	0.04	0.00	
MASON, JOHN D; MASON, VALERIE	29-7294	Decreed	11/04/1975	DOMESTIC, IRRIGATION	0.12	8.00	
MASONER, MRS MERLE	36-11978	Decreed	01/01/1963	COMMERCIAL	0.02	0.00	
MASONS	35-8828	License	07/28/1989	COMMERCIAL	0.04	0.00	
MAUGHAN, GAYLORD L	31-12220	Decreed	08/22/1955	IRRIGATION	0.07	3.50	
MAUPIN, JESSICA; MAUPIN, JUSTIN DEELANE	22-7656	License	11/21/1989	COMMERCIAL	0.04	0.00	
MC CAIN FOODS USA INC	45-2749	Decreed	08/13/1965	INDUSTRIAL	2.85	0.00	
MC CAIN FOODS USA INC	45-7137	Decreed	05/24/1973	INDUSTRIAL	3.43	0.00	
MC CAIN FOODS USA INC	45-7241	Decreed	05/27/1975	COMMERCIAL, FIRE PROTECTION	0.25	0.00	
MC CALL OIL & CHEMICAL	25-7045	Decreed	02/25/1974	DOMESTIC, INDUSTRIAL	0.08	0.00	
MC COWIN, BRENDA	25-7544	License	08/16/1989	DOMESTIC	0.07	0.00	
MC COY, VALERIE	34-10329	Decreed	12/31/1955	IRRIGATION	0.02	1.00	
MC GARRY, BRANDON; MC GARRY, BRITTNI	35-14687	Decreed	01/10/1957	IRRIGATION	0.90	65.00	
MC GARRY, BRANDON; MC GARRY, BRITTNI	35-14689	Decreed	04/07/1958	IRRIGATION	0.40	65.00	
MC GARRY, KATHLEEN; MC GARRY, TIM R	35-14686	Decreed	01/10/1957	IRRIGATION	1.72	124.00	
MC GARRY, KATHLEEN; MC GARRY, TIM R	35-14688	Decreed	04/07/1958	IRRIGATION	0.77	124.00	
MC GARRY, LOGAN PHILLIPS; MC GARRY, WHITNEY DAWN	21-13309	Decreed	06/25/1960	IRRIGATION	0.03	1.50	
MEADOW LARK COURT LLC	22-10170	Decreed	06/15/1960	COMMERCIAL, STOCKWATER	0.20	0.00	
MERRILL, CHRISTOPHER; MERRILL, CINDY	25-13580	Decreed	01/01/1963	DOMESTIC, IRRIGATION	0.14	5.00	

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MERRILL, KENT	25-14364	License	02/28/1992	IRRIGATION	0.19	12.20	
MEYERS, M JAY	29-2407	Decreed	03/06/1959	IRRIGATION	2.54	127.00	
MICHAUD CREEK RANCHES INC	29-2515	Decreed	01/05/1966	IRRIGATION	2.00	196.00	
MICHAUD CREEK RANCHES INC	29-7089	Decreed	06/09/1972	IRRIGATION	1.08	196.00	
MICKELSEN, LINDON A; MICKELSEN, LOREEN A	27-10416	Decreed	06/01/1962	COMMERCIAL, DOMESTIC, STOCKWATER	0.09	0.00	
MIDNIGHT SUN INC	35-8722	License	04/21/1989	INDUSTRIAL	0.01	0.00	
MIKESELL, ELEANOR	31-10268	Decreed	05/01/1957	COMMERCIAL, DOMESTIC	0.04	0.00	
MIKKOLA, ARTHUR; MIKKOLA, MARK	25-7389	Decreed	11/02/1983	DOMESTIC, STOCKWATER	0.06	0.00	
MILES, BETTY; MILES, KENNETH RICK	25-14502	Decreed	04/22/1979	IRRIGATION	0.03	1.50	
MILLER, CHARLES; MILLER, RACHEL	25-7442	License	09/08/1988	DOMESTIC, IRRIGATION	0.05	1.00	
MILLER, KALVIN W; MILLER, PAMELLA K	36-16655	Decreed	04/01/1961	STOCKWATER	0.03	0.00	
MILLER, LYNETTE R; MILLER, MARVIN G	25-4194	Decreed	11/01/1960	IRRIGATION	0.13	7.00	
MINIDOKA IRRIGATION DISTRICT	36-13480	Decreed	05/31/1962	COMMERCIAL	0.04	0.00	
MISTY VALLEY LLC	22-14350	Decreed	03/20/1959	AESTHETIC STORAGE, DIVERSION TO STORAGE, FIRE PROTECTION STORAGE	0.01	0.00	
MITCHELL, DELL N; MITCHELL, SUSAN L	45-14546	Decreed	10/20/1980	IRRIGATION	0.24	18.80	
MITCHELL, RALPH M	45-7640	License	05/23/1989	DOMESTIC, IRRIGATION	0.07	1.50	
MODEL WATER USERS ASSN INC	35-7986	Decreed	06/01/1981	DOMESTIC	0.10	0.00	
MODERN MILLS ROCKFORD INC	35-13014	Decreed	04/01/1960	COMMERCIAL	0.05	0.00	
MONK, AUBRIE; MONK, STEVEN	35-14754	Decreed	04/23/1961	IRRIGATION	0.04	6.00	
MORGAN, CODY G; MORGAN, KATHY	36-17091	Decreed	02/06/1961	COMMERCIAL, STOCKWATER	0.02	0.00	
MORGANS PASTURE LAND CO LLC	35-14551	Decreed	01/06/1955	IRRIGATION	4.20	279.00	
MORRISS, JUDITH L; MORRISS, VIRGIL R	25-7483	License	12/22/1988	DOMESTIC, IRRIGATION, STOCKWATER	0.04	3.00	
MOSS, MARY	29-11410	Decreed	05/14/1960	DOMESTIC, IRRIGATION, STOCKWATER	0.08	1.20	
MOUNTAIN RIVER SPORTSMANS RV PARK & CAMP	25-14229	License	09/02/2008	COMMERCIAL	0.20	0.00	
MOUNTAIN VIEW COURT LLC	21-7428	License	03/23/1989	COMMERCIAL	0.09	0.00	
MOUNTAIN VIEW LAND LLC	36-17192	Decreed	09/24/1976	COMMERCIAL, STOCKWATER	0.20	0.00	
MOUNTAIN WEST BARK PRODUCTS INC	22-7573	License	08/08/1988	COMMERCIAL	0.08	0.00	
MOYLE, KEVIN A; MOYLE, TAYLOR N	36-17240	License	03/16/1989	COMMERCIAL, DOMESTIC, STOCKWATER	0.33	0.00	
MURDOCK, JODDI E; MURDOCK, O BRIAN	35-14811	Decreed	05/09/1956	IRRIGATION	0.06	62.00	
MURDOCK, JODDI E; MURDOCK, O BRIAN	35-14812	Decreed	04/18/1958	IRRIGATION	0.10	62.00	
MURDOCK, JODDI E; MURDOCK, O BRIAN	35-14806	Decreed	09/23/1968	IRRIGATION	0.20	62.00	
MURDOCK, JODDI E; MURDOCK, O BRIAN; MURDOCK, ROBERT A; MURDOCK, TERESA	35-14810	Decreed	06/17/1957	IRRIGATION	0.04	62.00	
MURDOCK, O BRIAN; MURDOCK, ROBERT A	35-14798	Decreed	07/19/1974	IRRIGATION	0.32	18.00	

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MURDOCK, O BRIAN; MURDOCK, ROBERT A	35-14799	Decreed	07/19/1974	IRRIGATION	0.11	6.00	
MURDOCK, O BRIAN; MURDOCK, ROBERT A	35-14800	Decreed	07/19/1974	IRRIGATION	0.08	4.40	
MURDOCK, O BRIAN; MURDOCK, ROBERT A	35-14801	Decreed	07/19/1974	IRRIGATION	0.21	11.60	
MURDOCK, O BRIAN; MURDOCK, ROBERT A	35-14802	Decreed	07/19/1974	IRRIGATION	0.09	5.00	
MURDOCK, O BRIAN; MURDOCK, ROBERT A	35-14803	Decreed	07/19/1974	IRRIGATION	0.21	12.00	
MURDOCK, ROBERT A; MURDOCK, TERESA	35-14797	Decreed	12/09/1955	IRRIGATION	0.26	62.00	
MURDOCK, ROBERT A; MURDOCK, TERESA	35-14807	Decreed	09/16/1960	IRRIGATION	0.16	62.00	
NAPOLI, MARIA; ULIAN, PETER	34-7211	Decreed	01/06/1978	DOMESTIC, IRRIGATION	0.10	4.00	
NATURAL GUARDIAN LLC	35-14744	Decreed	07/11/1960	IRRIGATION	2.02	1330.50	
NATURAL GUARDIAN LLC	35-14867	Decreed	02/06/1963	IRRIGATION, MITIGATION BY NON-USE	4.46	298.00	
NATURAL GUARDIAN LLC	35-14731	Decreed	10/28/1965	INDUSTRIAL	5.35	0.00	
NEIBAUR, RYAN	25-7561	License	03/02/1990	IRRIGATION	4.00	360.50	
NELSEN DAIRY	36-8745	License	11/07/1995	COMMERCIAL, STOCKWATER	0.11	0.00	
NEW PHASE INVESTMENTS LLC	25-14186	License	09/18/2006	COMMERCIAL	0.05	0.00	
NICKELSON, DALENE C	25-7193A	Decreed	04/30/1980	DOMESTIC, IRRIGATION, STOCKWATER	0.02	2.90	
NORTH HIGHLANDER FARMS INC	25-7438	License	08/08/1988	COMMERCIAL	0.04	0.00	
NORTHLAND TERRACE WATER USERS ASSN INC	27-7138	License	05/18/1979	DOMESTIC	0.68	0.00	
NORTHSIDE RANCH CO LLC	36-2318B	Decreed	02/28/1957	STOCKWATER	0.05	0.00	
NORTHWEST PIPELINE CORP	45-2531	Decreed	07/06/1956	DOMESTIC, INDUSTRIAL	0.04	0.00	
NULPH BROTHERS INC	27-7466	License	05/03/1989	COMMERCIAL	0.04	0.00	
NUR WATER CORP INC	25-7035	Decreed	06/13/1973	DOMESTIC	0.62	0.00	
NUTTALL, ALIESHA DAWN; NUTTALL, JEFFREY DOUGLAS	25-7275	Decreed	02/08/1982	DOMESTIC, IRRIGATION, STOCKWATER	0.03	1.00	
OAK VALLEY LAND CO LLC	45-14533	Decreed	09/06/1967	COMMERCIAL, STOCKWATER	3.01	0.00	
OLSEN, JOHN W	27-7016	Decreed	04/22/1971	IRRIGATION	1.48	74.00	
OLSEN, JOHN W	27-7039	Decreed	04/23/1974	IRRIGATION	0.38	19.00	
ON TIME FINANCIAL LLC	22-14478		07/14/2022	COMMERCIAL, DOMESTIC	0.21	0.00	
OSTERHOUT, DANA; OSTERHOUT, GAYLEN; OSTERHOUT, LORRIE; OSTERHOUT, VIRGINIA M	45-10587	Decreed	06/30/1958	COMMERCIAL, DOMESTIC, IRRIGATION	0.08	0.50	
PACIFIC CONTAINER INC	25-7420	License	11/08/1987	COMMERCIAL	0.04	0.00	
PACIFICORP	35-2830	Decreed	05/27/1966	COMMERCIAL	0.02	0.00	
PACIFICORP	25-7403	License	06/14/1985	WATER QUALITY IMPROVEMENT	0.45	0.00	
PACIFICORP	25-14431	License	02/19/2016	WATER QUALITY IMPROVEMENT	0.47	0.00	
PARK WATER CO INC	45-10785	Decreed	12/14/1958	DOMESTIC	0.24	0.00	
PARKER, BECKY; PARKER, BRENT; PARKER, KEVIN; PARKER, MILISA	21-13319	License	03/21/1988	IRRIGATION	0.60	33.00	

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PARKER, BRENT E; PARKER, KRISTINE	25-7073E	Decreed	08/01/1975	IRRIGATION	0.20	10.00	
PARKINSON FARMS	34-2497	Decreed	09/27/1966	IRRIGATION	0.57	480.00	
PARKINSON FARMS	34-2490	Decreed	10/25/1966	IRRIGATION	2.09	306.00	
PARKINSON FARMS	34-2506	Decreed	03/02/1967	IRRIGATION	1.17	480.00	
PARKINSON FARMS	34-2505	Decreed	03/03/1967	IRRIGATION	1.06	480.00	
PARKINSON FARMS	34-4008	Decreed	04/01/1967	IRRIGATION	2.60	480.00	
PARKINSON FARMS	34-10393	Decreed	05/01/1976	IRRIGATION	0.26	306.00	Yes
PARKWOOD ACRES WATER CO INC	25-7175	Decreed	07/03/1979	DOMESTIC	0.50	0.00	
PATTON & LINTON INC	29-10994	Decreed	03/01/1956	INDUSTRIAL	0.13	0.00	
PERFORMIX NUTRITION SYSTEMS LLC	36-17196	Decreed	05/27/1974	COMMERCIAL	0.06	0.00	
PETERSEN, KIMBERLY ANN; PETERSEN, RYAN CLAIR	34-7219	Decreed	07/04/1978	COMMERCIAL, HEATING, IRRIGATION, MITIGATION	0.92	69.80	
PHILLIPS, ELIZABETH H; PHILLIPS, JOSEPH	35-14742	Decreed	06/11/1958	IRRIGATION	0.05	25.00	
PHILLIPS, ELIZABETH H; PHILLIPS, JOSEPH	35-14743	License	04/10/1998	IRRIGATION	0.02	25.00	
PILKINTON, C R; PILKINTON, THOMAS R	36-7650B	Decreed	07/30/1976	IRRIGATION	0.08	4.00	
PINGREE CELLARS LLC	35-14841	Decreed	01/16/1968	COMMERCIAL	0.02	0.00	
PINGREE LAND CO LLC	29-7806	Decreed	12/10/1985	COMMERCIAL	0.01	0.00	
PINSON, JANICE	25-14182	License	03/24/2006	COMMERCIAL	0.20	0.00	
PIONEER WATER USERS ASSN INC	35-7671	Decreed	02/07/1977	DOMESTIC	0.11	0.00	
POCATELLO SOD	29-2370	Decreed	08/29/1955	IRRIGATION	3.14	157.00	
POLATIS BROTHERS	35-14733	Decreed	10/22/1954	IRRIGATION	0.09	351.00	
POLATIS BROTHERS	35-14735	Decreed	06/16/1961	IRRIGATION	0.09	351.00	
PONY ACRES WATER ASSN	29-7625	Decreed	12/15/1981	DOMESTIC, IRRIGATION	0.16	2.00	
POPE, CAROL C	34-4133	Decreed	05/01/1960	DOMESTIC, IRRIGATION	0.12	6.20	
PORT OF ENTRY TRAVEL CENTER LLC	31-11787	Decreed	09/07/1971	COMMERCIAL	0.12	0.00	
PRICE, MARJORIE	22-14447		02/16/2022	COMMERCIAL	0.02	0.00	
PRINCE, CARI L; PRINCE, JAMES J	36-17191	Decreed	02/20/1964	IRRIGATION	1.94	97.00	
PROW, REBECCA; PROW, SCOTT E	45-13972	Decreed	11/12/1957	IRRIGATION	0.04	2.80	
QUALITY INSULATION & CONSTRUCTION INC	25-7539	License	08/18/1989	COMMERCIAL	0.04	0.00	
QUINTON, BERNADENE L; QUINTON, RAY E	25-7536	License	09/18/1989	COMMERCIAL	0.02	0.00	
R C WILLEY HOME FURNISHINGS	35-14596		05/25/2018	COMMERCIAL	0.78	0.00	
RABURN, JAYNEE N; RABURN, LENARD H	29-7143B	Decreed	07/02/1973	DOMESTIC, IRRIGATION	0.03	1.00	
RANDALL, GLADYS	22-7594	License	08/25/1988	COMMERCIAL	0.04	0.00	
RAYMOND, W CRAIG	25-13401	Decreed	06/28/1954	IRRIGATION, STOCKWATER	0.09	3.50	
REED, CHARLES LE ROY	35-12258	Decreed	06/01/1955	COMMERCIAL, DOMESTIC, STOCKWATER	0.09	0.00	

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REES, CARL C; REES, PATRICIA	29-7240	Decreed	11/29/1974	DOMESTIC, IRRIGATION, STOCKWATER	0.09	1.30	
RHODEHOUSE, KEVIN	35-2924	Decreed	07/21/1965	INDUSTRIAL, STOCKWATER	1.11	0.00	
RHODEHOUSE, KEVIN	35-8659	License	10/15/1987	COMMERCIAL, STOCKWATER	0.15	0.00	
RICE, JOHN; RICE, KATIE	35-14684	Decreed	09/08/1961	IRRIGATION	0.11	2.70	
RICH, DORIS; RICH, GERALD E	36-11369	Decreed	08/20/1959	COMMERCIAL	0.03	0.00	
RICHAN, CLYDE L; RICHAN, ELVERA L	36-8486	License	09/19/1989	COMMERCIAL, DOMESTIC	0.03	0.00	
RICHARDS, DENICE	27-7343	Decreed	03/02/1983	DOMESTIC, IRRIGATION	0.08	5.00	
RICHARDSON, BRIAN	35-8769	License	05/31/1989	COMMERCIAL, DOMESTIC	0.07	0.00	
RICKS, CONNIE	25-7183	Decreed	01/14/1980	DOMESTIC, STOCKWATER	0.06	0.00	
RIGBY PIONEER CEMETERY	25-13448	Decreed	04/01/1955	IRRIGATION	0.40	20.00	
RIM ROCK LEASING LLC	36-8512	License	02/27/1990	COMMERCIAL	0.02	0.00	
RINDFLEISCH, JAMES A	34-7511		06/12/1989	IRRIGATION	1.85	92.40	
RINGEL, LORI; RINGEL, MERLYN R	35-14630	Decreed	09/28/1981	IRRIGATION	0.01	4.70	
RIRIE SCHOOL DISTRICT #252	25-2122E	Decreed	04/27/1956	IRRIGATION	0.38	24.00	
RIVERBEND ESTATES	29-8015	License	06/22/1990	DOMESTIC	0.25	0.00	
RIVERVIEW ACRES #2 WATER CORP	35-11348	Decreed	06/01/1960	DOMESTIC	0.16	0.00	
RIVERVIEW TWO LLC	35-8632	Decreed	01/19/1981	COMMERCIAL, INDUSTRIAL	0.04	0.00	
ROBINSON, TIMOTHY L	36-17115	Decreed	03/15/1963	IRRIGATION	0.02	1.00	
ROCKY MOUNTAIN UTILITY CO	25-14165	License	02/03/2005	COMMERCIAL, DOMESTIC	1.04	0.00	
ROEDER, JAMES L; ROEDER, JOHN	29-7177	License	03/04/1974	DOMESTIC, STOCKWATER	0.08	0.00	
ROKER, ELAINE; ROKER, JIM	25-7132	Decreed	08/25/1977	IRRIGATION	1.22	61.00	
RUDY, THOMAS A	45-7278	Decreed	12/06/1976	DOMESTIC	0.24	0.00	
RUNHARD LLC	22-7293	Decreed	05/24/1979	COOLING, HEATING	0.15	0.00	
RURAL ELECTRIC CO	36-8435	License	08/11/1989	COMMERCIAL	0.04	0.00	
RUSSELL, CATHERINE L; RUSSELL, LELAND D	36-16560	Decreed	02/08/1971	IRRIGATION	0.01	2.00	
SCC PROPERTIES LLC	37-23469	Decreed	11/25/1962	IRRIGATION	0.38	19.00	
SCHAEFFER, DIANNE RAE	36-17234	Decreed	01/22/1958	STOCKWATER	0.18	0.00	
SCHREINER FARMS IDAHO LLC	35-2488	Decreed	01/10/1957	IRRIGATION	0.02	2.00	
SCHREINER FARMS IDAHO LLC	35-2922	Decreed	04/07/1958	IRRIGATION	0.01	2.00	
SCHREINER FARMS IDAHO LLC	35-8951	License	07/29/1991	IRRIGATION	0.88	44.00	
SCHRITTER FARM PARTNERSHIP	35-14720	Decreed	08/27/1973	IRRIGATION	0.18	261.00	
SCHRITTER FARM PARTNERSHIP	35-14721	Decreed	08/27/1973	IRRIGATION	0.39	573.50	
SCHROEDER, MICHELLE; SCHROEDER, NATHAN	29-4104	Decreed	07/28/1955	IRRIGATION	3.00	150.00	
SCHWANS SALES ENTERPRISES INC	27-7439	License	08/14/1987	COMMERCIAL	0.04	0.00	
SCHWIEDER, KAELYNE; SCHWIEDER, KIRT	35-14732	Decreed	04/11/1972	IRRIGATION	0.10	3345.00	

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SCHWIEDER, KAELYNE; SCHWIEDER, KIRT	35-14777	Decreed	08/31/1973	IRRIGATION	0.08	3345.00	
SCHWIEDER, KAELYNE; SCHWIEDER, KIRT	35-14778	Decreed	10/14/1975	IRRIGATION	0.09	3345.00	
SCOTT, STANLEY K	31-7512	License	11/30/1988	DOMESTIC, STOCKWATER	0.19	0.00	
SEARLE BROTHERS LAND & LIVESTOCK LLC	45-13986	Decreed	11/11/1959	COMMERCIAL, STOCKWATER	0.08	0.00	
SELENSKY, CATHY; SELENSKY, CLARENCE J	25-7392B	License	12/16/1983	IRRIGATION	0.15	5.00	
SERR, DALLAS	36-2730	Decreed	07/30/1954	IRRIGATION	1.00	50.00	
SHELLEY, ELTON C; SHELLEY, WANDA B	29-2486D	Decreed	12/16/1963	IRRIGATION	0.26	16.00	
SHELLEY, ELTON C; SHELLEY, WANDA B	29-7725	License	06/06/1983	IRRIGATION	0.28	14.00	
SHOSHONE BANNOCK TRIBES	27-7000	Decreed	07/27/1967	MUNICIPAL	0.50	0.00	
SHOSHONE BANNOCK TRIBES	29-7326	Decreed	04/28/1976	IRRIGATION	2.53	160.00	
SHOSHONE BANNOCK TRIBES	29-13941	Decreed	10/03/1977	IRRIGATION	0.18	10.50	
SHURTLIFF, ALICE R; SHURTLIFF, REX S	25-13026	Decreed	12/31/1957	COMMERCIAL	0.04	0.00	
SHURTLIFF, MERLENE; SHURTLIFF, RODNEY	35-8855	License	09/07/1989	DOMESTIC, STOCKWATER	0.08	0.00	
SILVER CREEK DISTILLERS INC	25-7194	License	12/01/1988	INDUSTRIAL	0.11	0.00	
SIMPSON, DANNY V; SIMPSON, JULIE M	37-22930	Decreed	11/25/1962	IRRIGATION	0.05	2.30	
SIX S RANCH LLC	45-14472	Decreed	12/01/1967	IRRIGATION	0.04	263.30	
SIX S RANCH LLC	45-14471	Decreed	08/25/1969	IRRIGATION	0.96	263.30	
SMITH CATTLE COMPANY LLC	25-13990	Decreed	09/25/1973	COMMERCIAL	0.39	0.00	
SMITH CATTLE COMPANY LLC	25-13991	Decreed	09/25/1973	COMMERCIAL	0.39	0.00	
SMITH CATTLE COMPANY LLC	25-13992	Decreed	04/18/1974	COMMERCIAL	0.05	0.00	
SMITH CATTLE COMPANY LLC	25-13993	Decreed	04/08/1975	COMMERCIAL	0.39	0.00	
SMITH CATTLE COMPANY LLC	25-13994	Decreed	05/23/1975	COMMERCIAL	0.20	0.00	
SMITH, ANTON	29-7403	Decreed	05/23/1977	IRRIGATION	0.32	16.00	
SMITH, BLAINE; SMITH, GARRY	22-7554	License	08/08/1988	COMMERCIAL	0.02	0.00	
SMITH, EDWARD A	29-2551	Decreed	02/27/1967	IRRIGATION	3.00	149.70	
SMITH, JOAN; SMITH, SCOTT	34-14313	License	07/08/1992	IRRIGATION	0.01	1.00	
SMITH, NORBERT DARRELL	29-7171	Decreed	02/04/1974	DOMESTIC	0.16	0.00	
SNAKE RIVER BUSINESS PARK BLDG #1 LLC	35-14787		08/19/2022	COMMERCIAL	0.20	0.00	
SNAKE RIVER SCHOOL DISTRICT #52	35-14693	Decreed	05/27/1974	IRRIGATION	0.03	6.00	
SNELL, MARK	29-7696	License	03/16/1983	DOMESTIC, IRRIGATION	0.08	2.00	
SOHN, EDNA G; SOHN, HERBERT F; SOHNS INC	35-8333	Decreed	12/12/1983	COMMERCIAL, DOMESTIC	0.08	0.00	
SOMSEN, DIANNE L; SOMSEN, G FRANK	45-2485	Decreed	11/08/1954	IRRIGATION	2.68	432.00	
SOMSEN, DIANNE L; SOMSEN, G FRANK	45-4242	Decreed	06/01/1956	IRRIGATION	1.84	432.00	
SOUTH FORK POTATO HOLDING LLC	25-11143	Decreed	06/01/1956	INDUSTRIAL	0.20	0.00	
SOUTH INTERCHANGE PROPERTIES	35-14266	Decreed	08/05/1969	IRRIGATION	0.02	23.80	

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SOUTH INTERCHANGE PROPERTIES LLC	35-13542	License	10/20/2005	COMMERCIAL	0.18	0.00	
SOUTH PARK ESTATES WATER & SEWER INC	27-7052	Decreed	03/12/1975	DOMESTIC, FIRE PROTECTION	0.33	0.00	
SOUTH PARK ESTATES WATER & SEWER INC	27-7581	License	10/21/1997	DOMESTIC, FIRE PROTECTION	0.69	0.00	
SOUTH, BARRY; SOUTH, ELINOR	35-14618	Decreed	09/28/1981	IRRIGATION	0.01	3.30	
SPACE ACRES WATER USERS	29-7142	Decreed	09/06/1973	DOMESTIC	0.25	0.00	
SPENCER, DAVID R; SPENCER, MICHELLE	31-11942	Decreed	07/25/1955	COMMERCIAL, STOCKWATER	0.03	0.00	
SPENCER, DAVID R; SPENCER, MICHELLE	31-11944	Decreed	07/26/1961	COMMERCIAL, STOCKWATER	0.02	0.00	
STANGER, KARA; STANGER, SPENCER	35-14729	Decreed	09/28/1981	IRRIGATION	0.01	5.20	
STANGER, MARILYN	25-7541	License	07/12/1989	COMMERCIAL	0.02	0.00	
STARMARC LLC	36-12462	Decreed	12/31/1958	COMMERCIAL	0.07	0.00	
STEEL, EVAN; STEEL, KIRSTIE	27-12332	Decreed	09/25/1974	IRRIGATION	0.11	8.90	
STEEL, KEVIN J	35-8756	License	05/11/1989	COMMERCIAL, DOMESTIC	0.02	0.00	
STOKES, ELIZABETH DORTHEA; STOKES, JOSHUA WYNNDALE	37-8112	Decreed	06/02/1983	COMMERCIAL, COOLING	0.02	0.00	
STORER, BETTY; STORER, GALE	25-7530	License	08/28/1989	COMMERCIAL	0.04	0.00	
STROMBERG REPAIR INC	25-7445	License	10/18/1988	COMMERCIAL	0.04	0.00	
STUBBS, AVIS B; STUBBS, ROSS A	35-8210	License	06/16/1983	DOMESTIC	0.06	0.00	
SULLIVAN HOLDINGS LLC	35-8775	License	05/26/1989	COMMERCIAL	0.01	0.00	
SUMMERS, RICHARD K; SUMMERS, STELLA F	25-7518	License	08/24/1989	COMMERCIAL, DOMESTIC	0.08	0.00	
SUNROC PARK WATER ASSN INC	25-14170	License	06/20/2005	DOMESTIC	0.05	0.00	
SUNSET FARM & RANCH LLC	34-2480B	Decreed	09/11/1966	IRRIGATION	2.00	612.00	
SUNSET FARM & RANCH LLC	34-14772	Decreed	08/18/1974	IRRIGATION	6.86	612.00	
SUNSET SUBDIVISION WATER USERS ASSN	35-10715	Decreed	09/21/1959	DOMESTIC	0.15	0.00	
SWENDSEN, BRENT; SWENDSEN, NANCY	25-7464	License	11/30/1988	COMMERCIAL	0.04	0.00	
SWENSON, HANS	37-23303	Decreed	09/20/1974	IRRIGATION	0.12	6.00	
T VILLE AG	29-12898	Decreed	02/23/1957	IRRIGATION	1.58	79.00	
T VILLE AG	29-7050	Decreed	03/24/1970	IRRIGATION	0.70	35.00	
T VILLE AG	29-7613	Decreed	08/19/1981	IRRIGATION	1.30	79.00	
TABER, DONALD E	37-10161	Decreed	04/01/1955	COMMERCIAL	0.04	0.00	
TABLE ROCK HOLDINGS	35-13320	License	08/07/2001	DOMESTIC	0.10	0.00	
TANNER LANE RANCH LLLP	27-12320	Decreed	09/06/1982	IRRIGATION	0.05	180.00	
TANNER, BLAINE; TANNER, TORI	25-10634	Decreed	04/01/1958	DOMESTIC, IRRIGATION, STOCKWATER	0.10	2.00	
TANNER, KATHY; TANNER, REYNOLD	25-2139	Decreed	10/30/1961	IRRIGATION	1.54	38.00	
TAYLOR, CHRISTY; TAYLOR, MICHAEL	29-14369	Decreed	05/27/1974	IRRIGATION	0.03	6.00	
TAYLOR, LOIS; TAYLOR, LYLE D	25-7110	Decreed	05/09/1977	IRRIGATION	1.30	65.00	
TAYLORS QUIK STOP INC	25-7450	License	10/25/1988	COMMERCIAL	0.04	0.00	

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TED BAAR HOLDINGS LLC	36-17236	Decreed	01/28/1972	DOMESTIC, STOCKWATER	0.05	0.00	
TED BAAR HOLDINGS LLC	36-17235	License	11/07/1989	DOMESTIC, STOCKWATER	0.05	0.00	
TED MILLER DAIRY	36-16189	Decreed	08/10/1973	IRRIGATION	0.04	3.00	
TELFORD, MARK; TELFORD, PAIGE	34-4132	Decreed	06/01/1955	IRRIGATION	2.00	480.00	
TELFORD, MARK; TELFORD, PAIGE	34-10058	Decreed	07/07/1955	IRRIGATION	1.67	480.00	
TELFORD, MICHAEL S; TELFORD, ROBERT	37-8212	Decreed	05/11/1983	COMMERCIAL, STOCKWATER	0.01	0.00	
TELFORD, MICHAEL S; TELFORD, SHANNON J	34-2401A	Decreed	09/01/1961	IRRIGATION	3.70	2223.80	
TELFORD, MICHAEL S; TELFORD, SHANNON J	34-4015	Decreed	09/01/1961	IRRIGATION	1.64	2223.80	
TERRETON PUMP NO 2	31-7515	License	01/07/1989	COMMERCIAL, DOMESTIC	0.10	0.00	
TERRETON TRACTOR INC	31-7346	Decreed	12/02/1980	COMMERCIAL, DOMESTIC	0.04	0.00	
TETON WATER WORKS LLC	27-7359C	License	06/03/1983	COMMERCIAL, DOMESTIC	0.03	0.00	
TFT LLC	21-7419	License	03/09/1989	COMMERCIAL, DOMESTIC	0.02	0.00	
THATCHER SUMMIT INC	22-7626	License	04/08/1989	COMMERCIAL	0.04	0.00	
THE ADVOCATE COMMUNITY	29-2486B	Decreed	12/16/1963	IRRIGATION	0.64	40.00	
THE DAVID JAY BROWN & DEBRA L BROWN LTD PARTNERSHIP	37-2670	Decreed	07/24/1961	IRRIGATION	3.00	155.00	
THE LOVELAND FAMILY TRUST	27-7069	Decreed	12/03/1976	IRRIGATION	3.42	171.00	
THOMPSON BROTHERS LLC	35-14658	Decreed	06/16/1966	IRRIGATION	0.05	468.50	
THOMPSON BROTHERS LLC	35-14659	Decreed	07/22/1969	IRRIGATION	0.29	468.50	
THOMPSON, BETTY L; THOMPSON, LYNN	29-7075A	Decreed	02/04/1972	IRRIGATION	0.10	5.60	
THOMPSON, HOWARD M	25-7508	License	06/19/1989	DOMESTIC, STOCKWATER	0.11	0.00	
THOMPSON, KURT; THOMPSON, LINDA B	36-15254	Decreed	10/20/1967	DOMESTIC, STOCKWATER	0.04	0.00	
TIRRELL WATER USERS INC	29-7917	License	05/27/2022	DOMESTIC, IRRIGATION, STOCKWATER	0.17	5.00	
TOEVS, JOANNE; TOEVS, WILLIAM R	35-14736	Decreed	10/16/1974	IRRIGATION	0.39	461.40	
TOMLIN, STEPHEN	29-13730	License	06/07/1983	IRRIGATION	0.01	0.50	
TOWN & COUNTRY MOBILE HOME PARK LLC	35-4258	Decreed	06/01/1962	DOMESTIC	0.22	0.00	
TRAINOR, LISA; TRAINOR, MARK	25-7392A	License	12/16/1983	IRRIGATION	0.14	7.00	
TRUE WEST BEEF LLC	36-17173	Decreed	05/10/1955	INDUSTRIAL	3.50	0.00	
TRUE WEST BEEF LLC	36-17231	Decreed	05/10/1955	INDUSTRIAL	0.83	0.00	
TRUE WEST BEEF LLC	36-17232	Decreed	10/19/1962	IRRIGATION	1.47	946.00	
TRUE WEST BEEF LLC	36-17230	Decreed	05/01/1982	INDUSTRIAL	0.15	0.00	Yes
TYLER, ALDON	25-7542	License	07/14/1989	DOMESTIC	0.06	0.00	
UNION PACIFIC RAILROAD CO	36-4203	Decreed	09/13/1957	COMMERCIAL, DOMESTIC, MUNICIPAL	0.22	0.00	
UNITED ALLIANCE & FIDELITY CORP	25-7387	Decreed	12/04/1983	IRRIGATION	0.10	5.00	
US BUREAU OF INDIAN AFFAIRS	29-12559	Decreed	08/23/1954	IRRIGATION	2.06	102.58	
US BUREAU OF INDIAN AFFAIRS	29-12560	Decreed	08/23/1954	IRRIGATION	3.75	187.87	

Attachment B
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US BUREAU OF INDIAN AFFAIRS	29-12565	Decreed	08/23/1954	COOLING	0.04	0.00	
US BUREAU OF LAND MANAGEMENT	35-4073A	Decreed	06/25/1960	IRRIGATION	3.25	169.00	
US BUREAU OF LAND MANAGEMENT	35-7031	Decreed	07/22/1968	IRRIGATION	1.66	83.00	
US BUREAU OF LAND MANAGEMENT	37-20839	Decreed	02/06/1974	IRRIGATION	0.19	64.00	
US BUREAU OF LAND MANAGEMENT	36-7466	Decreed	04/10/1974	STOCKWATER, WILDLIFE	0.10	0.00	
US BUREAU OF LAND MANAGEMENT	36-7497	Decreed	08/21/1974	STOCKWATER, WILDLIFE	0.05	0.00	
US BUREAU OF LAND MANAGEMENT	35-7685	Decreed	03/22/1977	IRRIGATION	2.48	124.00	
US BUREAU OF LAND MANAGEMENT	35-7750	Decreed	10/20/1977	IRRIGATION	1.32	66.00	
US BUREAU OF LAND MANAGEMENT	35-14179	Decreed	09/28/1981	IRRIGATION	0.03	44.00	
US BUREAU OF LAND MANAGEMENT	21-7517	License	02/27/1992	STOCKWATER, WILDLIFE	0.07	0.00	
US BUREAU OF LAND MANAGEMENT	36-8726		04/28/1994	STOCKWATER, WILDLIFE	0.12	0.00	
US BUREAU OF LAND MANAGEMENT	21-13032	License	02/24/2006	STOCKWATER, WILDLIFE	0.02	0.00	
US BUREAU OF LAND MANAGEMENT	34-14459		08/26/2014	STOCKWATER, WILDLIFE	0.15	0.00	
US BUREAU OF RECLAMATION	29-2380	Decreed	06/11/1956	IRRIGATION	46.60	0.00	
US DEPT OF ENERGY	35-7098	Decreed	08/02/1969	FISH PROPAGATION	20.00	0.00	
US DEPT OF ENERGY	35-7097	Decreed	09/30/1969	DOMESTIC, FISH PROPAGATION	4.00	0.00	
US FISH & WILDLIFE SERVICE	31-4016	Decreed	06/15/1955	IRRIGATION	1.60	80.00	
US FISH & WILDLIFE SERVICE	31-2350	Decreed	10/20/1955	WILDLIFE	11.06	0.00	
US FISH & WILDLIFE SERVICE	31-2362	Decreed	05/13/1957	WILDLIFE	10.60	0.00	
US FISH & WILDLIFE SERVICE	31-2363	Decreed	05/13/1957	WILDLIFE	39.00	0.00	
US FISH & WILDLIFE SERVICE	31-11229	Decreed	11/05/1957	WILDLIFE	7.12	0.00	
US FISH & WILDLIFE SERVICE	31-11230	Decreed	03/20/1962	WILDLIFE	11.06	0.00	
US FISH & WILDLIFE SERVICE	31-11231	Decreed	05/07/1962	WILDLIFE	15.70	0.00	
US FISH & WILDLIFE SERVICE	31-11232	Decreed	05/07/1962	WILDLIFE	43.30	0.00	
US FISH & WILDLIFE SERVICE	31-7301	Decreed	06/02/1978	WILDLIFE	8.78	0.00	
USDA ARS SHEEP EXPERIMENT STATION	34-7546	Decreed	06/29/1983	DOMESTIC, IRRIGATION, STOCKWATER	0.25	2.80	
VALLEY MOBILE HOME COURT	25-12489	Decreed	03/31/1958	DOMESTIC	0.23	0.00	
VALLEY READY MIX INC	25-7167	License	01/29/1979	INDUSTRIAL	0.36	0.00	
VALLEY SCHOOL DISTRICT #262	36-15190	Decreed	09/01/1954	DOMESTIC, IRRIGATION	0.15	0.20	
VALLEY SCHOOL DISTRICT #262	36-16299	License	09/22/2004	DOMESTIC, FIRE PROTECTION	1.52	0.00	
VALLEY VIEW DAIRY LLC	36-17182	Decreed	04/27/1954	COMMERCIAL, STOCKWATER	0.13	0.00	
VALLEY WIDE COOP INC	22-7622	License	12/30/1988	COMMERCIAL, DOMESTIC	0.03	0.00	
VAN DYKE, VIRGINIA	37-10019	Decreed	02/01/1961	COMMERCIAL, STOCKWATER	0.06	0.00	
VAN ORDEN, JAY; VAN ORDEN, SHELLI	35-8713	License	04/01/1989	COMMERCIAL	0.02	0.00	
VEENSTRA FAMILY LIMITED PARTNERSHIP	37-4051	Decreed	09/01/1961	IRRIGATION, STOCKWATER	1.34	235.00	

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VEENSTRA, FRANK W	36-17233	Decreed	01/31/1961	STOCKWATER	0.38	0.00	
VERBREE LAND HOLDINGS LLC	36-10147	Decreed	01/02/1975	DOMESTIC, STOCKWATER	0.04	0.00	
VERBREE LAND HOLDINGS LLC	36-8609	License	10/21/1991	DOMESTIC, IRRIGATION, STOCKWATER	0.02	2.50	
WADE, NANCY; WADE, RONALD	25-7425	License	06/06/1988	DOMESTIC, IRRIGATION	0.05	1.00	
WAGNER JR, EDWARD P; WAGNER, KRISTIE L	35-8856	Decreed	08/11/1989	DOMESTIC, STOCKWATER	0.10	0.00	
WALKER, ROLAND L	25-11825	Decreed	11/18/1955	COMMERCIAL	0.30	0.00	
WALKER, ROLAND L	25-11821	Decreed	06/19/1962	DOMESTIC, STOCKWATER	1.32	0.00	
WALKER, YOUNG HARVEY	34-2440	Decreed	10/10/1961	IRRIGATION, STOCKWATER	1.55	190.00	
WALKER, YOUNG HARVEY	34-10473	Decreed	08/10/1977	IRRIGATION	0.36	190.00	Yes
WALL, DIANA R; WALL, LARRY G	36-8451	License	09/28/1989	COMMERCIAL	0.02	0.00	
WALTERS, BRUCE A; WALTERS, MARCEY L	25-7596	License	06/26/1991	DOMESTIC, IRRIGATION	0.15	10.00	
WANSTROM, JOSEPH SCOTT	34-2339A	Decreed	06/03/1957	IRRIGATION	0.17	18.00	
WANSTROM, JOSEPH SCOTT	34-7172	Decreed	03/13/1977	IRRIGATION	0.94	47.00	
WARD, HOLLY; WARD, PERRY	35-14691	License	01/15/1992	IRRIGATION	0.16	38.90	
WARD, OPAL M; WARD, OWEN K	35-8892	License	03/28/1990	DOMESTIC	0.18	0.00	
WAYNE PROPERTIES LLC	35-14779	Decreed	02/09/1961	IRRIGATION	0.68	364.00	
WAYNE PROPERTIES LLC	35-14780	Decreed	03/25/1964	IRRIGATION	0.95	364.00	
WAYNE PROPERTIES LLC	35-14781	Decreed	07/01/1975	IRRIGATION	1.36	364.00	
WAYNE PROPERTIES LLC	35-14782	Decreed	08/15/1975	IRRIGATION	0.95	364.00	
WAYNE PROPERTIES LLC	35-14783	Decreed	08/15/1975	IRRIGATION	0.98	364.00	
WAYNE PROPERTIES LLC	35-14784	Decreed	08/27/1976	IRRIGATION	0.97	364.00	
WAYNE PROPERTIES LLC	35-14785	Decreed	08/15/1977	IRRIGATION	0.20	364.00	
WELLS, DELOS H	35-8220	License	08/04/1983	DOMESTIC, IRRIGATION	0.11	9.50	
WELLS, DELOS H; WELLS, LUELLA	35-10874	Decreed	10/01/1962	DOMESTIC, IRRIGATION	0.20	8.00	
WESTERN SLOPE LLC	35-14617	Decreed	09/28/1981	IRRIGATION	0.05	83.00	
WESTOVER RANCH CORP	22-7543	License	12/14/1988	DOMESTIC	0.10	0.00	
WHEELER, DEE RAY; WHEELER, LINDA	36-8488	License	10/10/1989	COMMERCIAL	0.03	0.00	
WHITWORTH, BOYD	45-7638	License	03/10/1989	INDUSTRIAL	0.06	0.00	
WILLMORE, JUDY	31-7551	License	08/26/1991	COMMERCIAL	0.04	0.00	
WILSON, JOHN CHARLES	29-7916	License	03/20/1990	IRRIGATION	0.09	4.50	
WOOD, HOWARD; WOOD, SHEILA	34-2478	Decreed	06/16/1966	IRRIGATION	0.76	38.00	
WOOD, KENT; WOOD, MELANIE	45-14177	Decreed	04/29/1954	IRRIGATION	0.08	6.40	
WOODLAND HEIGHTS SUBDIVISION NO 2	35-7640	Decreed	09/09/1976	DOMESTIC	0.32	0.00	
WOODLAND HEIGHTS WATER USERS ASSN	35-7576	Decreed	01/28/1976	DOMESTIC	0.38	0.00	
WRIDE FARMS	35-8949		08/26/1991	IRRIGATION	3.00	150.00	

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Owner	Water Right No.	Basis	Priority Date	Water Use List	Diversion Rate (cfs)	Total Acres	Enlargement
WRIGHT, DEE; WRIGHT, RUBY	25-7256	Decreed	05/12/1981	IRRIGATION	0.10	1.40	
WRIGHT, LISA; WRIGHT, SCOTT	25-7461	License	01/21/1989	IRRIGATION	0.09	3.00	
WRIGHT, MARK; WRIGHT, SUSAN MARIE	36-17286	Decreed	06/07/1968	IRRIGATION	0.09	4.50	
YANCEY, CLEM R	35-7955	License	03/10/1981	DOMESTIC, STOCKWATER	0.06	0.00	
YANCEY, JERRY; YANCEY, NATALIE	35-14849	License	03/14/2012	DOMESTIC	0.06	0.00	
YERION, GEORGE A; YERION, SUSAN F	37-23372		01/28/2022	DOMESTIC	0.08	0.00	
YOUNG, DE VONA; YOUNG, WILLIAM N	25-7437	License	08/26/1988	DOMESTIC, STOCKWATER	0.07	0.00	
YOUNG, JUDY D; YOUNG, KENNETH A	25-7436	License	09/14/1988	IRRIGATION	0.03	1.50	
ZUNDEL, JACOB; ZUNDEL, SHALIECE	25-14457	License	02/28/1992	IRRIGATION	0.02	1.10	
ZWEIFEL PROPERTIES LLC	32-10031	Decreed	05/01/1968	DOMESTIC, STOCKWATER	0.12	0.00	

EXPLANATORY INFORMATION TO ACCOMPANY A FINAL ORDER

(To be used in connection with actions when a hearing was **not** held)

(Required by Rule of Procedure 740.02)

The accompanying order is a "**Final Order**" issued by the department pursuant to section 67-5246, 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 67-5246(4), Idaho Code.

REQUEST FOR HEARING

Unless the right to a hearing before the director or the water resource board is otherwise provided by statute, any person who is aggrieved by the action of the director, and who has not previously been afforded an opportunity for a hearing on the matter shall be entitled to a hearing before the director to contest the action. The person shall file with the director, within fifteen (15) days after receipt of written notice of the action issued by the director, or receipt of actual notice, a written petition stating the grounds for contesting the action by the director and requesting a hearing. See section 42-1701A(3), Idaho Code. **Note: The request must be received by the Department within this fifteen (15) day period.**

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 of: a) the service date of the final order, b) the service date 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.

NO. _____
A.M. _____ FILED P.M. 2:52

MAY 31 2024

TRENT TRIPPLE, Clerk
By ERIC ROWELL
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

IDAHO GROUNDWATER APPROPRIATORS, INC., Petitioner, vs. THE IDAHO DEPARTMENT OF WATER RESOURCES, and MATHEW WEAVER in his capacity as the Director of the Idaho Department of Water Resources, Respondents, and AMERICAN FALLS RESERVOIR DISTRICT #2, MINIDOKA IRRIGATION DISTRICT A&B IRRIGATION DISTRICT, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, TWIN FALLS CANAL COMPANY, CITY OF POCATELLO, CITY OF BLISS, CITY OF BURLEY, CITY OF CAREY, CITY OF DECLO, CITY OF DIETRICH, CITY OF GOODING, CITY OF HAZELTON, CITY OF HEYBURN, CITY OF JEROME, CITY OF PAUL, CITY OF RICHFIELD, CITY OF RUPERT, CITY OF SHOSHONE, AND CITY OF WENDELL, BONNEVILLE-JEFFERSON GROUND WATER DISTRICT, and BINGHAM GROUNDWATER DISTRICT, Intervenors.	Case No. CV01-23-13173 **MEMORANDUM DECISION AND ORDER**

IN THE MATTER OF THE DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY AND FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIRS DISTRICT NO. 2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY.	))))))))))

I.

BACKGROUND

A. Delivery call.

The Surface Water Coalition is comprised of irrigators.[1] Each year, they use a combination of natural flow water from the Snake River and storage water held in reservoirs to water their fields. Their diversion of both sources of water is done pursuant to water rights. In 2005, members of the Coalition initiated a delivery call with the Director of the Idaho Department of Water Resources. The call seeks curtailment of junior priority ground water rights that divert from the Eastern Snake Plain Aquifer ("Aquifer"). It asserts surface and ground waters in the Snake River Basin are hydraulically connected. Further, that the Aquifer discharges to the Snake River via tributary springs and that junior ground water pumping on the Aquifer has decreased natural flows in the Snake River. The Coalition asserts injury to both its natural flow and storage water rights. The Director issued an order on May 2, 2005, finding that junior ground water diversions from the Aquifer were materially injuring the Coalition's natural flow and storage rights. Since that time, the delivery call has been ongoing in nature. It has required yearly evaluation by the Director as to whether junior ground water pumping is causing material injury to the Coalition's senior rights.

Beginning in 2010, the Director began using procedures set forth in his methodology order to conduct his yearly evaluation. The methodology order contains a series of steps to be

[1] The term "Surface Water Coalition" refers collectively to the A&B Irrigation District, American Falls Reservoir District #2, Burley Irrigation District, Milner Irrigation District, Minidoka Irrigation District, North Side Canal Company, and Twin Falls Canal Company. The term "Coalition" as used herein refers to the Surface Water Coalition.

undertaken annually through which the Director determines whether the Coalition's water rights are suffering material injury. If so, the Director will order the curtailment of junior rights unless he finds junior right holders can mitigate the material injury through an approved mitigation plan.

The First Methodology Order was issued on April 7, 2010, and was amended on June 16, 2010. The Second Methodology Order was issued on June 23, 2010. Various petitions seeking judicial review of that Order were filed with this Court in Gooding County Case No. CV-2010-382 ("382 Case"). The Court entered its decision on September 26, 2014, affirming the Second Methodology Order in part and setting it aside and remanding in part. Various parties appealed the Court's decision, but the notices of appeal were withdrawn before the Idaho Supreme Court undertook its review.

In response to the Court's decision in the 382 Case, the Director issued the Third Methodology Order on April 17, 2015. No appeal was taken from that Order. The Fourth Methodology Order was issued on April 19, 2016. In summary, it:

> (1) explained how the Director would determine material injury to storage and natural flow water rights of members of the Surface Water Coalition ("SWC");
>
> (2) established methods for quantifying material injury to SWC storage and natural flow water rights as predictive and actual demand shortfalls;
>
> (3) established methods for quantifying mitigation obligations by holders of junior priority ground water rights for shortfalls in predictive and actual SWC water demands; and
>
> (4) established a method for determining a priority date for curtailment if mitigation obligations are not satisfied.

R., 1. The Order recognized the methodology set forth therein may need to be adjusted from time to time:

> Recognizing that climate and surface water supplies (natural flow and storage) are inherently variable, the Director's predictions of material injury to RISD and reasonable carryover are based upon the best available information and the best available science, in conjunction with the Director's professional judgment as the manager of the State's water resources. Recognizing his ongoing duty to administer the State's water resources, the Director should use available data, and consider new analytical methods or modeling concepts, to evaluate the methodology. As more data is gathered and analyzed, the Director will review and refine the process

of predicting and evaluating material injury. The methodology will be adjusted, if the data supports a change.

R., 1410. No appeal was taken from the Fourth Methodology Order.

B. Fifth Methodology Order.

In August 2022, the Director issued a directive to Department staff to convene a committee of experts to review and provide comments on potential technical changes to the Fourth Methodology Order. R., 2866. The Department created a technical working group composed of Department staff, experts representing the parties to the Surface Water Coalition delivery call and other interested persons and entities. R., 2866. The technical work group held meetings on November 16, 17, 28 and December 1, 9, and 14, 2022. R., 1176. On December 23, 2022, the Department issued a summary of preliminary technical revisions to the Fourth Methodology Order:

> Based on the information presented at the meetings and distributed to the technical working group, IDWR staff have the following preliminary technical recommendations:
>
> • Update the Baseline Year (BLY) irrigation demand used to determine reasonable in-season demand from the current average of diversion demands for the 2006, 2008, and 2012 irrigation seasons to the diversion demand for the 2018 irrigation season.
>
> • Update the BLY irrigation demand used to determine reasonable carryover for each SWC member from the current average of the diversion demands for the 2006, 2008, and 2012 irrigation seasons to the diversion demand for the 2018 irrigation season.
>
> • Update the project efficiency value used to calculate monthly reasonable in-season demand from a rolling average of the previous eight years to a rolling average of the previous fifteen years.
>
> At this time, staff do not have recommendations on utilizing near real time METRIC for determining crop water need, updating April and July regressions to improve their predictive power for natural flow supply, or using transient model simulation for determining curtailment priority dates. IDWR will continue to evaluate the integration of these and other techniques into the methodology.

R., 2866. The summary requested written comments on the recommendations be submitted to the Department by January 16, 2023. R., 2866. Various comments were submitted. R., 1300,

2867, & 2879. These included comments from Lynker Technologies on behalf of the Idaho Ground Water Appropriators, Inc. ("IGWA") and Spronk Water Engineers, Inc. on behalf of the Coalition of Cities[2] and City of Pocatello. R., 1300, 2867, & 2879.

On April 21, 2023, the Director issued the Fifth Methodology Order. R., 1. The Fifth Methodology Order updated the baseline year used to determine reasonable in-season demand. R., 11-12. Previously this metric was determined from the average diversion demands for the 2005, 2008, and 2012 irrigation seasons. The Fifth Methodology Order replaced that with the diversion demand for the 2018 irrigation season.[3] R., 11-12. It also switched to transient-state simulations of the Eastern Snake Plan Aquifer Model ("ESPAM") when determining curtailment priority date. This replaced the steady-state simulations previously used.[4] R., 29-31. The stated purpose of the Fifth Methodology Order is to update the methodology to use the best available science and information:

> Many of the data sets the Department relied upon in the Fourth Methodology Order have been expanded and now include additional years. Furthermore, the Department now has multiple years of experience with the methodology to better understand the impact of applying steady-state modeling versus transient modeling to determine a curtailment priority date that would supply adequate water to the senior water right holders. The first version of the ESPA groundwater flow model was not calibrated at a time-scale that supported in-season transient modeling. In contrast, the current version was calibrated using monthly stress periods and half-month time steps, a refinement that facilitates in-season transient modeling for calculating the response to curtailment of groundwater use. The purpose of this *Fifth Amended Final Order Regarding Methodology for Determining Material Injury to Reasonable In-Season Demand and Reasonable Carryover* ("Fifth Methodology Order") is to update the Director's methodology for determining material injury to storage and natural flow water rights either held by or committed to members of the SWC consistent with the Director's ongoing obligation to use the best available science and information.

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[2] The term "Coalition of Cities" refers collectively to the Cities of Bliss, Burley, Carey, Declo, Dietrich, Gooding, Hazelton, Heyburn, Jerome, Paul, Richfield, Rupert, Shoshone, and Wendell.

[3] A baseline year is "a year or average of years when irrigation demand represents conditions that can predict need in the current year of irrigation at the start of the irrigation seasons." R., 3. The purpose of predicting need is to estimate material injury. R., 3.

[4] The ESPAM "simulates the effects of the reduction in aquifer stress and calculates predicted increases in aquifer discharge to the Snake River resulting from the curtailment of ground water pumping from the ESPA." R., 29-30. ESPAM simulations can be either steady-state or transient. R., 30. Steady-state simulations predict long-term responses resulting from continuous curtailment of groundwater priorities used at a consistent rate over a long period of time. R., 31. Transient simulations predict responses resulting from the short-term curtailment of priorities. R., 31. Prior to 2010, ESPAM did not have the capability to run transient simulations.

R., 2. Ultimately, the Fifth Methodology Order sets forth nine steps to be undertaken annually to administer water rights under the ongoing Surface Water Coalition delivery call. R., 39-43.

C. 2023 As-Applied Order.

The Director issued his Final Order Regarding April 2023 Forecast Supply ("As-Applied Order") contemporaneously with the Fifth Methodology Order. R., 48. The As-Applied Order applies the first three steps of the Fifth Methodology Order to 2023. R., 48. For 2023, the Director predicted an in-season demand shortfall to the Surface Water Coalition of 75,200 acre-feet. R., 53. The Director ran ESPAM 2.2 to predict the junior priority water rights within the area of common ground water supply that must be curtailed to produce the volume of water equal to the predicted demand shortfall. R., 51. He found ground water rights bearing priority dates later than December 30, 1953, must be curtailed to produce that volume of water. R., 51. However, the Director did not curtail any junior water rights at that time. R., 53. Rather, he allowed junior users the opportunity to show they could mitigate the material injury through an approved mitigation plan to avoid curtailment:

> The Director predicts an in-season DS of 75,200 acre-feet. On or before May 5, 2023, ground water users holding consumptive water rights bearing priority dates junior to December 30, 1953, within the Eastern Snake Plain Aquifer area of common ground water supply shall establish, to the satisfaction of the Director, that they can mitigate for their proportionate share of the predicted DS of 75,200 acre-feet in accordance with an approved mitigation plan. *If a junior ground water user cannot establish, to the satisfaction of the Director, that they can mitigate for their proportionate share of the predicted DS of 75,200 acre-feet in accordance with an approved mitigation plan, the Director will issue an order curtailing the junior-priority ground water user.*

R., 53 (emphasis added).

D. Idaho Code § 42-1701A(3) hearing and Sixth Methodology Order.

The Director anticipated that various persons or entities would request a hearing in response to the Fifth Methodology Order and/or the As-Applied Order under Idaho Code § 42-1701A(3). R., 62. Finding time to be of the essence, the Director set an Idaho Code § 42-1701A(3) hearing on the Orders rather than wait for written notice of such a request. R., 62. The hearing was set for June 6-10, 2023. R., 62. He also set a prehearing conference and issued

an Order authorizing discovery. R., 63-64. The notices of hearing and prehearing conference, as well as the discovery order, were issued on April 21, 2023.[5] R., 62-64.

On April 28, 2023, the Cities moved the Director to continue the hearing until "December 2023 or January 2024."[6] R., 80. The Cities also moved the Director to appoint an independent hearing officer to preside over the hearing. R., 70. The Director denied both requests via an order on May 5, 2023. R., 298. He also subsequently denied the Cities' motion for reconsideration of his denial of the motion for continuance. R., 425.

Meanwhile, on May 19, 2023, the Cities and McCain Foods USA, Inc. filed a Complaint for Declaratory Relief, Petition for Writ of Prohibition, and Petition for Writ of Mandamus before this Court in Ada County Case CV01-23-8258. The Complaint sought a writ restraining the Director from conducting the administrative hearing scheduled to commence on June 6, 2023. Also on May 19, 2023, IGWA, Bingham Ground Water District, and Bonneville-Jefferson Ground Water District filed a Petition for Judicial Review with this Court in Ada County Case CV01-23-8187. Along with the Petition, the petitioners filed a Motion for Stay, Motion to Compel, Motion for Injunctive Relief, Motion for Order to Show Cause, and Motion for Expedited Decision. Cumulatively, the Motions requested that the Court stay implementation of the Fifth Methodology Order and vacate and continue the administrative hearing set to commence on June 6, 2023. Following a hearing on June 1, 2023, the Court orally denied the relief requested in both cases.

The administrative hearing proceeded before the Director as scheduled. It commenced on June 6, 2023, and concluded on June 9, 2023. Following post-hearing briefing, the Director issued the Sixth Methodology Order on July 19, 2023. R., 1004. The stated purpose of the Sixth Methodology Order is to "correct data in the Fifth Methodology Order found to be in error during the June 6, Hearing." R., 1005. It also edited "a few other non-substantive matters in the Fifth Methodology Order." As with the Fifth Methodology Order, the Sixth sets forth nine steps to be undertaken annually to administer water right under the ongoing Surface Water Coalition delivery call. R., 1044-1048. The nine steps set forth in the Sixth Methodology Order are

[5] Additionally, several parties subsequently filed petitions requesting an Idaho Code §42-1701A(3) hearing. R., 68, 90, 135, 263.

[6] The term "the Cities" refers collectively to the Cities of Bliss, Burley, Carey, Declo, Dietrich, Gooding, Hazelton, Heyburn, Jerome, Paul, Richfield, Rupert, Shoshone, Wendell, Pocatello, and Idaho Falls.

incorporated herein by reference. R., 39-43. Like the Fifth, the Sixth Methodology Order uses the diversion demand for the 2018 irrigation season as the baseline year for irrigation demand. R., 1016, 1039. It also uses transient-state simulations of the Eastern Snake Plan Aquifer Model ("ESPAM") when determining curtailment priority date. R., 1036, 1041.

IGWA subsequently filed a Petition seeking judicial review of the following eight orders issued by the Director: (1) Fifth Methodology Order; (2) 2023 As-Applied Order; (3) Scheduling Order and Order Authorizing Remote Appearance at hearing; (4) Order Denying the Cities Appointment of Independent Hearing Officer and Motion for Continuance and Limiting Scope of Deposition; (5) Notice of Materials Department Witnesses May Rely Upon at Hearing and Intent to Take Official Notice; (6) Post-Hearing Order Regarding Methodology for Determining Material Injury to Reasonable In-Season Demand and Reasonable Carryover; (7) Sixth Methodology Order; and (8) Order Revising April 23, Forecast Supply and Amending Curtailment Order. IGWA's Petition asserts the Director's orders are contrary to law and requests the Court set them aside and remand for further proceedings. The Court entered an Order permitting the Intervenors to participate in this proceeding. The parties submitted briefing on the issues raised on judicial review and a hearing on the Petition was held before the Court on April 4, 2024.

II.
STANDARD OF REVIEW

Judicial review of a final decision of the director of IDWR is governed by the Idaho Administrative Procedure Act ("IDAPA"). Under IDAPA, the court reviews an appeal from an agency decision based upon the record created before the agency. I.C. § 67-5277. The court shall not substitute its judgment for that of the agency as to the weight of the evidence on questions of fact. I.C. § 67-5279(1). The court shall affirm the agency decision unless it finds that the agency's findings, inferences, conclusions, or decisions are: (a) in violation of constitutional or statutory provisions; (b) in excess of the statutory authority of the agency; (c) made upon unlawful procedure; (d) not supported by substantial evidence on the record as a whole; or (e) arbitrary, capricious, or an abuse of discretion. I.C. § 67-5279(3). Further, the petitioner must show that one of its substantial rights has been prejudiced. I.C. § 67-5279(4). Even if the evidence in the record is conflicting, the Court shall not overturn an agency's

decision that is based on substantial competent evidence in the record. *Barron v. IDWR*, 135 Idaho 414, 417, 18 P.3d 219, 222 (2001). The Petitioner bears the burden of documenting and proving that there was not substantial evidence in the record to support the agency's decision. *Payette River Property Owners Assn. v. Board of Comm'rs.*, 132 Idaho 552, 976 P.2d 477 (1999).

III.

ANALYSIS

A. The Director did not act contrary to law by holding a hearing after issuance of the Fifth Methodology Order.

IGWA asserts the Director was required to hold a hearing prior to his issuance of the Fifth Methodology Order under the Idaho Administrative Procedure Act ("IDAPA"). The provisions of IDAPA govern agency proceedings which may result in the issuance of an order "except as provided by other provisions of law." I.C. § 67-5240. This section makes clear IDAPA "controls agency decision-making procedures only in the absence of more specific statutory requirements." *The Idaho Administrative Procedure Act: A Primer for the Practitioner*, 30 Idaho L. Rev. 273, 277 (1994).

Here, a more specific statutory provision exists. Idaho Code § 42-1701A specifically governs hearings before the Director. Therefore, it controls. Subsection 3 of that provision provides:

> Unless the right to a hearing before the director or the water resource board is otherwise provided by statute, any person aggrieved by any action of the director, including any decision, determination, order or other action, including action upon any application for a permit, license, certificate, approval, registration, or similar form of permission required by law to be issued by the director, who is aggrieved by the action of the director, and who has not previously been afforded an opportunity for a hearing on the matter shall be entitled to a hearing before the director to contest the action. The person shall file with the director, within fifteen (15) days after receipt of written notice of the action issued by the director, or receipt of actual notice, a written petition stating the grounds for contesting the action by the director and requesting a hearing. The director shall give such notice of the petition as is necessary to provide other affected persons an opportunity to participate in the proceeding. The hearing shall be held and conducted in accordance with the provisions of subsections (1) and (2) of this section. Judicial review of any final order of the director issued following the hearing shall be had pursuant to subsection (4) of this section.

I.C. § 42-1701A(3).

The Director acted when he issued the Fifth Methodology Order. That action was done without a hearing, and Title 42 of the Idaho Code contains no statutory right to a pre-action hearing under these circumstances. Therefore, under Idaho Code § 42-1701A(3), any person aggrieved was entitled to a hearing before the Director to contest the action upon timely written notice. Rather than wait for written notice, the Director set an Idaho Code § 42-1701A(3) hearing on the Fifth Methodology Order when he issued it. R., 62. Although, the Court does note that the Coalition of Cities, the City of Pocatello, and McCain Foods USA, Inc. each did provide written notice requesting an Idaho Code § 42-1701A(3) hearing in this case. R., 68, 90, 94. A four-day hearing was subsequently held. Therefore, the Director did not act contrary to law by holding a hearing after issuance of the Fifth Methodology Order.

B. The proceeding before the Director satisfied due process.

i. IGWA's concerns.

IGWA raises due process concerns regarding the process utilized by the Director in issuing the Fifth Methodology Order. It asserts due process required a hearing prior to the issuance of the Fifth Methodology Order. Further, that the Idaho Code § 42-1701A(3) hearing held in June 2023 did not satisfy due process. IGWA raises the following due process concerns related to that hearing:

- Written interrogatories and requests for production were not permitted.

- The compressed schedule did not afford adequate time for affected water users to conduct inspections and analyses needed to formulate expert opinions and develop reports addressing the complex issues . . . .

- Greg Sullivan, the sole expert consultant for the Cities, was out of the country from May 17, 2023-June 3, 2023, leaving him unavailable to assist in developing strategy, preparing expert reports, preparing exhibits, and attending depositions.

- Sophia Sigstedt, an expert consultant for IGWA, was unable to perform all of the work required to properly analyze the Fifth Methodology Order before the June hearing. In addition, she had a medical condition that prevented her from leaving her home state of Colorado until July 10, 2022.

> • Jaxon Higgs, expert consultant for IGWA, was unable to participate in the June hearing due to a previously planned out-of-country trip May 27-June 10, 2023.
>
> • IGWA was unable to locate a qualified engineering firm that had capacity to analyze the "project efficiency" component of the Fifth Methodology Order by the June hearing.
>
> • The Director blocked the parties from discovering relevant evidence and from calling Department witnesses in possession of relevant evidence, as explained below.

IGWA's Opening Brief, p.22.

ii. What the methodology order is.

Prior to engaging in a due process analysis, it is necessary to establish what the methodology order is. The Surface Water Coalition call is described as an ongoing call. This is meant to denote that it does not present a one and done situation. Rather, the nature of the call is ongoing in that the underlying source problem of diminished ground water levels in the Aquifer, the culmination of which has occurred over a time span of decades, cannot be restored in a single year. The result is yearly reductions in the natural flow of the Snake River which may, in turn, result in material injury to surface water users.[7]

Diminished ground water levels present a long-term water supply problem that requires ongoing administration. This is evidenced by the fact the Director first found material injury to Coalition members resulting from ground water depletions in 2005. *Amended Order*, p.44 (May 2, 2005). Since that time, the reality of ground water depletions has not been resolved. The Idaho Supreme Court recognized that from "October 1980 through September 2008, average annual discharge from the ESPA exceeded average annual recharge by 270,000 acre feet, which resulted in declining aquifer water levels and declining discharge to the Snake River and tributary springs." *Idaho Ground Water Assoc v. Idaho Dept. of Water Res.*, 160 Idaho 119, 122 369 P.3d 897, 900 (2016). Likewise, the record in this case shows that large scale ground water

[7] "The amount of water that discharges from the aquifer to hydraulically connected surface water sources is largely dependent on ground water elevations and hydraulic conductance." *Idaho Ground Water Assoc v. Idaho Dept. of Water Res.*, 160 Idaho 119, 122 369 P.3d 897, 900 (2016).

pumping has, over time, contributed to a long-term general decline trend in ground water levels throughout the ESPA from the 1950s through 2023. R., 478-479; 392.[8]

Understanding that the call is ongoing in nature, the methodology order provides water users direction as to how the Director will administer the call into the future. It does this by providing nine steps to be undertaken annually. Through these steps, the Director determines whether the Coalition's water rights are suffering material injury and whether that injury will be addressed via mitigation and/or curtailment.

Briefly stated, in April of each year, the Director predicts what material injury to Coalition members is anticipated for the upcoming irrigation season through a metric known as in-season demand shortfall. Also in April, he runs ESPAM to calculate the curtailment priority date predicted to produce a volume of water equal to the predicted in-season demand shortfall. Ground water users then have no shorter than fourteen (14) days within which to present mitigation plans showing they can mitigate forth their proportionate share of the predicted shortfall. Those who can mitigate may continue diverting ground water while those who cannot face curtailment. The Director then re-examines his initial prediction at least once halfway through the irrigation season to take into account changing conditions.

In this respect, the methodology order is a framework. It provides an identifiable and orderly structure through which both surface and ground water users may plan early in the year how best to proceed with the irrigation season. Contrast this with a curtail-now-hearing-later approach, wherein the Director curtails straight away once injury is occurring. *See e.g., South Valley Ground Water Dist. v. Idaho Dept. of Water Res.*, 2024 WL 136840, 32 (2024) (recognizing the propriety of a curtail-now-hearing-later approach in appropriate cases). Such an approach can result in abrupt late seasons curtailments, after economic investments for the year have been made, leaving little room for proactive planning by water users. The methodology order acts to promote concepts of optimum development and maximum use and benefit by

[8] The surface flows on which senior rights rely depend on a combination of natural flow, discharges from the ESPA and storage. The significance of the impact of aquifer declines on senior rights depends in part on the quantity of storage rights held by the senior right holder. Seniors holding rights for greater quantities of storage are less reliant on aquifer discharges to satisfy their rights throughout the entirety of the irrigation season. Seniors with less storage are more dependent on natural flow rights and are more heavily reliant on aquifer discharges contributing to those rights after the spring runoff has subsided. As such, a year with above-average snowpack may have little benefit to those seniors lacking sufficient storage rights to store water from the additional snowpack.

providing a framework through which both surface and ground water users may, as early as is practicable, proactively plan for the upcoming irrigation season.[9]

But the methodology order is more than just a framework or a management tool.[10] It is an administrative tool the Director uses annually to administer water under the ongoing call to provide water, if necessary, to injured surface water users at the time and place needed. In this respect, the methodology order acts to promote the concept of first in time first in right. It is in the methodology order that the Director determines the best available science and information to predict the effects of ground water pumping on Snake River flows. As years go by, the data sets relied upon by the Director for administration expand. This is self-evident. Additionally, the science available to the Director may improve. This is evidenced by the progression of ESPAM from its initial form to its current form. As data sets expand and as science improves, the methodology order may need to be adjusted to reflect the best available science and information. Therefore, the methodology order is an administrative tool utilized by the Director to administer water rights in priority under the Surface Water Coalition call through a predictive framework that balances concepts of first in time first in right with the optimum development and maximum use and benefit of the State's water resources.

iii. Due process.

Procedural due process "requires that there be some process to ensure that an individual is not arbitrarily deprived of his rights in violation of the state or federal constitutions." *South Valley Ground Water Dist. v. Idaho Dept. of Water Res.*, 2024 WL 136840, 30 (2024). Determining whether due process rights have been violated requires a two-step analysis. *Id.* First, the Court must "decide whether an individual's threatened interest is a liberty or property interest under the Fourteenth Amendment." *Id.* Second, the Court must "determine what process is due." Id. As to the first step, there is no dispute water rights are property rights. I.C. §

[9] The period of use for many irrigation water rights begins March 15. However, predicting the water supply at that early stage of the irrigation season presents practical difficulties as the United States Bureau of Reclamation and Army Corps of Engineers do not typically issue their joint forecast predicting unregulated inflow volume at the Heise Gage until the first two weeks of April.

[10] In *A&B Irr. Dist. v. Spackman*, 155 Idaho 640, 815 P.3d 828 (2013), the Idaho Supreme Court distinguished between an administrative tool and a management tool. While the delineation between a management tool and an administrative tool can overlap, it's clear that the methodology order is an administrative tool developed for the conjunctive administration of water pursuant to an on-going delivery call.

55-101. As to the second step, the Idaho Supreme Court recently provided guidance on what process is due in its decision in *South Valley*.

Like this case, *South Valley* involved the conjunctive administration of interconnected ground and surface water rights. There, the Director initiated a proceeding to determine whether the diversion of ground water in the Wood River Valley would injure senior surface water rights. *South Valley*, 2024 WL 136840 at 1. As is the case here, the Director utilized a truncated hearing process. The notice initiating the proceeding was issued on May 4, 2021. *Id.* at 4. It set a hearing for June 7-11, 2021. *Id.* The parties filed prehearing motions, "including two motions to dismiss the proceeding, a motion to appoint an independent hearing officer, motions to continue or postpone the hearing, and a motion to authorize discovery." *Id.* at 5. The Director granted the motion to authorize discovery but denied the other motions. *Id.* After limited discovery, the Director held a six-day hearing from June 7–12, 2021. *Id.* The Director issued his final order on June 28, 2021, curtailing over 300 groundwater rights for the 2021 irrigation season. *Id.*

As is the case here, juniors in *South Valley* argued the truncated proceeding "violated any notion of fundamental fairness and failed to provide the 'opportunity to be heard in a meaningful time and in a meaningful manner.'" *Id.* at 30. The Court disagreed. It found "the Director opted for a pre-curtailment process complete with advance notice, a full panoply of pre- and post-hearing procedures and a six-day hearing." *Id.* at 32. The procedure provided was "necessarily expedited, but within reasonable limits in light of the imminent loss to senior right holders." *Id.*

The Court finds the process provided by the Director to be in line with that provided in *South Valley*. The process utilized by the Director in issuing the Fifth and Sixth Methodology Orders is set forth in the Background section of this decision. It included advance notice beginning in August 2022 that changes to the Fourth Methodology may be necessary. R., 2866. This was followed by the convening of a technical working group which conducted multiple meetings throughout the fall of 2022 to review the issue. R., 1176. The Department then provided further notice by issuing a written summary of preliminary technical revisions and inviting written comments. R., 1300, 2867, & 2879. After comments were submitted and considered, the Director issued the Fifth Methodology Order on April 21, 2023. R.,1. The Director then provided notice to aggrieved persons of the opportunity to be heard on the Fifth Methodology Order through a five-day hearing scheduled approximately six weeks out from the

Order's issuance. R., 62. The hearing proceeded before the Director as scheduled. The Director provided time for limited discovery, admitted exhibits into evidence, took testimony, and allowed the parties to submit post-hearing briefing. The Director then issued his Sixth Methodology Order on July 19, 2023. The entirety of the process happened prior to any curtailment.

In evaluating the Director's process, the Court notes that both senior surface water users and junior ground water users had significant private interests at stake in this proceeding in the form of water rights. However, when material injury is predicted, "the risk of curtailment of a junior-priority groundwater right during a time of shortage is a risk that Idaho water users knowingly undertake. . . ." *South Valley*, 2024 WL 136840 at 31. In evaluating the risk of an erroneous deprivation of rights, the presumption "is that the senior is entitled to his decreed water right, whether that senior joined the proceeding or not." *Id.* at 32. Time is of the essence in water administration. The reality is there is a short timeframe between when water supply determinations can be made and when water users' demands for irrigation water begin. Any process employed by the Director must account for the exigencies of these time constraints as the Director has a duty to timely administer water in priority. *South Valley*, 2024 WL 136840 at 33. This is because the consequences of delaying administration in times of shortage is out-of-priority water use and "water in usable quantities for at least some of the senior surface water users would go undelivered." *Id.* The Idaho Supreme Court has directed that this is not a risk that should be foisted on senior water right holders "through additional, typical procedural avenues." *Id.* Last, as was recognized in *South Valley*, "the Director's obligation to administer water rights is an essential government function." *Id.* at 33. Weighing these factors together, the Court holds that the proceeding before the Director, which consisted of a pre-curtailment process complete with advance notice, a full panoply of pre- and post-hearing procedures and a five-day hearing, satisfied due process.

Continuing the hearing until after the irrigation season, as originally requested by the juniors, is not tenable given the Director's duty to timely administer water rights in priority. R., 80. "[C]urtailing out-of-priority water use *after the irrigation season had passed* would [be] too little, too late." *South Valley*, 2024 WL 136840 at 32. Notwithstanding, the juniors argue there was no pressing need to implement the Fifth Methodology Order in 2023 because the Fourth Methodology Order was in place and could have been used. The Court disagrees.

The methodology order is an administrative tool that is applied annually. The Director determined that the Fourth Methodology Order would not adequately protect senior water rights in 2023. In particular, he determined that application of steady state simulations to ESPAM as required by the Fourth Methodology Order would not provide senior users water in the quantity, time, and place necessary to address material injury from out-of-priority junior diversions in 2023. R., 29-31. Additionally, that the baseline year used in the Fourth Methodology Order would not protect senior rights in 2023. R., 11-12. Recognizing that the Fourth Methodology Order would not get senior water users the water they needed, the Director did not err in updating the methodology order in 2023 to be in compliance with the law and his obligation to timely administer water rights in priority.[11]

C. The Director's denial of the motion for an independent hearing officer is affirmed.

IGWA asserts Idaho Code § 67-5252(1) required the Director to disqualify himself as the presiding officer for the June 2023 hearing. This issue was not raised below. The record reflects the Coalition of Cities, the City of Idaho Falls, and the City of Pocatello filed a Motion for Appointment of Independent Hearing Officer on April 28, 2023. R., 73. That Motion requested that the Director appoint an independent hearing officer to conduct the June 6, 2023 hearing "pursuant to I.C. § 42-1701A(2) and IDAPA 37.01.01.410."[12] R., 74. The Director considered and denied the Motion. R., 298. However, at no point did any party petition for the disqualification of the Director without cause under Idaho Code § 67-5252(1). That issue was not presented below and is being raised for the first time on appeal. Therefore, the Court does not consider it. *See e.g., Row v. State*, 135 Idaho 573, 580, 21 P.3d 895, 902 (2001) ("[t]he longstanding rule of this Court is that we will not consider issues that are raised for the first time on appeal"). It follows the Director's denial of the Motion for Appointment of Independent Hearing Officer must be affirmed.

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[11] To the extent climate variability becomes more pronounced over the course of an irrigation season water demand for the forthcoming season becomes more difficult to predict. Consequently, the utilization of smaller margins to avoid shortfalls to senior rights becomes less tenable. In the Court's decision in the 382 Case, the Court explained that any administration to less than the full decreed quantity must be based on clear and convincing evidence. *Memorandum Decision*, Gooding County Case No. CV-2010-382, p.19 (September 26, 2014). The Court recognized that any shortfall due to underprediction would impermissibility injury senior rights. *Id.*

[12] Idaho Code § 42-1701A(2) provides that "[t]he director, in his discretion, may direct that a hearing be conducted by a hearing officer appointed by the director." IDAPA 37.01.01.410 allows for the appointment of a hearing officer who may be an "employee of the agency or [an] independent contract."

D. The Director's Scheduling Order and Order Limiting Discovery are affirmed.

At the prehearing conference for the June 2023 hearing, "some counsel expressed concern about having enough time to respond to discovery given the compressed period for the hearing." R., 126. The Director "agreed to limit the scope and timing of discovery to address these concerns." R., 126. In the Scheduling Order, the Director held:

> **IT IS HEREBY ORDERED** that discovery will be limited as follows: (1) The parties shall not engage in interrogatories or requests for admissions; (2) The parties may request production of documents. The party upon whom a request for production of documents is served shall respond to the request within 10 days from the date the request is served.

R., 127.

The Director also identified two Department witnesses who would be made available to the parties for deposition and who would testify at the hearing. R., 126. These employees were Jennifer Sukow and Matthew Anders. R., 126. Questions were raised as to the appropriate scope of the depositions. R., 301. In response, the Director issued an Order Limiting Scope of Depositions directing "that the scope of any deposition of a Department employee will preclude questions regarding the Director's deliberative process on legal and policy considerations." R., 301. IGWA argues the Director acted contrary to law in limiting discovery in these respects.

The Idaho Code § 42-1701A(3) hearing was conducted in accordance with the provisions of IDAPA. I.C. § 42-1701A(1) & (3). IDAPA requires "a full disclosure of all relevant facts and issues, including such cross-examination as may be necessary," and "the opportunity to respond and present evidence and argument on all issues involved." Idaho Code § 67-5242(3). Unless otherwise provided by statute, rule, order or notice, the scope of discovery is governed by the Idaho Rules of Civil Procedure." IDAPA 37.01.01.520.02. However, "[t]he presiding officer may limit the type and scope of discovery." IDAPA 37.01.01.521.

In a prior section, the Court found that the proceedings before the Director satisfied due process. The discovery limitations in the Director's Scheduling Order do not upset that analysis. As previously stated, any process employed by the Director must account for the exigencies associated with the timely administration of water within a given irrigation season. The Director's decision to limit written discovery and to shorten the timeframe in which to respond

was within his authority under Rule 521 and does not result in any due process violation. Such limitations simply reflect the time frames associated with priority administration.

Likewise, the Director did not violate due process by limiting the scope of the depositions of Department employees. The Director limited the depositions to "preclude questions regarding the Director's deliberative process on legal and policy considerations." R., 301. The Department employees made available to the parties for deposition are technical staff. They are qualified to testify as to technical matters concerning the changes to the Fourth Methodology Order. They are not qualified to testify as to the Director's legal and policy determinations, as they do not make those determinations.

The Director set forth his determinations and reasoning for making changes to the Fourth Methodology Order, legal and otherwise, in the Fifth Methodology Order. For instance, the Director determined that the baseline year used in the Fourth Methodology Order "no longer satisfies the presumption criteria that total diversions in the BLY should exceed the average annual diversions." R., 11. Rather, he found that year 2018 satisfies all the baseline year selection criteria and explained his reasoning in the Order. R., 11-12, 34. He also determined that the steady-state simulations of ESPAM previously used "will only offset 9% to 15% of the predicted [in-season demand shortfall]," while transient simulations "will offset the full predicted [in-season demand shortfall]". R., 30, 35-36. The legal and policy reasoning behind his decisions in these respects are his own and are set forth in the Fifth Methodology Order. For these reasons, the Director's Scheduling Order and Order Limiting Scope of Depositions must be affirmed.

E. The Director's determination regarding the Twin Falls Canal Company's irrigated acres is affirmed.

The Twin Falls Canal Company's natural flow water rights authorize the irrigation of 196,162 acres. R., 17. Under the Fifth Methodology Order, the Director reduced the amount of irrigation acres attributed to the Twin Falls Canal Company for the 2023 irrigation season to 194,732. R., 10. IGWA asserts the Director erred in this respect and that further reductions were required. The law on this issue is clear. The presumption under Idaho law is that the senior is entitled to his decreed water right. *American Falls Reservoir Dist. No. 2 v. Idaho Dept. of Water Resources*, 143 Idaho 862, 878, 154 P.3d 433, 449 (2006). "Once a decree is presented to an

administrating agency or court, all changes to that decree, permanent or temporary, must be supported by clear and convincing evidence." *A&B Irr. Dist. v. Idaho Dept. of Water Resources*, 153 Idaho 500, 524, 284 P.3d 225, 249 (2012). If junior users believe that the seniors will receive water they cannot beneficially use, "it is their burden under the established evidentiary standards and burdens of proof to prove that fact by clear and convincing evidence." *Memorandum Decision and Order*, Gooding County Case No. CV-2010-382, p.31. (2014).

The Director considers the Surface Water Coalition's irrigation acres in Step 1 of the methodology order. Step 1 requires Coalition members "to submit electronic shape files to the Department delineating the total anticipated irrigation acres for the upcoming year within their water delivery boundary or confirm in writing that the existing electronic shape file submitted by the SWC has not varied by more than five percent." R., 39, 144. The Twin Falls Canal Company members submitted a 2013 shape file in compliance with Step 1 showing 194,732 irrigated acres. R., 1233; 1084. It represented its irrigated acres have not varied by more than five percent from the 2013 shape file numbers. R., 1084. Therefore, the Director used the 2013 shape file number to predict the Twin Falls Canal Company's irrigated acres for 2023. R., 10, 1084.

IGWA argues the Director should have adopted a lesser number in what is referred to herein as the "2017 irrigated lands dataset." However, the Director explained that the 2017 irrigated lands dataset was just a snapshot in time for purposes of ESPAM model calibration" which employs "hindcasts, not forecast":

> The purpose of the 2017 shapefile was to assist Department staff in determining TFCC's irrigation demand in 2017 for use in model calibration. Hr'g Tr. vol. II, at 68, 140–41.
>
> . . .
>
> The 2017 shapefile is more recent than the 2013 shapefile, but it does not necessarily represent the number of acres TFCC may irrigate in 2023. The 2017 shapefile was a snapshot in time. It does not necessarily predict *future* irrigated acres. In compiling the 2017 shapefile, Department staff did not distinguish "hardened acres" —i.e., fields that have been permanently removed from irrigation—from fields that were not irrigated in 2017 but could be in future years. Hr'g Tr. vol. II, at 194–95.
>
> The same is not true for the 2013 shapefile as explained by its author, a TFCC consultant named David Shaw. Mr. Shaw testified that when he compiled the 2013 shapefile, he specifically excluded hardened acres and included acres that could have been irrigated in 2013 but were not. Hr'g Tr. vol. IV, at 152–53. Unlike the

> 2013 shapefile, the 2017 shapefile includes only acres that *were irrigated* in 2017 and excludes the acres that *were not irrigated* in 2017 but *could be* irrigated in future years, e.g., 2023. This is a critical distinction because, as Mr. Shaw explains in the SWC's expert report, TFCC "has no way of knowing whether land covered by shares will or will not be irrigated and must prepare to meet the share delivery obligation." Ex. 4 ¶ 7, at 2.
>
> Mr. Shaw also testified that in his opinion the 2013 shapefile currently represents the best available information for determining TFCC's actual irrigated acreage. Hr'g Tr. vol. IV, at 164–65.

R., 1084. The Court finds the Director's determination that the 2017 irrigated lands dataset employs "hindcasts, not forecast" is supported by substantial and competent evidence in the record. R., 1084. Additionally, IGWA did not establish a lesser number of Twin Falls Canal Company irrigated acres by clear and convincing evidence. This is its burden. In support of its argument, IGWA cites various transcripts, including the Anders Transcript, the Sukow Transcript, and the Barlogi Transcript which are not in the agency record and are therefore not before the Court.[13] Therefore, the Director's determination regarding the Twin Falls Canal Company's irrigated acres must be affirmed.

F. The Director's determination on the forecast supply calculation is affirmed.

IGWA asserts the Director acted contrary to law in using Snake River flows at the T Gage to forecast water supply. The methodology order predicts material injury to reasonable in-season demand by taking the difference between reasonable in-season demand and the forecast supply. Initial forecast supply is calculated in Step 2 of the methodology order. Typically, within the first week of April, the USBR and the USACE issue their Joint Forecast that predicts an unregulated inflow volume at the Heise Gage from April 1 to July 31 for the forthcoming year. The Director found that the joint forecast "is generally as accurate a forecast as is possible

[13] IGWA additionally argues the Director erred by failing to give it adequate time to conduct a field-level examination of Coalition irrigated acres. The record reflects various junior ground water users filed a Motion for Continuance on April 28, 2023, requesting the June 2023 hearing be continued until "a date in December 2023 or January 2024" to allow time to conduct "necessary site investigations" to examine "[w]ater use, irrigation practices, and irrigated areas." R., 80-89. As set forth herein, continuing the hearing until after the irrigation season is not tenable given the Director's duty to timely administer water rights in priority. Furthermore, IGWA is not precluded from undertaking a field-level examination of irrigated acres in anticipation of any application of the methodology order. The methodology order is not new. The parties and their consultants are familiar with the methodology, having worked with it in the context of this call for over ten years.

using current data gathering and forecasting techniques." R., 1022. The Court finds IGWA has failed to carry its burden of proving this finding is not supported by substantial evidence in the record. IGWA cites only the Anders Transcript in support of its argument. The Anders Transcript is not part of the agency record and is therefore not before the Court. Therefore, the Director's determination on the forecast supply calculation must be affirmed.

G. The Director's determination regarding supplemental groundwater is affirmed.

IGWA argues the Director abused his discretion by failing "to evaluate whether the water needs of TFCC can be meet with supplemental groundwater in accordance with CM Rule 42.01.h." IGWA Opening Br., 36. One of the factors the Director may consider when determining material injury includes "the extent to which the requirements of the senior-priority surface water right could be met using alternate reasonable means of diversion or alternate points of diversion. . . ." IDAPA 37.03.11.042.01.h. Under Step 1 of the methodology order, the Director may account for supplemental ground water use in determining the seniors' total irrigated acreage." R., 1045. In this case, the Director found that he "currently does not have sufficient information to accurately determine the contribution of supplemental ground water to lands irrigated with surface water by the [Coalition]." R., 1045. "If and when reliable data is available to the Department, the methodology will be amended to account for the supplemental ground water use." R., 1045.

The presumption under Idaho law is that the senior is entitled to his decreed water right. *American Falls Reservoir Dist. No. 2 v. Idaho Dept. of Water Resources*, 143 Idaho 862, 878, 154 P.3d 433, 449 (2006). "Once a decree is presented to an administrating agency or court, all changes to that decree, permanent or temporary, must be supported by clear and convincing evidence." *A&B Irr. Dist. v. Idaho Dept. of Water Resources*, 153 Idaho 500, 524, 284 P.3d 225, 249 (2012). If junior users believe senior acreage is irrigated with supplemental ground water and therefore the senior should receive less than his full decreed water right, "it is their burden under the established evidentiary standards and burdens of proof to prove that fact by clear and convincing evidence." *Memorandum Decision and Order*, Gooding County Case No. CV-2010-382, p.31. (2014).

The ground water users here failed to provide clear and convincing evidence concerning the quantity of acres they allege Coalition members could irrigate with supplemental ground

water rights. IGWA asserts the Department has a database that assigns a ground water fraction to mixed-source lands and that this is the best science and data available to document supplemental ground water use. This database is not in the record before the Court. Moreover, in the 382 Case, the Court previously found that "the Director's assignment of an entity wide split for each member of the Coalition of the ground water fraction to the surface water fraction is not supported by substantial evidence in the record." 382 Case, p. 19. The Court found "the parties fail to cite the Court to anything submitted before the Department in either written form or via oral testimony establishing the use of supplemental ground water be individual irrigators within the Coalition." *Id.* Such is the case here. IGWA cites the Anders Transcript and the Sukow Transcript in support of its argument. These transcripts are not part of the agency record and are therefore not before the Court. Therefore, the Director's determination regarding supplemental groundwater must be affirmed.

H. The Director's determination that Coalition members operate efficiently within the limits of their delivery system is affirmed.

IGWA argues the Director abused his discretion by failing to require Coalition members to make system improvements to meet their water needs without curtailment. This issue has been previously addressed in the context of this call. Former Idaho Supreme Court Justice Gerald Schroeder, acting in his capacity as an IDWR hearing officer, found that the facilities utilized by Coalition members are reasonable:

> **3. The existing facilities utilized by the Surface Water Coalition members are reasonable.** The evidence does not show substandard facilities for diversion or conveyance. The members of the Surface Water Coalition have improved their conveyance practices since the time the water rights were licensed or decreed. All of the members have changed significant portions of their irrigation practices from gravity flow to sprinkler systems which generally deliver water to the crop more efficiently. Sprinkler practice is not perfect. Evidence from the Twin Falls Canal Company indicates that water from gravity flow that exceeds the need of the initial crop is captured and applied to other portions of the district by water paths that develop. The same process does not occur with sprinkler systems. Also, there are limitations with sprinklers on applying water into corner portions of property. Overall, however, the use of sprinklers is more efficient than gravity flow, and sprinklers are increasingly used by the members of SWC. Additionally, at least Twin Falls Canal Company and North Side Canal Company have gone extensively to the use of computer monitoring of water use to assure its proper application.
> . . .

> There is no evidence of decayed or damaged systems that are allowed to continue or practices that cause water to be wasted in transit. The evidence in this case indicates that each of the SWC members is operating with reasonable diversion and conveyance efficiency.

Opinion Constituting Findings of Fact, Conclusions of Law and Recommendation, p.54-55 (April 29, 2008).

The Director agreed and found that "members of the SWC operate reasonably and without waste." *Order on Reconsideration of Final Order*, p.5 (June 16, 2010). In the 382 Case, this Court noted that the Director found that "members of the SWC operate reasonably and without waste," and that he will not "impose greater project efficiencies upon members of the SWC than have been historically realized." *Memorandum Decision and Order*, Gooding County Case No. CV-2010-382, p.31. (2014). The Court did not set aside and remand the Director on this issue and no appeal was pursued from the Court's decision.

In this case, the Director found that "[t]estimony at the hearing established that the SWC entities operated efficiently within the limits of their delivery system," and that the Twin Falls Canal Company's "diversions and efficiency are reasonable." R., 1089. The Director's finding is supported by substantial evidence in the record. This includes the testimony of Twin Falls Canal Company general manager Jay Barlogi at the June 2023 hearing. Tr. Vol. II, p.75, 90-91, 94-96. It also includes the testimony of Daivd Shaw, a Twin Falls Canal Company consultant, at the June 2023 hearing. Tr. Vol. IV, p.146. Since the Director's finding is supported by substantial evidence in the record it must be affirmed.

I. IGWA's argument that the Director violated IDAPA by using evidence not contained in the record is unavailing.

IGWA argues the Director violated IDAPA by using evidence not contained in the record when issuing the Fifth Methodology Order. IGWA supports its argument in this respect only with citation to the Anders Transcript. That transcript is not part of the agency record and is not before the Court. IGWA has failed to carry its burden on judicial review and its argument is unavailing.

J. The Director did not act contrary to law when he took official notice of information after issuing the Fifth Methodology Order.

IGWA argues the Director acted contrary to law by taking official notice of information after the Fifth Methodology Order was issued. Rule 602 of the Department's Rules of Procedure provides that the presiding officer may take official notice of certain information. IDAPA 37.01.01.602. It provides that notice of taking such official notice of information "should be provided either before or during the hearing, and must be provided before the issuance of any order that is based in whole or in part on facts or material officially noticed." *Id.* "Parties must be given an opportunity to contest and rebut the facts or material officially noticed." *Id.*

As set forth above, there is no requirement that the Director hold a hearing prior to issuing the Fifth Methodology Order. The Director issued that Order on April 21, 2023. R., 1. The Director notified the parties of his intent to take official notice of certain information on May 5, 2023. R., 305. This notice was given approximately one month prior to the June 2023 hearing. The parties that participated in the hearing were given the opportunity to contest and rebut the facts and/or materials officially noticed at that hearing. The Director then issued the Sixth Methodology Order. Therefore, the Court holds IGWA was given notice of the Director's intent to take official notice, the opportunity to contest the material officially noticed, and a hearing prior to the Director's issuance of the Sixth Methodology Order. Therefore, its argument that the Director acted contrary to law when he took official notice of information is unavailing.

K. The Director's determination that the delivery call is not futile is affirmed.

The Director determined the delivery call is not futile. R., 1092. IGWA asserts the Director violated Idaho law and abused his discretion by failing to apply the futile call doctrine to the delivery call. Rule 10.08 of the CM Rules defines a futile call as[14]:

> A delivery call made by the holder of a senior-priority surface or ground water right that, for physical and hydrologic reasons, cannot be satisfied within a reasonable time of the call by immediately curtailing diversions under junior-priority ground water rights or that would result in waste of the water resource.

IDAPA 37.03.11.18.08. IGWA asserts the Department "regularly applies the [futile call] doctrine as between surface water users" and should likewise apply it to the Coalition's call in the same fashion. IGWA Opening Br., 40.

[14] The term "CM Rules" refers to the Rules for Conjunctive Management of Surface and Ground Water Resources found at IDAPA 37.03.11.

IGWA's argument fails to recognize that the relationship of ground water to interconnected surface water differs from the relationship of surface water to surface water. The Idaho Supreme Court has previously acknowledged these differences, noting the unique challenges of applying the futile call doctrine in the context of conjunctive administration:

> [C]urtailing ground water pumping does not provide the immediacy of delivery to the senior user that would be present in the curtailment of surface water. Surface water travels in a channel from one source that may be seen to a destination that can be seen. It can be routed to a particular point. Ground water does not fall into this model. Its route is determined by the contours of fractured basalt interspersed at times with soil of a different composition. Part of the water curtailed may travel one direction, part another. The effects of curtailment may be years to be realized. The parameters of a futile call in surface to surface delivery do not fit in the administration of ground water. If the time for the delivery of water to avoid a futile call defense that is applicable in surface to surface water delivery were applied in calls for the curtailment of ground water, most calls would be futile. In effect ground water pumping could continue uncurtailed despite deleterious effects upon surface water use because curtailment would not have the immediate effect traditionally anticipated.

Clear Springs Foods, Inc. v. Spackman, 150 Idaho 790, 811-812, 252 P.3d 71, 92-93 (2010). "The fact that curtailment will not produce sufficient water immediately to satisfy the senior right does not render [conjunctive management] calls futile." *Id.* To the contrary, "a reasonable time for the result of curtailment to be fully realized [in the context of conjunctive administration] may require years, not days or weeks." *Id.* In light of these differences, IGWA's attempt to compare the Department's futile call practices in surface water to surface water administration to this case is misplaced.

Consistent with the Idaho Supreme Court's analysis, the Director recognized that "[d]elay in the depletive effect of ground water pumping is not grounds for the Ground Water Users to be Excused from water administration under the CM Rules." R., 1092. He determined that "[a]voiding obligation because of delayed cumulative impact is contrary to the intent of the CM Rules," finding that:

> If the Director were to determine that curtailment of some ground water rights would not immediately accrue water to the senior priority surface water rights, even though the cumulative impact is significant, and that the delivery call is futile because there is no immediate benefit for the surface water rights, the holders of junior priority ground water rights could recurringly avoid curtailment.

R., 1092.

The Idaho Supreme Court has instructed that "[o]nce the initial determination is made that material injury is occurring or will occur, the junior then bears the burden of proving that the call would be futile or to challenge, in some other constitutionally permissible way, the senior's call." *American Falls Reservoir Dist. No. 2*, 143 Idaho at 878, 154 P.3d at 449. The junior bears the burden of proving futile call "by clear and convincing evidence." *In Matter of Distribution of Water to Various Water Rights held by or for Benefit of A&B Irr. Dist.*, 155 Idaho 640, 653, 315 P.3d 828, 841 (2013). The Court finds IGWA did not produce clear and convincing evidence before the Department that the Coalition's delivery call is futile, nor does it attempt to dispute the Court's analysis in the *Clear Springs Foods, Inc.* decision. Therefore, the Director's determination that the delivery call is not futile must be affirmed.

L. Substantial rights.

IGWA argues its substantial rights were prejudiced by the Director's Orders. For the reasons set forth herein, IGWA has failed to establish the Director acted contrary to law. Therefore, IGWA has failed to show their substantial rights were prejudiced. It follows the Director's Orders must be affirmed.

M. Attorney fees.

IGWA seeks an award of attorney fees under Idaho Code § 12-117(1). That code section provides for fees to the prevailing party where the Court finds "that the nonprevailing party acted without a reasonable basis in fact or law." In this case, IGWA is not a prevailing party on appeal. Therefore, an award of attorney fees under Idaho Code § 12-117 is unwarranted. IGWA also seeks and award of attorney fees under 42 U.S.C. § 1983. This section allows courts to award the prevailing party attorney fees in actions seeking to enforce section 1983 claims. *Karr v. Bermeosolo*, 142 Idaho 444, 449, 129 P.3d 88, 93 (2005). IGWA is not the prevailing party. Also, the Court finds the proceeding before the Director satisfied due process. Therefore, an award of attorney fees under 42 U.S.C. § 1983 is unwarranted.

IV.

ORDER

THEREFORE, BASED ON THE FORGOING, THE FOLLOWING ARE HEREBY ORDERED:

1. The Fifth Methodology Order is affirmed.

2. The 2023 As-Applied Order is affirmed.

3. The Scheduling Order and Order Authorizing Remote Appearance at Hearing is affirmed.

4. The Order Denying the Cities Appointment of Independent Hearing Officer and Motion for Continuance and Limiting Scope of Deposition is affirmed.

5. The Notice of Materials Department Witnesses May Rely Upon at Hearing and Intent to Take Official Notice is affirmed.

6. The Post-Hearing Order Regarding Methodology for Determining Material Injury to Reasonable In-Season Demand and Reasonable Carryover is affirmed.

7. The Sixth Methodology Order is affirmed.

8. The Order Revising April 23, Forecast Supply and Amending Curtailment Order is affirmed.

IT IS SO ORDERED.

Dated May 31, 2024

ERIC J. WILDMAN
District Judge

CERTIFICATE OF SERVICE

I certify that on this day I served a copy of the attached to:

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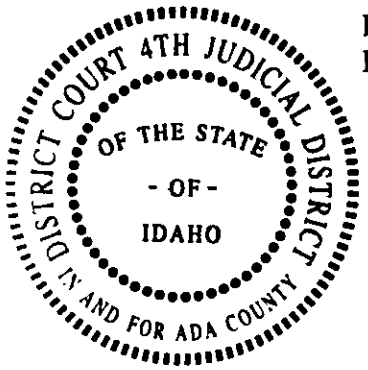
Date: 5/31/2024

Trent Tripple
Clerk of the Court

By Erin Rovelli
Deputy Clerk



NO. _____ FILED
A.M. _____ P.M. 2:32

MAY 31 2024

TRENT TRIPPLE, Clerk
By ERIC ROWELL
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

CITY OF IDAHO FALLS, CITY OF POCATELLO, CITY OF BLISS, CITY OF BURLEY, CITY OF CAREY, CITY OF DECLO, CITY OF DIETRICH, CITY OF GOODING, CITY OF HAZELTON, CITY OF HEYBURN, CITY OF JEROME, CITY OF PAUL, CITY OF RICHFIELD, CITY OF RUPERT, CITY OF SHOSHONE, and CITY OF WENDELL, Petitioners, vs. THE IDAHO DEPARTMENT OF WATER RESOURCES, and MATHEW WEAVER in his capacity as the Director of the Idaho Department of Water Resources, Respondents, and IDAHO GROUND WATER APPROPRIATORS INC., A&B IRRIGATION DISTRICT, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, TWIN FALLS CANAL COMPANY, AMERICAN FALLS RESERVOIR DISTRICT #2, MINIDOKA IRRIGATION DISTRICT, BONNEVILLE-JEFFERSON GROUND WATER DISTRICT,	Case No. CV01-23-13238 **MEMORANDUM DECISION AND ORDER**

and BINGHAM GROUNDWATER DISTRICT,

Intervenors.

IN THE MATTER OF THE DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY AND FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIRS DISTRICT NO. 2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY.

I.
BACKGROUND

The Court entered a Memorandum Decision and Order in Ada County Case No. CV01-23-13173 contemporaneously herewith. The facts and background set forth in that Order apply here and are incorporated by reference. In addition, on August 16, 2023, the Petitioners filed a Petition seeking judicial review of the Director's Post-Hearing Order Regarding Fifth Amended Methodology Order dated July 19, 2023 ("Post-Hearing Order"). The Petition asserts the Post-Hearing Order is contrary to law and requests that the Court set it aside and remand for further proceedings. The Court entered Orders permitting the Intervenors to participate in this proceeding. The parties submitted briefing on the issues raised on judicial review and a hearing on the Petition was held before the Court on April 4, 2024.

II.
STANDARD OF REVIEW

Judicial review of a final decision of the director of IDWR is governed by the Idaho Administrative Procedure Act ("IDAPA"). Under IDAPA, the court reviews an appeal from an agency decision based upon the record created before the agency. I.C. § 67-5277. The court shall not substitute its judgment for that of the agency as to the weight of the evidence on

questions of fact. I.C. § 67-5279(1). The court shall affirm the agency decision unless it finds that the agency's findings, inferences, conclusions, or decisions are: (a) in violation of constitutional or statutory provisions; (b) in excess of the statutory authority of the agency; (c) made upon unlawful procedure; (d) not supported by substantial evidence on the record as a whole; or (e) arbitrary, capricious, or an abuse of discretion. I.C. § 67-5279(3). Further, the petitioner must show that one of its substantial rights has been prejudiced. I.C. § 67-5279(4). Even if the evidence in the record is conflicting, the Court shall not overturn an agency's decision that is based on substantial competent evidence in the record. *Barron v. IDWR,* 135 Idaho 414, 417, 18 P.3d 219, 222 (2001). The Petitioner bears the burden of documenting and proving that there was not substantial evidence in the record to support the agency's decision. *Payette River Property Owners Assn. v. Board of Comm'rs.*, 132 Idaho 552, 976 P.2d 477 (1999).

III.

ANALYSIS

A. The Director's determination that the Twin Falls Canal Company's forecast supply is reasonable and sufficiently accurate is affirmed.

The Petitioners argue the Director's forecast supply for the Twin Falls Canal Company underestimated its total water supply given the high snowpack in 2023. Coalition members rely upon a combination of natural flow water from the Snake River and storage water held in reservoirs to meet their irrigation needs. The degree to which each Coalition member relies upon natural flow water as opposed to storage water differs based upon their respective water rights. For example, the Twin Falls Canal Company is primarily dependent upon natural flow water to meet its irrigation needs. This is because it has large natural flow water rights and a relatively small storage water right. High snowpack has a beneficial impact on storage water rights in particular, as the reservoir system in Basin 01 can catch and store snowpack runoff when it occurs for use later in the irrigation season when water demand is high. It has less beneficial impact on natural flow water rights, which rely more on aquifer discharges. The Director commented on this in his Order Denying Motion for Reconsideration of Denial of Continuance:

> The Director disagrees that high snowpack means the SWC will not be injured. While there is a good snowpack in the hills above the ESPA, the snowpack is only part of the SWC's water supply, and recharge from the aquifer is at a record low.

> Additionally, southern Idaho is emerging from a two-year drought, and the existing storage supply going into this irrigation season is low. Forecasters are uncertain whether the storage supply system will fill this year. The Director agrees with the SWC that the "current snowpack does not tell the whole story."

R., 429. As a result, the Twin Falls Canal Company is more reliant on aquifer discharges to satisfy its irrigation needs throughout the entirety of the irrigation season than other Coalition members.

The Director's prediction of reasonable in-season demand under the methodology order is based in part on a regression analysis. R., 1022. The regression analysis is used to predict the amount of natural flow that will be available to Coalition members in a given year utilizing data "from 1990 through the irrigation year previous to the current year." R., 1022. For the Twin Falls Canal Company, a "multi-linear regression equation" is developed "by comparing the actual Snake River near Heise natural flow and the flows at Box Canyon to the natural flow diverted." R., 1022. The actual natural flow volume predicted for each Coalition member is "one standard error below the regression line, which underestimates the available supply." R., 1022. This is "to ensure senior water right holders do not bear the risk of under-prediction of supply." R., 1022.

The regression analysis utilizes a "R-squared" value. The R-squared value is a statistical measurement of how closely data points fit on a regression line." R., 1082. The R-squared value indicates how accurately the regression analysis predicts the diversions for each Coalition member for the upcoming season. R., 1082. "R-squared values are decimal numbers that range from zero to one." R., 1082. The closer the R-squared value is to one, the better the predictive effect. R., 1082.

The R-squared value for the Twin Falls Canal Company is 0.72. R., 1082. The Petitioners challenge this value. They believe using the Joint Forecast along with the multi-linear regression analysis and accompanying 0.72 R-squared value is erroneous. They assert the R-squared values for other Coalition members are better than 0.72. They further assert that the R-squared value for the Twin Falls Canal Company has declined in recent years. The Director recognized that the R-squared value for the Twin Falls Canal Company has declined recently. R., 1082. However, he stated he is "still confident the regression equation is accurately predicting TFCC's natural flow." R., 1082. He therefore concluded that the Twin Falls Canal

Company's "0.72 R-squared value is reasonable and the TFCC's natural flow forecast is sufficiently accurate." R., 1082.

The Director's finding in this respect is supported by substantial evidence in the record. Matt Anders is the technical services bureau chief for the Department. Tr., Vol. I at 20. At the hearing, he testified as to the R-squared value for the Twin Falls Canal Company, providing in part:

> Q. Switching gears a little bit. Do you recall testifying about Twin Falls Canal Company's regression equation?
>
> A. I do.
>
> Q. And based on the R-2, do you think the regression equation still accurately predicts the natural flow for the Twin Falls Canal Company?
>
> A. We think it accurately is still predicting the natural flow for Twin Falls Canal Company. But we're concerned about the downward trend in the R-squared value, indicating that it may be degrading. But we still have confidence in it at this point. We want to see it in a couple more years and see what happens.

Tr.., Vol. I at 224. The Anders' testimony establishes the R-squared value is accurately predicting the natural flow for the Twin Falls Canal Company, and that he has confidence in it at this point. In addition, the Petitioners' expert witness Greg Sullivan testified that he considered "a good relationship is when the R-squared was at least – was above .5." Tr., Vol. 2 at 157. The Court therefore finds the Director's finding is supported by substantial evidence in the record, was reached through an exercise of his discretion, and must be affirmed.

B. The Director's determination to use 2018 as the baseline year is affirmed.

The Petitioners challenge the Director's decision to use 2018 as the baseline year in the Sixth Methodology Order. A baseline year is "a year or average of years when irrigation demand represents conditions that can predict need in the current year of irrigation at the start of the irrigation seasons." R., 1006. The purpose of predicting need is to estimate material injury. R., 1006. In the Sixth Methodology Order, the Director updated the baseline year from the previous average of diversion demands for 2006, 2008 and 2012 irrigation seasons to the diversion demand for the 2018 irrigation season. R., 1015-1016. The baseline year is selected by analyzing: (1) climate; (2) available water supply; and (3) irrigation practices. R., 1007. A

baseline year must "be recent enough to represent current irrigation practices." R., 1013. Additionally, "because the baseline year data is used to predict reasonable in-season demand for senior appropriators, safety factors must be employed to ensure the senior water rights will be satisfied. R., 1080.

The Petitioners argue utilizing a baseline year of 2018 overestimates the reasonable in-seasons demand of the Coalition. This Court previously approved the Director's use of a baseline year as a part of the methodology order in the 382 Case. In that case, the Court addressed a similar issue to that raised here. There, the City of Pocatello and IGWA made a similar argument that the Director must determine the needs of the Coalition based on historic use data associated with a year with average temperatures, evapotranspiration, and precipitation. The Court disagreed:

> The Director did not err in his intentional adoption of a baseline year based on above average temperatures and evapotranspiration and below average precipitation. The Court agrees that use of such data is necessary to protect senior rights if the Director is going to administer to an amount less than the full decreed quantity of the Coalition's rights. The arguments set forth by the City of Pocatello and IGWA that the Director must use data associated with an average year fail to take into account the legal limitations placed on the Director in responding to a delivery call. The senior is entitled to a presumption under Idaho law that he is entitled to his decreed water right. *AFRD#2*, 143 Idaho at 878, 154 P.3d at 449. If the Director is going to administer to less than the full quantity of the decreed water right, his decision must be supported by clear and convincing evidence in order to adequately protect the senior right. *A&B Irr. Dist.*, 153 Idaho at 524, 284 P.3d at 249.
>
> If the Director determined the needs of the Coalition based on historic use data associated with an average year, any decision to administer to less than the full quantity of the Coalition's decreed rights based on that data would not adequately protect its senior rights. Using data associated with an average year by its very definition would result in an under-determination of the needs of the Coalition half of the time. The Director simply cannot rely upon such data if he is going to administer to less than the decreed quantity of the Coalitions' water rights as his analysis would not be supported by clear and convincing evidence.

Memorandum Decision and Order, CV-2010-382, pp.33-34 (September 26, 2014).

Here, the Director determined there were two years that satisfied all necessary criteria for a baseline year: 2018 and 2020. However, for the reasons set forth in the Sixth Methodology Order, the Director selected 2018:

Years 2018 and 2020 satisfy all the BLY selection criteria discussed above. Each

> of these years had (1) total diversions above the average diversions for the years 2000-2021, (2) total growing degree days above the average for the years 1992-2021, and (3) reference ET values above the average for the years 1992-2021. The years 2018 and 2020 also had total precipitation values below the average precipitation for the years 1992- 2021 and were not water supply limited years. The Department has reviewed the SWC's diversion data for the 2020 irrigation season. The Department finds that 2020 ranks as the second-highest year of total diversions for the SWC and is more than one standard deviation above the average for the years 2000-2021. In comparison, 2018 ranks as the fourth-highest year of total diversions for the SWC and is less than one standard deviation above the average for the years 2000-2021. Choosing a BLY with above average diversions but within one standard deviation, ensures that a conservative year is selected that protects the senior while excluding extreme years from consideration. The Director concludes that total diversions for 2018 adequately protect senior water rights when predicting the demand shortfall at the start of the irrigation season and selects 2018 as the BLY.

R., 1016. The Director explained that in 2018 the Coalition's "diversion volume was above average at 104%." R., 1080. And, that "a safety factor of 4% is reasonable." R., 1080. As argued in the 382 Case, the Petitioners here argue that the Director should adopt a baseline year closer to 100% of average. For the reasons set forth herein, the Court finds the Director is (1) within his discretion in selecting 2018 as the baseline year, (2) that his decision is consistent with this Court's holding in the 382 Case, and (3) that his decision is supported by clear and convincing evidence. R., 1079-1082. Therefore, the Director's determination to use 2018 as the baseline year is affirmed. For the reasons set forth in this section and the preceding section, the Court also finds the Petitioners' argument that the Department's safety factors aggressively overpredict demand shortfall to be unavailing.

C. The Director's determination regarding the Twin Falls Canal Company's irrigated acres is affirmed.

The Petitioners assert the Director abused his discretion and acted contrary to law in determining the Twin Falls Canal Company's irrigation acreage. The Court entered a Memorandum Decision and Order in Ada County Case No. CV01-23-13173 contemporaneously herewith. In that Order, the Court found the Director's determination regarding the Twin Falls Canal Company's irrigated acres must be affirmed. It also found the Director's determination regarding supplemental groundwater must be affirmed. The Court incorporates its analysis on those issues herein.

D. The Director acted contrary to law by including acres associated with enlargement water rights in determining A&B Irrigation District's irrigated acres under the methodology order.

The Sixth Methodology Order attributes 15,924 acres to A&B Irrigation District for 2023. R., 1014. The Petitioners assert that evidence presented at the hearing demonstrates that A&B Irrigation District's irrigated acreage improperly included acres associated with its enlargement water rights that bear junior priority dates. At the hearing, Matt Anders testified to this issue as follows:

> Q. Okay. I'll just represent that enlargement rights have an effective priority date of 1994, which is junior to probably all of the ground water rights that are at risk of curtailment under the methodology order. And so my next question is, has there been discussion within the Department staff as to whether the methodology should be run based on the 14,637 acre figure instead of the 15,924 acre figure?
>
> A. No, we haven't had any discussions about that.
>
> Q. Okay. If, as I represented, the enlargement rights are junior to the ground water rights of IGWA and others, do you agree that it would probably be important or appropriate to make that adjustment, and run the methodology based on the 14,637 acre figure?
>
> A. I don't know. I would have to investigate it further.

Tr. Vol. I, p. 205. The Department and the Coalition do not dispute this issue. To the extent the Sixth Methodology Order includes irrigated acreage associated with A&B Irrigation District's enlargement water rights that bear junior priority dates, it violates principles of first in time first in right and is therefore contrary to law.

The Court does not, however, order remand on this issue. The Director did not predict any material injury to A&B Irrigation District in 2023 and did not curtail any junior ground water rights for purposes of predicted injury to A&B Irrigation District in 2023. Therefore, the Court finds that although the Director acted contrary to law, there is no prejudice to any of the Petitioners' substantial rights. It follows his Post-Hearing Order must be affirmed. I.C. § 67-5279(4).

E. The Director's determination that Coalition members operate efficiently within the limits of their delivery system is affirmed.

The Petitioners assert the Director erred in determining that the Twin Falls Canal Company operates efficiently. The Court entered a Memorandum Decision and Order in Ada County Case No. CV01-23-13173 contemporaneously herewith. In that Order, the Court found the Director's determination that Coalition members operate efficiently within the limits of their delivery system must be affirmed. For the reasons set forth in the Court's Order, which reasons are incorporated herein, the Petitioners' argument on this issue is unavailing.

F. The Director's determination to switch to transient-state simulation of ESPAM is affirmed.

The Sixth Methodology Order uses transient-state simulations of the Eastern Snake Plan Aquifer Model ("ESPAM") when determining curtailment priority date. R., 1036, 1041. The ESPAM "simulates the effects of the reduction in aquifer stress and calculates predicted increases in aquifer discharge to the Snake River resulting from the curtailment of ground water pumping from the ESPA." R., 29-30. ESPAM simulations can be either steady-state or transient. R., 30. "Steady-State simulations are appropriate for evaluating the average annual impact of aquifer stresses that have been, or will be, applied for decades." R., 31. "Transient simulations are necessary to evaluate the impacts of aquifer stresses applied for short periods of time." R., 31.

Prior to his adoption of the Fifth and Sixth Methodology Orders, the Director used a steady-state simulation when determining the curtailment priority date. However, when he issued the Fifth Methodology Order, the Director determined that the use of steady-state simulation was no longer supportable:

> In previous years, the Director used steady-state modeling when determining the curtailment priority date. The Department now has multiple years of experience with the methodology to better understand the impact of applying steady-state modeling versus transient modeling to determine a curtailment priority date that would supply adequate water to the senior water right holders. While the first version of the ESPA groundwater flow model was not calibrated at a time-scale that supported in-season transient modeling, the current version was calibrated using monthly stress periods and half-month time steps, a refinement that facilitates in-season transient modeling for calculating the response to curtailment of groundwater use. As part of the Director's ongoing obligation to evaluate the

> methodology, the Director must evaluate whether the use of steady-state continues to be supportable.
>
> . . .
>
> As described in Finding of Fact 87, curtailment to a priority date calculated by the steady state analysis method used in the Fourth Methodology Order will only offset 9% to 15% of the predicted IDS. In contrast, curtailment to a priority date calculated with a transient simulation of a single season curtailment will offset the *full* predicted IDS unless the shortfall exceeds the accruals to the near Blackfoot to Minidoka reach by the end of the irrigation season with curtailment of all junior ground water rights. This methodology order depends on an annual evaluation of material injury and should also employ curtailment and or mitigation that supplies replacement water at the time and place required by the senior-priority water right in a quantity sufficient to offset the depletive effect of ground water withdrawal and to assure protection of the senior-priority right. Curtailment dates, periodically determined at time of recalculating in-season demand shortfall (IDS), should be calculated by a transient model simulation that will return the full quantity of water to the senior priority rights at the time and place required.

R., 35-36. As a result, the Director determined that transient simulations are necessary to simulate the short-term curtailments prescribed in the methodology:

> This methodology order depends on an annual evaluation of material injury and should also employ curtailment and or mitigation that supplies replacement water at the time and place required by the senior-priority water right in a quantity sufficient to offset the shortfall resulting from ground water withdrawal and to assure protection of the senior-priority right. Curtailment dates, periodically determined at time of recalculating in season demand shortfall (IDS), should be calculated by a transient model simulation that will return the full quantity of water to the senior priority rights at the time and place required, or the maximum quantity that can be returned by curtailing all junior water rights.

R., 1091.

The Petitioners assert the Director's adoption of transient model simulations is clearly erroneous. The Court disagrees. The Director concluded that using steady-state simulation does not provide water to senior water rights at the time and place needed. The Director's finding is supported by substantial evidence in the record. The record establishes that transient simulation "predicts timing and magnitude of response to time-varying changes in aquifer stress resulting from short-term curtailment of ground use to address a predicted shortfall." R., 1430. It shows that "less than 15% of the steady state impacts of a single-season curtailment are realized at the river reach within six months of curtailment" under steady-state. R., 1429. Jennifer Sukow, who is a technical engineer for the Department, testified to this point as follows:

Q. Good morning, Ms. Sukow. My name is John Simpson. I represent A & B Irrigation District, et al., with Mr. Thompson. I just have a couple follow up questions for you.

If you could turn to Exhibit 318 from which you testified to before. And I believe that's your slide presentation from November. And, Jennifer, if you could just look at pages 21 and 22. I believe those are your conclusions; is that correct?

A. That's correct.

Q. Those are your conclusions from the modeling you produced as a part of that presentation in November, correct?

A. Correct.

Q. As you sit here today, are those still your conclusions that you would represent to the Hearing Officer and to the parties in terms of the modeling exercise you completed in the comparison between steady state and transient?

A. Yes.

Q. Okay. And then if you would look at page 6 of that presentation. And that's the graph that you testified to earlier regarding examination by Ms. McHugh. Do you see the paragraphs in the middle of the graph regarding the "Less than 15 percent of the steady state impacts of a single-season curtailment are realized?" Do you see that language in that graph, that insert?

A. Yes.

Q. Okay. And that's your conclusion; correct?

A. Yes, that's –

Q. Yes.

A. – date from the analyses.

Q. Right. So that would support your conclusions on page 21 and 22, that the basis for why steady state analysis is not appropriate for short-term river reach gains; is that correct?

A. Well, I think beyond that, because the steady state simulations do not simulate the short-term curtailments that are prescribed in the Surface Water Coalition methodology.

Q. Okay.

A. But the difference in volume is just the result of doing something that does simulate the short-term curtailment.

Q. Right. So if you utilize the steady state model run, you are just not going to realize the amount of water into the reach to mitigate for the identified injury in the Fifth Methodology As-Applied Order; correct?

A. Not within this irrigation season.

Tr., Vol. 1, pp.96-98.

The testimony of David Colvin, an expert for the Coalition supports this conclusion:

Q. And do you want to describe your general conclusions or just refer to those in the report?

. . .

A. Opinion No. 2 was that the steady state use of ESPAM for curtailment analysis in particular is inappropriate due to the methodology's requirement for in-season benefits from curtailment. And so the in-season timing component renders a steady state model ineffective and inappropriate for modeling curtailment benefits.

Tr., Vo. 1, p.108.[1] Therefore, the Court finds the Director's decision to adopt a transient-state simulation is supported by law and substantial evidence in the record. It follows the Director's determination must be affirmed.

G. The proceeding before the Director satisfied due process.

The Petitioners raise due process concerns regarding the process utilized by the Director in issuing the Post-Hearing Order. The Court entered a Memorandum Decision and Order in Ada County Case No. CV01-23-13173 contemporaneously herewith. In that Order, the Court found the proceeding before the Director satisfied due process. Further, that the Director's Scheduling Order and Order Limited Discovery must be affirmed. For the reasons set forth in the Court's Order, which reasons are incorporated herein, the Petitioners' due process concerns are unavailing.

[1] Two of Petitioners own experts admitted that if steady state is used in the modeling that the amount of the shortfall determined by the Director's order would not be supplied during the irrigation season. Tr., Vol. II, pp. 203-204; Tr. Vol. III pp. 91-92.

H. Evidentiary standard.

The Petitioners argue that challenges to those metrics in the methodology order that are not elements of senior water right are subject to a preponderance of the evidence standard. The Court disagrees. The senior is entitled to a presumption under Idaho law that he is entitled to his decreed water right. *AFRD#2*, 143 Idaho at 878, 154 P.3d at 449. If the Director is going to administer to less than the full quantity of the decreed water right, his decision must be supported by clear and convincing evidence in order to adequately protect the senior right. *A&B Irr. Dist.*, 153 Idaho at 524, 284 P.3d at 249.

Through the framework set forth in the methodology order, the Director determines whether the Coalition's water rights are suffering material injury and whether that injury will be addressed via mitigation and/or curtailment.[2] In making that determination the Director uses certain metrics set forth in the methodology order, including the use of a baseline year. The metrics selected in the methodology order are conservatively selected so that they have a built-in safety margin to account for some uncertainty that is inherent with predictions. This is done to ensure no injury to senior rights. If a junior water right holder believes there are better metric figures that also provide for some margin for uncertainty, then that junior user needs to show that by presenting clear and convincing evidence to the Director to ensure no injury to senior rights. Unlike a surface to surface call, there is no remedy to senior water rights should the predictions turn out to be in error to the detriment of senior rights.

I. Substantial rights.

The Petitioners argue their substantial rights were prejudiced by the Director's Post-Hearing Order. For the reasons set forth herein, the Petitioners have failed to establish the Director acted contrary to law except for the issue of enlargement acres. Although the Director acted contrary to law in including A&B Irrigation District's enlargement acres when calculating its irrigated acreage, that error did not result in prejudice to any of the Petitioners' substantial rights for the reasons set forth herein. Therefore, the Petitioners have failed to show their substantial rights were prejudiced. It follows the Director's Post-Hearing Order must be affirmed.

---

[2] When applying that framework, the Director may determine that a senior water right holder is entitled to less than the full quantity of his decreed right, by administering to "reasonable in-season demand."

IV.

ORDER

Therefore, BASED ON THE FOREGOING, it is ordered the Director's Post-Hearing Order is hereby affirmed.

Dated May 31, 2024

ERIC J. WILDMAN
District Judge

CERTIFICATE OF SERVICE

I certify that on this day I served a copy of the attached to:

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Trent Tripple
Clerk of the Court

By Erik Rowell
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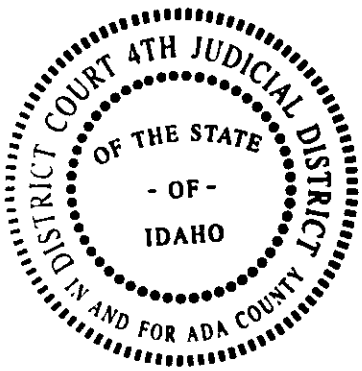

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BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY OR FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY	Docket Nos. CM-DC-2010-001 **JOINT NOTICE OF COMPLIANCE**

Magic Valley Ground Water District and North Snake Ground Water District ("MV," "NS," or collectively the "Districts"), through undersigned counsel and in in response to the Director's *Final Order Curtailing Ground Water Rights Junior to March 31, 1954* (May 30, 2024) ("Curtailment Order"), submit the following 2024 mitigation proposal, seeking Director approval of the same.

I.
BACKGROUND

On May 29, 2024, MV and NS filed their *Notice of Compliance; Request for Clarification* ("Clarification Request") in response to the Director's *Amended Order Determining Deficiency in Notices of Secured Water* (May 28, 2024) ("Amended Deficiency Order"). The Districts proposed

mitigating their proportionate share of the April 2024-predicted IDS of 74,100 AF attributable to the Twin Falls Canal Company. The Districts' proposal was rooted in IGWA's 2009 Storage Water Mitigation Plan (Docket CM-MP-2009-007) ("2009 Plan").

The Director's Curtailment Order confirmed that the 2009 Plan was still viable as a mitigation vehicle for the 2024 irrigation season. But, the Director rejected the Districts' proportionate share-based proposal based on 2009 Plan language suggesting that those seeking safe harbor from curtailment under the plan are required to produce sufficient evidence of the ability to provide the ***full*** 74,100 AF IDS on behalf of all ground water users, rather than only proportionate shares of the 74,100 IDS directly attributable to the districts seeking shelter under the same. Curtailment Order, pp. 7-8. Absent demonstration of the Districts' ability to provide the entire 74,100 AF predicted IDS, the Districts would be subject to curtailment unless they agreed to mitigate under IGWA's 2016 Mitigation Plan (Docket CM-MP-2016-001) ("2016 Plan"). *Id*.; *see also*, *Order Denying IGWA's Second Petition for Reconsideration; Order Determining Deficiency in IGWA's May 17, 2024 Storage Water Leases*, p. 8.

II.
2024 COMPLIANCE PROPOSAL

In response to the Director's Curtailment Order, the Districts provide notice that they intend to comply with the 2016 Plan for the 2024 irrigation season by:

(a) Providing their historic proportionate shares of the 50kAF storage water delivery obligation. By district, those shares equal 8,000 AF (MV) and 6,410 AF (NS), totaling 14,410 AF to be delivered within 21 days of the day of allocation. These historical proportionate shares are illustrated and discussed in the *Declaration of Timothy P. Deeg in Support of AFA's Motion for*

Reconsideration of Order Determining Deficiency in Notices of Secured Water (May 17, 2024) and the SWID Letter Agreement attached to the Districts' Clarification Request[1]; and

(b) Meeting their proportionate shares of the 2024 irrigation season conservation obligation required under the 2016 Plan, as further modified by the Director's *Final Order Specifying Additional Actions* (May 3, 2024) ("Additional Actions Order"). The Director's Additional Actions Order increased the 2016 Plan conservation obligation from 240,000 AF up to 252,000 AF for the 2024 irrigation season. The Districts' respective percentage-based shares of the overall conservation obligation equal 15.8% for MV, and 12.4% for NS under steady-state application of the ESPAM 2.2 model. These conservation obligation percentages are the same as calculated by then-Director Spackman in his *Amended Final Order Regarding Compliance With Approved Mitigation Plan* (Apr. 24, 2023) ("Compliance Order") at Table 2.[2]

---

[1] Though the Districts are not required to provide proof demonstrating their ability to supply the aggregate 14,410 AF of storage water at this time, they nonetheless have already done so within their prior Clarification Request (producing and relying upon the October 27, 2020 *Multi-Year Tribal Lease Agreement* attached thereto).

[2] As noted in the Districts' *Joint Notice of Compliance; 2024 Irrigation Season Mitigation Commitments* (May 2, 2024), the Districts do not admit or concede that steady-state application of the ESPAM model is the correct application of the model, nor determinative of their mitigation obligations going forward under either the 2009 Plan or the 2016 Plan. *See id*., p. 3 (incorporated by this reference herein). To the contrary, the Director has shifted to transient model runs to both predict injury (IDS) and determine the level (priority) of curtailment necessary to mitigate for the injury predicted. The Director's shift to transient modeling undermines (if not entirely negates) the credibility and applicability of the steady-state-based "Re-proportioning" percentages contained in Table 2 of the April 2023 Compliance Order.

Transient runs of the model demonstrate that MV and NS's impacts upon (shares of) the April 2024-predicted IDS are negligible (currently 25 AF for MV and < 1.0 AF for NS). Consequently, the Districts reserve the right to seek reallocation of their shares of injury and mitigation obligation going forward. However, the Districts are willing to mitigate under steady-state application of the ESPAM model for 2024 out of recognition of the effects of legacy pumping, and in a good faith effort to do more than their fair share to encourage additional review and modification of the 2016 Plan prior to the 2025 irrigation season.

III.
CONCLUSION

For the foregoing, the Districts request that the Director: (a) find them in compliance with the 2016 Plan, as well as the Additional Actions Order; and (b) confirm their (and their patrons') safe harbor from curtailment for the 2024 irrigation season by operation of the Director's Curtailment Order.

DATED this 5th day of June, 2024.

SAWTOOTH LAW OFFICES, PLLC

By _____
Andrew J. Waldera
Attorneys for Magic Valley Ground Water District and North Snake Ground Water District

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 5th day of June, 2024, I caused a true and correct copy of the foregoing **JOINT NOTICE OF COMPLIANCE** to be served by the method indicated below, and addressed to the following:

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BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY OR FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY	Docket No. CM-DC-2010-001 CM-MP-2016-001 **ORDER APPROVING 2024 STIPULATION AS COMPLIANCE WITH APPROVED MITIGATION PLAN**

BACKGROUND

In 2015, the Surface Water Coalition ("SWC")[1] and certain members of the Idaho Ground Water Appropriators, Inc. ("IGWA")[2] entered into the *Settlement Agreement Entered into June 30, 2015 Between Participating Members of the Surface Water Coalition and Participating Members of the Idaho Ground Water Appropriators, Inc.* ("*2015 Settlement Agreement*").

The parties amended and clarified the *2015 Settlement Agreement* by executing the *Addendum to Settlement Agreement* ("*First Addendum*"), the *Agreement* dated October 7, 2015 ("*A&B-IGWA Agreement*"), and the *Second Addendum to Settlement Agreement* ("*Second Addendum*"). The SWC and IGWA submitted these documents to the Director of the Idaho Department of Water Resources ("Department") as a stipulated mitigation plan in response to the SWC's delivery call (Docket No. CM-DC-2010-001).

The Director approved the mitigation plan and its amendment in his *Final Order Approving Stipulated Mitigation Plan* dated May 2, 2016, and the *Final Order Approving Amendment to Stipulated Mitigation Plan* dated May 9, 2017.

Therefore, six documents are collectively referred to as the *2016 Mitigation Plan* (Docket No CM-MP-2016-001):

1. The *2015 Settlement Agreement*
2. The *First Addendum*
3. The *A&B-IGWA Agreement*
4. The *Second Addendum*
5. The *Order Approving Mitigation Plan*
6. The *Order Approving Amendment to Mitigation Plan*

[1] The SWC is comprised of A&B Irrigation District, American Falls Reservoir District #2, Burley Irrigation District, Milner Irrigation District, Minidoka Irrigation District, North Side Canal Company, and Twin Falls Canal Company.

[2] For purposes of this order, references to IGWA include only the following eight ground water districts, which are the signatories to the *2016 Mitigation Plan*: American Falls-Aberdeen Ground Water District, Bingham Ground Water District, Bonneville-Jefferson Ground Water District, Carey Valley Ground Water District, Henry's Fork Ground Water District Jefferson Clark Ground Water District, Madison Ground Water District, Magic Valley Ground Water District, and North Snake Ground Water District.

In the *2015 Settlement Agreement*, the SWC and IGWA agreed that "[t]otal ground water diversion shall be reduced by 240,000 ac-ft annually." *2015 Settlement Agreement* § 3.a.i. This is commonly referred to as the "conservation obligation" or the "reduction obligation." The SWC and IGWA also agreed that IGWA would annually deliver storage water to the SWC: "IGWA will provide 50,000 ac-ft of storage water through private lease(s) of water from the Upper Snake Reservoir system, delivered to SWC 21 days after the date of allocation, for use to the extent needed to meet irrigation requirements." *Id.* § 3.b.i. Finally, the SWC and IGWA agreed "[n]o ground water user participating in this Agreement will be subject to a delivery call by the SWC members as long as the provisions of the Agreement are being implemented." *Id.* § 5.

On July 19, 2023, the Department issued its *Sixth Final Order Regarding Methodology for Determining Material Injury to Reasonable In Season Demand and Reasonable Carryover* ("*Methodology Order*"). The *Methodology Order* established nine steps for determining material injury to members of the SWC.

On April 18, 2024, the Director issued the *Final Order Regarding April 2024 Forecast Supply (Methodology Steps 1-3)* ("*As-Applied Order*"), which applied steps 1, 2, and 3 of the *Methodology Order*. The Director predicted an April in-season demand shortfall ("IDS") of 74,100 acre-feet. *As-Applied Order*, at 3, No. CM-DC-2010-001. The Director ordered that, by May 2, 2024, ground water users with consumptive water rights "bearing priority dates junior to March 31, 1954, within the Eastern Snake Plain Aquifer area of common ground water supply shall establish, to the satisfaction of the Director, that they can mitigate for their proportionate share of the predicted April IDS of 74,100 acre-feet in accordance with an approved mitigation plan." *Id.* at 6. The Director also ordered that, if such a junior ground water user cannot establish that they can mitigate for their proportionate share of the predicted IDS "in accordance with an approved mitigation plan, the Director will issue an order curtailing the junior-priority ground water user." *Id.*

Historically, IGWA, acting on behalf of its member ground water districts, filed a notice of mitigation with the Department to establish that the ground water districts can mitigate for their proportionate share of the predicted IDS in accordance with an approved mitigation plan. However, this year, individual ground water districts submitted their own mitigation notices. Between May 2 and May 6, 2024, Bonneville-Jefferson, Jefferson-Clark, Magic Valley together with North Snake, Henry's Fork together with Madison, Bingham, Carey Valley, and American Falls-Aberdeen ground water districts (collectively, the "Districts") filed mitigation notices with the Department.

On May 10, 2024, the Director issued an *Order Determining Deficiency in Notices of Secured Water* ("*Order Determining Deficiency*"). In the *Order Determining Deficiency*, the Director found that the mitigation notices filed by the Districts "are deficient and fail to demonstrate that they are operating in accordance with an approved mitigation plan." *Order Determining Deficiency*, at 11, No. CM-DC-2010-001.

Accordingly, the Director gave the Districts until May 17, 2024, "to submit additional notice that demonstrates to the satisfaction of the [D]irector that they have secured storage water in compliance with either the *2009 Storage Water [Mitigation] Plan* or the *2016 Settlement Mitigation Plan*." *Id.*

On May 17, 2024, IGWA submitted *IGWA's Notice of Storage Water Leases* ("*IGWA's Notice*") for the purpose of demonstrating that adequate storage water leases were secured to mitigate material injury caused by ground water use within Bonneville-Jefferson, Jefferson-Clark, Magic Valley, North Snake, Henry's Fork, Madison, Bingham, and Carey Valley ground water districts, in compliance with the *2009 Storage Water Mitigation Plan*.

The same day, American Falls-Aberdeen requested the Director reconsider the *Order Determining Deficiency* to remove any obligation on behalf of the ground water districts to provide proof that 50,000 acre-feet of storage water has been secured under the *2016 Mitigation Plan*. *Mot. for Recons. of Order Determining Deficiency in Notices of Secured Water*, at 5–7, No. CM-DC-2010-001.

The Director ultimately agreed with American Falls-Aberdeen that under the plain language of the *2016 Mitigation Plan* it was complying with the requirements of the plan. Consequently, on May 28, 2024, in the *Amended Order Determining Deficiency in Notices of Secured Water* ("*Amended Order Determining Deficiency*") the Director concluded: "At this time, American Falls-Aberdeen is the only ground water district that has told the Director that it continues to uphold and seek protection under the *2016 Settlement Mitigation Plan* and has demonstrated that it continues to comply with all elements of the plan." *Amended Order Determining Deficiency*, at 10–11, No. CM-DC-2010-001.

In contrast, when the Director evaluated *IGWA's Notice*, the Director found it to be deficient "because it fail[ed] to demonstrate that Bonneville-Jefferson, Jefferson-Clark, Magic Valley, North Snake, Henry's Fork, Madison, Bingham, and Carey Valley ground water districts are operating in accordance with an approved mitigation plan." *Order Denying IGWA's Second Pet. for Recons.; Order Determining Deficiency in IGWA's May 17, 2024 Notice of Storage Water Leases*, at 8, No. CM-DC-2010-001. Therefore, the Director ordered:

> Any ground water district that previously sought protection under the *2009 Storage Water Mitigation Plan* that now wishes to seek protection under the *2016 Settlement Mitigation Plan* has until Wednesday, May 29, 2024, at 5:00 p.m. (MT) to inform the Director of their intention to do so and to demonstrate they are in compliance with the *2016 Settlement Mitigation Plan*.

Id.

Only Henry's Fork and Madison ground water districts filed satisfactory notice. Therefore, the Director concluded in the *Final Order Curtailing Ground Water Rights Junior to March 31, 1954* ("*Curtailment Order*"), issued May 30, 2024, that American Falls-Aberdeen, Henry's Fork, and Madison ground water districts demonstrated that they were operating in accordance with the *2016 Mitigation Plan* so junior ground water users who were members of those districts would not be subject to curtailment during the 2024 irrigation season. *Curtailment Order*, at 7, No. CM-DC-2010-001.

As a result of their deficient notices, the Director concluded that Magic Valley, North Snake, Bingham, Bonneville-Jefferson, Jefferson Clark, and Carey Valley ground water districts were not operating in accordance with a Department approved mitigation plan and would be subject to curtailment during the 2024 irrigation season. *Curtailment Order*, at 7–8.

The *Curtailment Order* required ground water users within the Eastern Snake Plain Aquifer area of common ground water supply, whose rights have a priority date after March 31, 1954, and who have not already established to the satisfaction of the Director that they are operating in accordance with a Department-approved mitigation plan, to cease diverting ground water under those rights. *Curtailment Order*, at 9.

On June 6, 2024, the Director issued the *Order Amending Curtailment List* ("*Amended Curtailment Order*"), which removed all water rights of members of Magic Valley and North Snake from the curtailment list as they established to the satisfaction of the Director that they

were operating in accordance with a Department-approved mitigation plan. *Amended Curtailment Order*, at 1, No. CM-DC-2010-001.

On June 19, 2024, the SWC and IGWA submitted a *Joint Motion for Order Approving 2024 Stipulation*, requesting that the Director issue an order accepting the *2024 Stipulation*, attached as Exhibit A to the motion, as compliance with the *2016 Mitigation Plan* for the 2024 irrigation season. *Joint Motion for Order Approving 2024 Stipulation*, at 2.[3]

Concurrently, the Director received a letter from Jeff Raybould, Chairman of the Idaho Water Resource Board ("IWRB"), confirming IWRB's commitment to provide 5,000 acre-feet of storage water pursuant to the terms of the *2024 Stipulation*.

ANALYSIS

In a delivery call under the Department's Rules for Conjunctive Management of Surface and Ground Water Resources ("CM Rules"), out-of-priority diversion of water by junior priority ground water users is allowable only "pursuant to a mitigation plan that has been approved by the Director." IDAPA 37.03.11.040.01.b. Junior-priority ground water users "covered by an approved and effectively operating mitigation plan" are protected from curtailment under CM Rule 42. IDAPA 37.03.11.042.02. In other words, only those junior ground water users complying with an approved mitigation plan are protected from a curtailment order.

The *2016 Mitigation Plan* obligates IGWA to reduce its total consumptive use volume or recharge the equivalent of 240,000 ac-ft every year and to deliver 50,000 ac-ft of storage water annually. Each IGWA member is annually responsible for their proportionate share of that total. But the Mitigation Plan is structured in such a way that the analysis of IGWA's mitigation efforts from one year are delayed until the following year. These delays are inherent in the Steering Committee process the parties agreed to in the *Second Addendum*.

Because the parties stipulated to the *2016 Mitigation Plan*, the Director allowed significant latitude to the agreeing parties in accepting the provisions of the mitigation plan. Despite the parties' stipulated agreement to the terms of the *2016 Mitigation Plan*, following the drought years of 2021 and 2022, much disagreement and litigation arose between the parties regarding the interpretation, implementation, and enforceability of the plan. *See 2024 Stipulation*, at 1.

In administrative proceedings conducted pursuant to the Steering Committee process, the Director concluded that certain IGWA members failed to satisfy their proportionate mitigation obligations in 2021 and 2022, respectively, and were therefore not operating in accordance with a Department-approved mitigation plan. *Amended Final Order Regarding Compliance with Approved Mitigation Plan* ("*2021 Compliance Order*"), at 16-17, No. CM-MP-2016-001; *Final Order Regarding IGWA's 2022 Mitigation Plan Compliance* ("*2022 Compliance Order*"), at 8, No. CM-MP-2016-001. To resolve the deficiency in 2021, the SWC and IGWA entered into a *Remedy Agreement*, which the Director approved as an appropriate contingency for

[3] The *2024 Stipulation* is entered into and executed by: Idaho Ground Water Appropriators, Inc., North Snake Ground Water District, Magic Valley Ground Water District, Carey Valley Ground Water District, Aberdeen-American Falls Ground Water District, Bingham Ground Water District, Bonneville-Jefferson Ground Water District, Jefferson-Clark Ground Water District, Madison Ground Water District, and Henry's Fork Ground Water District (collectively, the "Groundwater Users"), and Twin Falls Canal Company, North Side Canal Company, American Falls Reservoir District No. 2, Milner Irrigation District, Burley Irrigation District, A&B Irrigation District, and Minidoka Irrigation District (collectively, the "SWC"). *2024 Stipulation*, at 1.

noncompliance. *2021 Compliance Order*, at 17-20. Administrative proceedings addressing the 2022 noncompliance are ongoing before an independent hearing officer.

Rather than continue to litigate their disagreements, the SWC and IGWA have entered into the *2024 Stipulation*, which "prescribe[es] the mutually agreeable terms by which the Groundwater Users will comply with the 2016 [Mitigation] Plan for the 2024 irrigation season." *Joint Motion for Order Approving 2024 Stipulation*, at 3.

By submitting the *2024 Stipulation* to the Department, the parties request the Director "issue an order accepting the *2024 Stipulation* as compliance with the 2016 [Mitigation] Plan for the 2024 irrigation season, and issue an order amending the curtailment list to protect all patrons of the Groundwater Users from curtailment during the 2024 irrigation season under the terms provided in the stipulation." *Id.*

For the ground water districts to be protected from curtailment by operating under the *2016 Mitigation Plan*, they must demonstrate that they continue to comply with all elements of the plan. The two main elements of the plan are the conservation obligation (including curing the 2022 deficiency and fulfilling the 2024 obligation), and the storage water delivery obligation.

A. The 2024 Conservation Obligation

As stated above, the *2016 Mitigation Plan* requires IGWA members to reduce their proportionate share of total diversions or recharge the equivalent of 240,000 ac-ft every year. To demonstrate their continued commitment to this element of the plan for the 2024 irrigation season, the ground water districts agree in the *2024 Stipulation* that:

> [T]he ground water districts will collectively conserve 240,000 acre-feet of groundwater as compared to their average annual diversions during the time period 2010-2014. A 205,000 acre-feet portion is allocated among the ground water districts as it has been historically set forth in Appendix A attached hereto. The remaining 35,000 acre-feet portion is allocated based on steady-state impacts to the Near Blackfoot to Neely reach of the Snake River as set forth in Appendix A. Each district shall be independently responsible to satisfy its respective groundwater conservation obligations as set forth in Appendix A.

2024 Stipulation, at 2 ¶ 5.

Although the *2016 Mitigation Plan* requires 240,000 acre-feet of annual conservation, when the ground water districts failed to achieve the 2023 sentinel well benchmark the SWC requested that the Director specify the additional actions the ground water districts must take as part of ongoing adaptive management requirements. In response, the Director issued the *Final Order Specifying Additional Actions* ("*Additional Actions Order*") on May 3, 2024. In the *Additional Actions Order*, the Director concluded that:

> [I]t is appropriate that the Districts increase their proportionate share of the total annual ground water use reduction of 240,000 acre-feet by an additional 5% (12,000 acre-feet) during the 2024 irrigation season and then increase their proportionate share of the total annual ground water reduction of 240,000 acre-feet by an additional 12,000 acre-feet each year thereafter until the 2023 benchmark is achieved or the Steering Committee fulfills its obligations set forth in § 2.c.ii of the *Second Addendum* and recommends alternative actions.

Additional Actions Order, at 5. Subsequently, IGWA filed a petition for reconsideration and requested a hearing on the *Additional Actions Order*. In the *2024 Stipulation*, the parties express an intent to stay all litigation between them until October 1, 2024 "to enable the parties to focus their attention on cooperative negotiations." *2024 Stipulation*, at 2–3 ¶ 9. The stipulated stay includes Docket No. CM-MP-2016-001, which contains the *Additional Actions Order*.

To further the parties' goals to "work cooperatively and collaboratively to determine groundwater management and mitigation measures for 2025 and future years that resolve past disagreements and are mutually beneficial to the parties" and to encourage the parties to negotiate their own alternative additional actions, the Director hereby stays the *Additional Actions Order* until October 1, 2024, pursuant to Department Rule of Procedure 780. *2024 Stipulation*, at 1 ¶ F; IDAPA 37.01.01.780.

Accordingly, the Director concludes that the ground water districts' commitment to conserving 240,000 acre-feet made in the *2024 Stipulation* is consistent with the conservation obligation required in the *2016 Mitigation Plan*. As compliance with this requirement is measured after the irrigation season is complete, at this time the Director is satisfied that the ground water districts' commitment to the 240,000 acre-foot obligation demonstrates their compliance with this element of the plan for 2024.

B. The 2022 Breach of the Conservation Obligation

In August of 2023, the Director found that certain ground water districts did not satisfy their proportionate share of IGWA's conservation obligation in 2022 and were therefore not in compliance with the *2016 Mitigation Plan* in 2022. *See 2022 Compliance Order*. Administrative proceedings followed and were ongoing prior to the Department's receipt of the *2024 Stipulation*. In the *2024 Stipulation*, the parties resolve the deficient performance in 2022 as follows:

> In consideration of reaching an agreement for 2024 mitigation and accommodating continued negotiations, and recognizing conservation actions taken in 2023, SWC forgives any remaining obligations for the outstanding 2022 breach previously found by IDWR for Bingham Ground Water District, Bonneville-Jefferson Ground Water District, and Jefferson-Clark Ground Water District. This provision resolves issue 4 identified in the *Notice of Hearing* issued December 29, 2023, in IDWR Docket No. CM-MP-2016-001….

2024 Stipulation, at 2 ¶ 7. Because the SWC and IGWA agree to forgiveness of the 2022 deficiency in exchange for reaching an agreement in 2024, accommodating continuing negotiations, and recognizing conservation performed in 2023 well in excess of the 240,000-acre-foot requirement, the Director accepts the stipulated forgiveness as compliance with the *2016 Mitigation Plan* for the 2024 season. As a result, the Director concludes that Bingham Ground Water District, Bonneville-Jefferson Ground Water District, and Jefferson-Clark Ground Water District are no longer in breach of the *2016 Mitigation Plan* for the 2024 season and will be removed from the curtailment list.

While the Director accepts that the stipulated forgiveness is sufficient to consider the ground water districts in compliance with the *2016 Mitigation Plan* for the 2024 season such that they can be removed from the curtailment list, Hearing Officer Roger S. Burdick is currently presiding over a proceeding that involves issues related to the 2022 breach. The outstanding issues in that proceeding are as follows:

> 1) Did the Director error by not issuing an order specifying the actions needed to cure the 2022 breach of the 2016 Mitigation Plan by certain ground water districts?
>
> 2) Did the Director error by not immediately issuing an order curtailing ground water districts that breached the 2016 Mitigation Plan in 2022?
>
> 3) Can the 2009 mitigation plan be used to cure the ground water districts' 2022 breach of the 2016 Mitigation Plan?
>
> 4) What action must be taken by the ground water districts to cure their 2022 breach of the 2016 Mitigation Plan?

Order Authorizing Discovery; Scheduling Order; Order Suspending IDAPA 37.01.01.354; Notice of Prehearing Conference and Hearing, at 4, No. CM-MP-2016-001. These four legal issues are still before Hearing Officer Burdick and answers to those will come from Hearing Officer Burdick. In the *2024 Stipulation*, the parties stipulate to stay Docket No. CM-MP-2016-001, which includes Hearing Officer Burdick's case. Should Hearing Officer Burdick issue a recommended order before the parties "jointly file stipulate[d] motions to stay litigation until October 1, 2024," the Director will stay review of the recommended order until October 1, 2024. *2024 Stipulation*, at 3 ¶ 9.

C. Storage Water Delivery in 2024

In addition to the conservation obligation, the *2016 Mitigation Plan* also obligates IGWA to deliver 50,000 ac-ft of storage water annually. As explained in the *Amended Order Determining Deficiency*:

> [T]he 50,000 acre-foot obligation does not come due until 21 days after the day of allocation. Furthermore, the *2016 Settlement Mitigation Plan* does not require documentation of securing the water…. In addition, the *2016 Settlement Mitigation Plan* specifically spells out a dispute resolution process if the Districts breach the 50,000 acre-foot obligation. Only if that dispute resolution process fails does the Director get involved.

Amended Order Determining Deficiency, at 9 (internal citations omitted).

In the *2024 Stipulation*, the parties agree that "[f]or the 2024 irrigation season, the Groundwater Users will deliver 65,000 acre-feet of storage water to the SWC as set forth in Appendix B. 50,000 acre-feet will be delivered in accordance with the 2016 Plan, and 15,000 acre-feet will be delivered in accordance with the 2021 Remedy Agreement." *2024 Stipulation*, at 2 ¶6.

The 50,000-acre-foot storage water delivery term is IGWA's obligation, however, Appendix B identifies that the Idaho Water Resource Board will provide 5,000 of the 50,000 acre-feet. Nevertheless, in consideration of the parties' agreement, supported by the Raybould Letter confirming IWRB's commitment to providing the 5,000 acre-feet, and in light of the *2016 Mitigation Plan*'s dispute resolution process, the Director is satisfied that the Districts are in compliance with the storage water delivery element of the *2016 Mitigation Plan* for 2024. The Director's acceptance of the IWRB delivering 5,000 acre-feet of the 50,000 storage water delivery obligation in 2024 should not be interpreted as an amendment to the requirements of the *2016 Mitigation Plan* or agreement to allowing the IWRB to carry a share of the obligation in future years.

CONCLUSION

Pursuant to section 3 of the *2024 Stipulation*, the Director approves the *2024 Stipulation* as evidence of compliance with the *2016 Mitigation Plan* for the 2024 irrigation season. Put differently, the parties' *2024 Stipulation* establishes to the satisfaction of the Director that the ground water districts are operating in accordance with a Department-approved mitigation plan for 2024. A *Seconded Order Amending Curtailment* list removing Bingham Ground Water District, Bonneville-Jefferson Ground Water District, Jefferson-Clark Ground Water District, and Carey Valley Ground Water District from the curtailment list will be issued concurrently with this Order.

ORDER

Based upon and consistent with the foregoing, IT IS HEREBY ORDERED that the SWC and IGWA's *Joint Motion for Order Approving 2024 Stipulation* is GRANTED. The Director's May 3, 2024 *Final Order Specifying Additional Actions* is STAYED until October 1, 2024.

Dated this 20th day of June 2024.

MATHEW WEAVER
Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 20th day of June 2024, the above and foregoing, was served by the method indicated below, and addressed to the following:

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Sarah Tschohl
Paralegal

EXPLANATORY INFORMATION TO ACCOMPANY A FINAL ORDER

(To be used in connection with actions when a hearing was **not** held)

(Required by Rule of Procedure 740.02)

The accompanying order is a "**Final Order**" issued by the department pursuant to section 67-5246, 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 67-5246(4), Idaho Code.

REQUEST FOR HEARING

Unless the right to a hearing before the director or the water resource board is otherwise provided by statute, any person who is aggrieved by the action of the director, and who has not previously been afforded an opportunity for a hearing on the matter shall be entitled to a hearing before the director to contest the action. The person shall file with the director, within fifteen (15) days after receipt of written notice of the action issued by the director, or receipt of actual notice, a written petition stating the grounds for contesting the action by the director and requesting a hearing. See section 42-1701A(3), Idaho Code. **Note: The request must be received by the Department within this fifteen (15) day period.**

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 of: a) the service date of the final order, b) the service date 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.

NO.
A.M. FILED P.M. 2:10

JUL 12 2024

TRENT TRIPPLE, Clerk
By ERICA WEEKLEY
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

IDAHO GROUNDWATER APPROPRIATORS, INC.,

Petitioner,

vs.

THE IDAHO DEPARTMENT OF WATER RESOURCES, and MATHEW WEAVER in his capacity as the Director of the Idaho Department of Water Resources,

Respondents,

and

AMERICAN FALLS RESERVOIR DISTRICT #2, MINIDOKA IRRIGATION DISTRICT A&B IRRIGATION DISTRICT, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, TWIN FALLS CANAL COMPANY, CITY OF POCATELLO, CITY OF BLISS, CITY OF BURLEY, CITY OF CAREY, CITY OF DECLO, CITY OF DIETRICH, CITY OF GOODING, CITY OF HAZELTON, CITY OF HEYBURN, CITY OF JEROME, CITY OF PAUL, CITY OF RICHFIELD, CITY OF RUPERT, CITY OF SHOSHONE, AND CITY OF WENDELL, BONNEVILLE-JEFFERSON GROUND WATER DISTRICT, and BINGHAM GROUNDWATER DISTRICT,

Intervenors.

Case No. CV01-23-13173

ORDER GRANTING STIPULATED MOTION FOR STAY

IN THE MATTER OF THE DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY AND FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIRS DISTRICT NO. 2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY.	))))))))))

On July 8, 2024, the parties filed a stipulated motion requesting the Court issue an order staying this proceeding until October 1, 2024, at which time the parties will either (1) stipulate to dismissal of this action, or (2) file a notice with the Court asking the Court to move forward with considering the pending petition for rehearing. The Court in an exercise of its discretion will grant the stipulated motion on the basis it is unopposed.

THEREFORE, BASED ON THE FOREGOING, THE FOLLOWING ARE HEREBY ORDERED:

1. The stipulated motion for stay is hereby granted.

2. All proceedings in the above-captioned matter are stayed until October 1, 2024.

Dated 7/12/24

ERIC J. WILDMAN
District Judge

CERTIFICATE OF SERVICE

I certify that on this day I served a copy of the attached to:

Sarah Klahn Maximilian Bricker sklahn@somachlaw.com mbricker@somachlaw.com	via Email
Candice McHugh Chris Bromley cmchugh@mchughbromley.com cbromley@mchughbromley.com	via Email
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Dylan Anderson dylan@dylanandersonlaw.com	via Email

Trent Tripple
Clerk of the Court

By
Deputy Clerk

Date: 07/12/2024

DISTRICT COURT 4TH JUDICIAL DISTRICT
OF THE STATE
- OF -
IDAHO
IN AND FOR ADA COUNTY

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY OR FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY	Docket No. CM-DC-2010-001 **ORDER REVISING APRIL 2024 FORECAST SUPPLY AND AMENDING CURTAILMENT ORDER** ***(METHODOLOGY STEPS 5 & 6)***

The Director of the Idaho Department of Water Resources ("Department") finds, concludes, and orders as follows:

FINDINGS OF FACT

A. Background

1. On July 19, 2023, the Department issued its *Sixth Final Order Regarding Methodology for Determining Material Injury to Reasonable In-Season Demand and Reasonable Carryover* ("*Methodology Order*"). The *Methodology Order* established nine steps for determining material injury to members of the Surface Water Coalition ("SWC"). This order applies Steps 5 and 6 of the *Methodology Order*.

2. Step 5 of the *Methodology Order* addresses the final injury determination to reasonable carryover for members of the SWC. Step 5 states:

> If the storage allocations held by members of the SWC fill, there is no reasonable carryover shortfall. If the storage allocations held by members of the SWC do not fill, within fourteen (14) days following the publication of Water District 01's initial storage report . . . the volume of water secured by junior ground water users to fulfill the reasonable carryover shortfall shall be made available to injured members of the SWC.

Methodology Order, at 43. On November 30, 2023, the Director issued the *Final Order Establishing 2023 Reasonable Carryover* (*Methodology Step 9*) ("*2023 Step 9 Order*") concluding that no member of the SWC is owed reasonable carryover storage in 2023 for use in 2024. *2023 Step 9 Order*, at 5.

3. Step 6 of the *Methodology Order* states:

> Approximately halfway through the irrigation season, but following the events described in Step 5, the Director will, for each member of the SWC: (1) recalculate RISD [Reasonable In-Season Demand]; (2) issue a revised FS [Forecast Supply]; and (3) estimate the Time of Need date.

Methodology Order, at 43. (footnote omitted).

4. On April 18, 2024, the Director issued his *Final Order Regarding April 2024 Forecast Supply (Methodology Steps 1 – 3)* ("*April Forecast Supply Order*"). The *April Forecast Supply Order* predicted a demand shortfall to the SWC of 74,100 acre-feet for the 2024 irrigation season. *April Forecast Supply Order*, at 3. At that time, the only member of the SWC predicted to experience material injury during the 2024 irrigation season was Twin Falls Canal Company ("TFCC"). *Id.* The Director ordered that, on or before May 2, 2024, ground water users with consumptive water rights "junior to March 31, 1954, within the Eastern Snake Plain Aquifer area of common ground water supply shall establish, to the satisfaction of the Director, that they can mitigate for their proportionate share of the predicted April IDS [in-season demand shortfall] of 74,100 acre-feet in accordance with an approved mitigation plan." *Id.* at 6. The Director also ordered that, "[i]f a junior ground water user cannot establish . . . that they can mitigate for their proportionate share of the predicted April IDS in accordance with an approved mitigation plan, the Director will issue an order curtailing the junior-priority ground water user." *Id.*

5. On May 30, 2024, the Director issued a *Final Order Curtailing Ground Water Rights Junior to March 31, 1954* ("*Curtailment Order*"). The Director ordered that:

> [E]ffective May 30, 2024, ground water users holding water rights bearing priority dates junior to March 31, 1954, within the ESPA ACGWS [Eastern Snake Plain Aquifer area of common ground water supply], and listed in Attachment A to this order shall immediately curtail/refrain from diversion and use of ground water pursuant to those water rights unless notified by the Department that the order of curtailment has been modified or rescinded as to their water rights.

Curtailment Order, at 9.

6. In response to additional ground water district filings and a change to the area of common ground water supply, the Director amended the curtailment list on June 6, 2024[1], June 20, 2024[2], and June 28, 2024[3].

[1] *Order Amending Curtailment List*, June 6, 2024.
[2] *Second Order Amending Curtailment List*, June 20, 2024.
[3] *Order Regarding Mid-Season Change to Area of Common Ground Water Supply for the Eastern Snake Plain Aquifer; Third Order Amending Curtailment List*, June 28, 2024.

B. April through June Climate

7. The April 2024 Joint Forecast prepared by the United States Army Corps of Engineers and the United States Bureau of Reclamation ("BOR") predicted a near-normal 3,370,000 acre-feet of unregulated inflow at the Snake River near Heise gage for the period April–July 2024. *April Forecast Supply Order*, at 2. The Joint Forecast "is generally as accurate a forecast as is possible using current data gathering and forecasting techniques." *Methodology Order*, at 19.

8. The April through June precipitation was below average while the April through June temperature was above average. According to data measured at the Natural Resources Conservation Service's SNOTEL sites in the Upper Snake River Basin, the basin received 64%, 92%, and 54% of average precipitation in April, May, and June, respectively. The National Weather Service's Twin Falls weather station reported 27%, 55%, and 14% of normal precipitation in April, May, and June, respectively. Twin Falls temperatures were 2.3 degrees above normal for April, -1.9 degrees below normal for May, and 4.4 degrees above normal for June.[4]

C. Reasonable In-Season Demand

9. RISD "is the projected annual diversion volume for each SWC entity during the year of evaluation that is attributable to the projected beneficial use of growing crops within the service area of the entity." *Methodology Order*, at 13. In April, the demand from the 2018 baseline year ("BLY") defines the RISD. *Id.* at 17. During the irrigation season, the RISD for the completed portion of the irrigation season is recalculated by dividing the actual crop water need ("CWN") for each entity by the project efficiency for that entity. *Id.* at 17, 43. For the remainder of the irrigation season, the RISD is the demand defined by the July–October 2018 BLY. RISD is calculated on a monthly time step.

i. Crop Water Need

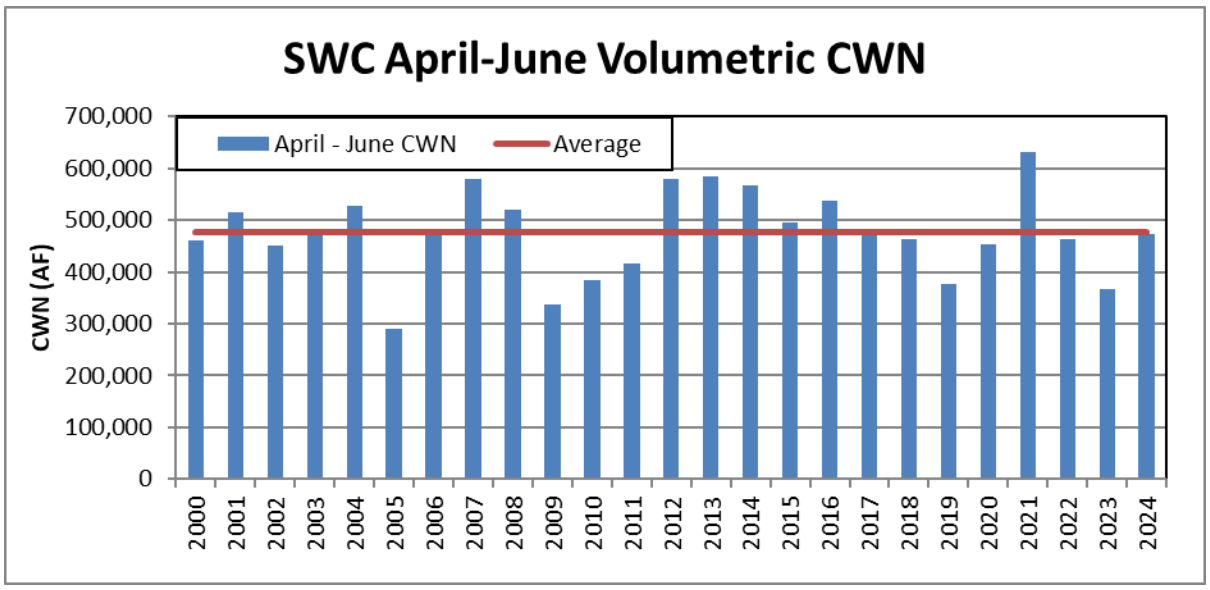
10. "CWN is the volume of irrigation water required for crop growth within a SWC entity boundary, such that crop growth is not limited by water availability." *Methodology Order*, at 15. "CWN is the difference between the fully realizable consumptive use associated with crop growth, or ET [evapotranspiration], and effective precipitation . . . ." *Id.*

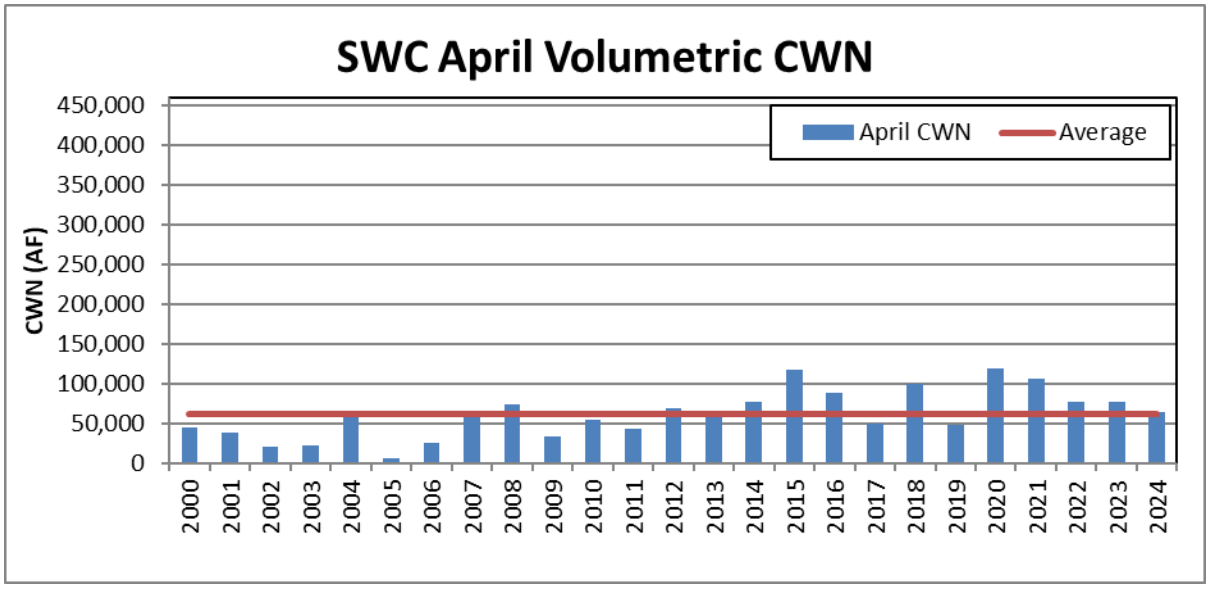
11. CWN is an input variable for calculating RISD for the completed portion of the irrigation season. *Id.* at 17. Actual RISD for the completed portion of the irrigation season is combined with monthly predicted baseline demands for the remaining months of the irrigation season to calculate a season-total RISD volume. *Id.* at 17–18. In-season demand shortfall is then calculated as the difference between the adjusted FS and the RISD. *Id.* at 23.

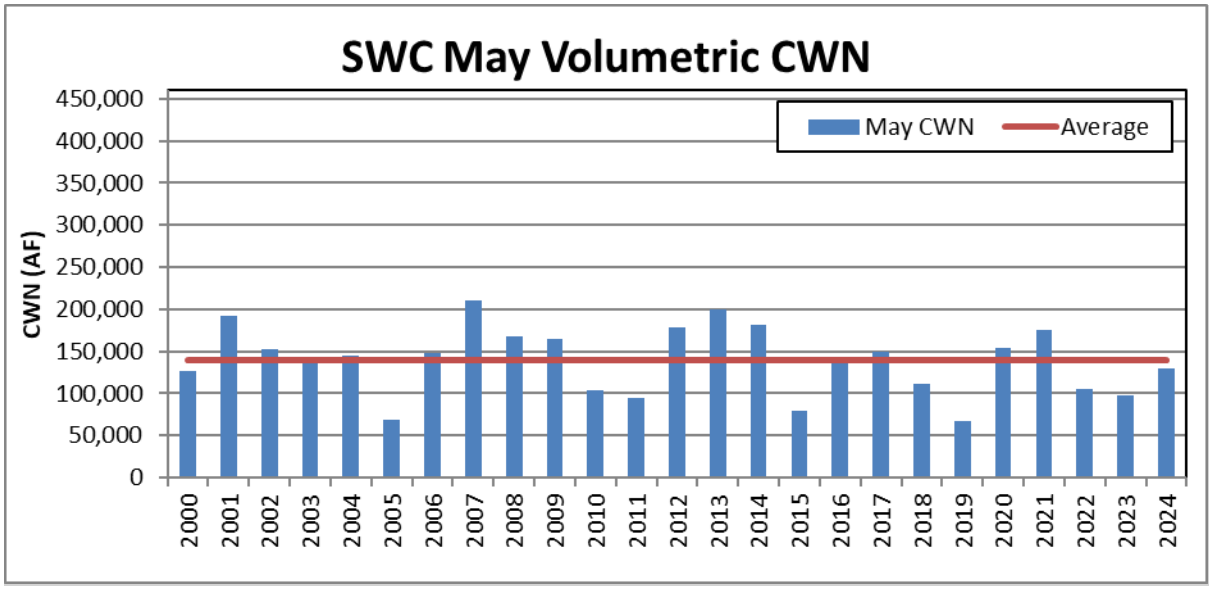
12. As calculated from the beginning of the irrigation season (April 1), the SWC's volumetric CWN for the current water year through June 30, 2024, is 473,375 acre-feet. This

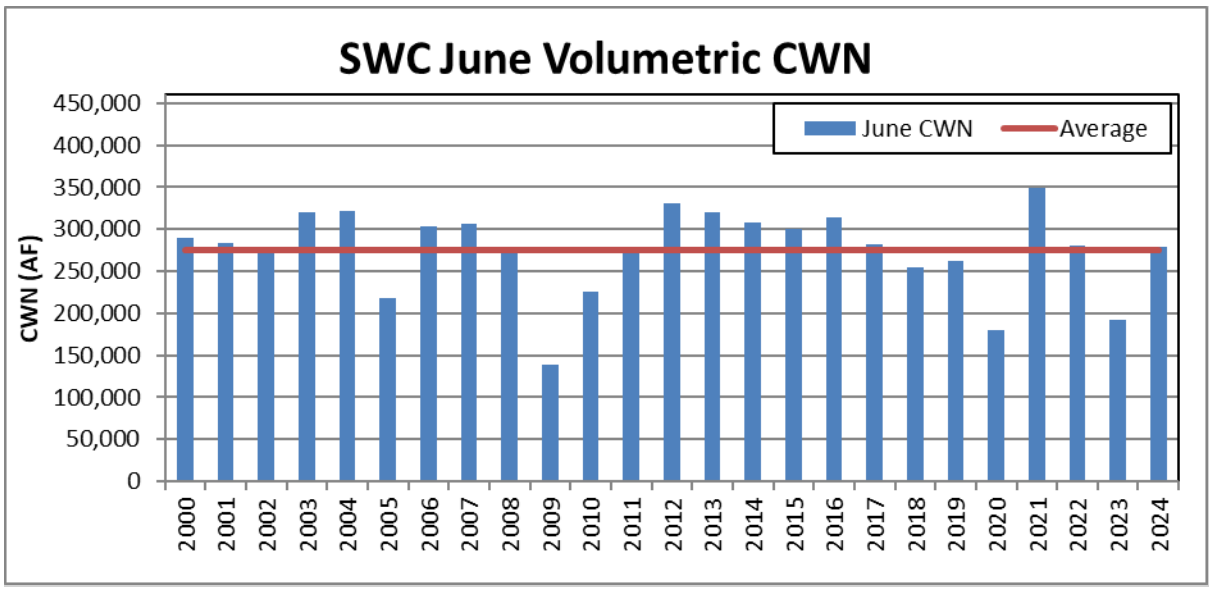
[4] Precipitation and temperature data obtained from the NOAA National Weather Service Preliminary Monthly Climate Data for the Twin Falls 3SE weather station (Twin Falls Airport).

volume is 99% of the 2000-2023 average CWN for April 1–June 30 and 102% of the CWN for the 2018 BLY. The following graphs summarize monthly volumetric CWN values:









ii. Extension of BLY

13. The RISD for the remaining portion of the irrigation season (July–October) is the July–October demand for the 2018 BLY. The numeric July–October demand values are shown in the table in Finding of Fact 14 below.

iii. Calculation of RISD

14. As calculated from the beginning of the irrigation season (April 1), the SWC's volumetric RISD for 2024 through June is 1,312,217 acre-feet. This volume is 100% of the

2000-2023 average demand from April 1–June 30 and 93% of the demand for the 2018 BLY. The recalculated RISD at this point of the 2024 irrigation season by entity is:

	April–June CWN (AF)	E_p (April–June)	April–June RISD (AF)	July–October Demand for 2018 BLY (AF)	Recalculated RISD (AF)
A&B	11,079	0.42-0.99	19,503[5]	38,528	58,032[5]
AFRD2	53,373	0.21-0.38	177,086	274,485	451,571
BID	40,576	0.30-0.47	101,186	145,546	246,732
Milner	11,319	0.37-0.73	21,972	36,432	58,404
Minidoka	72,113	0.35-0.53	159,603	196,968	356,571
NSCC	113,058	0.22-0.40	378,994	594,099	973,093
TFCC	171,857	0.26-0.51	453,873	653,473	1,107,346

D. Forecast Supply

15. When calculated during the irrigation season, the FS is the sum of the year-to-date actual natural flow diversions, the forecasted natural flow supply for the remainder of the season, and the storage allocation for each member of the SWC. *Methodology Order*, at 43. For this order, the FS is the sum of the actual natural flow supply from April through June, the predicted natural flow supply from July through October, and the actual storage allocations. Actual natural flow diversions for the completed portion of the irrigation season are extracted from the Department's water rights accounting program. The natural flow diversions for the remainder of the irrigation season are estimated by regression analysis. *Id.* at 20–21, 43. Storage allocations are determined by Water District 01 after the Day of Allocation. *Id.* at 43.

i. Sum of Actual Natural Flow Diverted

16. Actual natural flow diverted for the period April through June for each SWC member are summarized in the table contained within the Summary of Forecast Supply section in Finding of Fact 24.

ii. Regression Models to Predict Natural Flow (July–October)

17. Natural flow diversions were predicted for the remainder of the irrigation season by regression analysis. The *Methodology Order* established the following predictor variables for the regression models: natural flow in the Snake River near Heise as reported by the BOR, snow water equivalent ("SWE") data from the Two Ocean Plateau SNOTEL site, Spring Creek discharge, and ground water levels near American Falls Reservoir. *Methodology Order*, at 20. Unique regression models with unique predictor variable groups are established in the *Methodology Order* for each SWC member. *Id.* at 20–21.

[5] The Department has modified the total A&B irrigated acreage count to 14,749 acres. Based on the decision in CV01-23-13238, the new acreage count removes A&B Irrigation District's enlargement acres.

18. Either June 15 or July 1 SWE values for the Two Ocean Plateau SNOTEL site are used as input variables in each of the regression models developed in the *Methodology Order*. *Id.* Two Ocean Plateau SWE data was selected as a predictor variable in the *Methodology Order* based upon stepwise statistical analysis carried out in the development of each regression model. *Id.* The Two Ocean Plateau SWE data is an optimum predictor variable for several reasons, including: its elevation (the site is located above 9,000 ft and typically still has snow late in the runoff season (June 15 and July 1); its location (the site is in the headwaters of the Snake River above Jackson Reservoir); and its period of record, which is sufficiently long enough to support model development.

19. On July 1, 2024, the Two Ocean Plateau SNOTEL station reported 0.0 inches of SWE. When the snow water equivalent is zero on July 1, the predicted natural flow supplies for the period July 1–October 31 for A&B, AFRD2, and Milner are zero acre-feet. *Methodology Order*, at 20.

20. The input variables used to predict July–October natural flow volumes for BID, Minidoka, and NSCC in 2024 include: (1) 6.3 inches of SWE reported by the Two Ocean Plateau SNOTEL site on June 15, 2024; (2) 2,728,698 acre-feet of natural flow runoff at the Snake River near Heise (April–June) as reported by the BOR; and (3) 24.59 feet depth to water at well 05S 31E 27ABA1 as measured by the Department on March 23, 2024.

21. The variables used to predict the July–October natural flow volume for TFCC in 2024 include: (1) 6.3 inches of the SWE reported by the Two Ocean Plateau SNOTEL Site on June 15; (2) 2,728,698 acre-feet of natural flow runoff at the Snake River near Heise (April–June) as reported by the BOR; and (3) 80,044 acre-feet of discharge (January–May) as measured and reported by the United States Geologic Survey for its *Spring Creek at Sheepskin Rd Nr Fort Hall ID* Gage (Gage No. 13075983).

iii. Storage Allocations

22. Storage allocation values for each member of the SWC were established by Water District 01 on June 29, 2024, and are summarized in the table in Finding of Fact 24 below.

iv. Adjustments to Total Supply

23. Natural flow and storage water supplies were both adjusted, as shown in the table in Finding of Fact 24 below. Adjustments to natural flow include wheeled water to the Southwest Irrigation District through BID and Milner, 341 acre-feet and 277 acre-feet, respectively. Adjustments to natural flow also include wheeled water as a part of the Idaho Water Resource Board's water right to AFRD2, NSCC, and TFCC, 53,113 acre-feet, 62,081 acre-feet, and 4,999 acre-feet, respectively. The only adjustments made to the stored water supply in the table below were for the Minidoka Credit. Adjustments for wheeled storage water published in WD1's weekly reports were not included as an adjustment because wheeled water does not actually increase the amount of water available for use by the SWC. Water supplied to or from the rental pool was not included in the adjustments.

v. Summary of Forecast Supply

24. The following table summarizes the calculated FS and its individual components for each of the SWC members.

	Natural Flow Diverted through 6/30 (AF)	Predicted Natural Flow 7/1 to 10/31 (AF)	Natural Flow Adjustment (AF)	Preliminary Storage Allocation (AF)	Minidoka Credit Adjustment (AF)	Forecast Supply (AF)
A&B	23,491	0	0	135,192	0	158,683
AFRD2	234,645	0	(53,113)	386,794	1,000	569,326
BID	103,731	39,252	(341)	222,568	5,130	370,339
Milner	25,242	0	(277)	89,059	0	114,024
Minidoka	133,857	56,736	0	360,165	8,370	559,127
NSCC	416,055	145,826	(62,081)	844,928	(7,750)	1,336,977
TFCC	433,773	436,235	(4,999)	242,320	(6,750)	1,100,579

E. Revised Shortfall Prediction

25. In-season demand shortfall ("IDS") is calculated as the difference between RISD and the FS.

26. Based on the above, and as summarized in the following table, the Director predicts that TFCC will be materially injured by junior ground water pumping.

	Forecast Supply (AF)	RISD (AF)	Shortfall (AF)
A&B	158,683	58,032	0
AFRD2	569,326	451,571	0
BID	370,339	246,732	0
Milner	114,024	58,404	0
Minidoka	559,127	356,571	0
NSCC	1,336,977	973,093	0
TFCC	1,100,579	1,107,346	6,800
		Total	6,800

27. The current predicted shortfall to the SWC's RISD is 6,800 acre-feet.

28. At approximately the halfway point of the irrigation season, the estimated Time of Need is established by predicting when the remaining storage balance equals the volume of reasonable carryover. This year, because TFCC is the only entity with a calculated injury, the Time of Need equals the predicted day when its remaining storage equals its reasonable carryover volume of 37,400 acre-feet. To calculate the Time of Need for TFCC, the Department

chose 2023 as the analogous year to predict TFCC's storage use for the remainder of the 2024 irrigation season. The analogous year, 2023, was selected based on similar Blackfoot to Milner reach gains. Assuming TFCC's storage use for the remainder of the 2024 season will match its storage use in 2023, the Time of Need is predicted to occur on September 6, 2024, for TFCC.

F. Step 6

29. Step 6 requires the following:

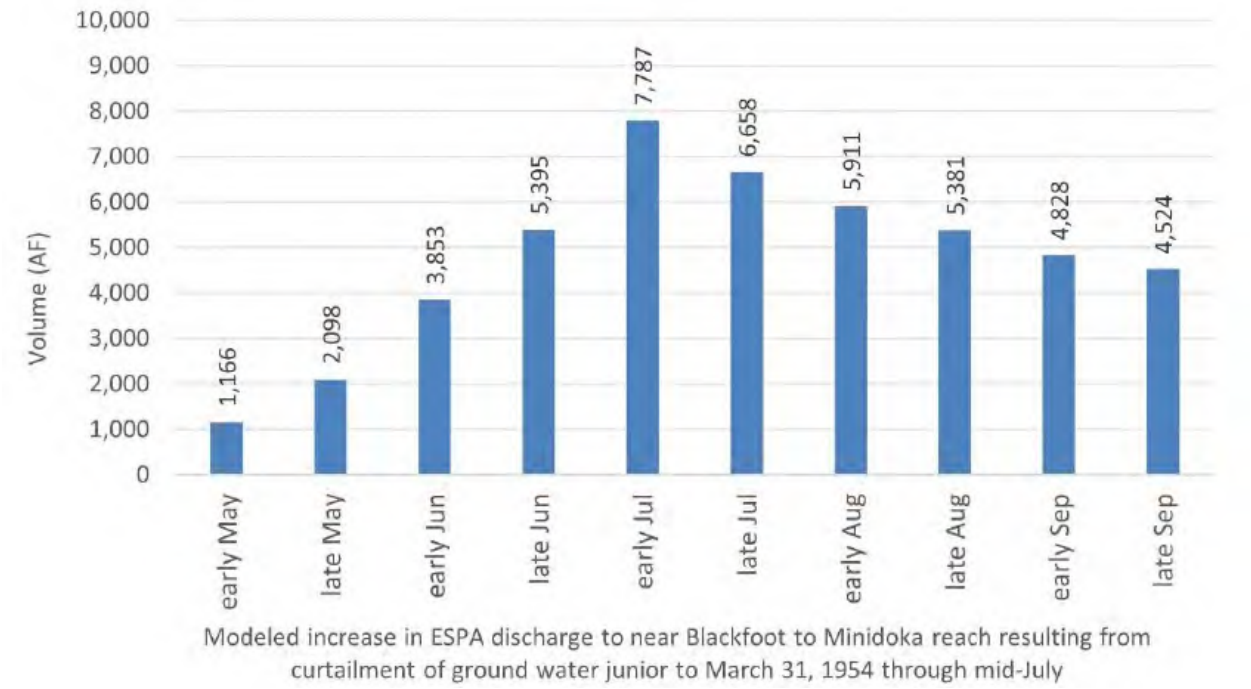
> Upon a determination of an additional mitigation obligation, junior ground water users will be required to establish, to the satisfaction of the Director, their ability to secure a volume of storage water or to conduct other approved activities pursuant to an approved mitigation plan that will deliver the additional mitigation obligation water to the injured members of the SWC at the Time of Need. If junior ground water users fail or refuse to submit this information within fourteen (14) days from issuance of a Step 6 order, the Director will issue an order curtailing junior ground water users. A transient ESPAM simulation will be run to determine the priority date to produce the necessary additional mitigation obligation volume by September 30 of the same year. Curtailment will be simulated within the area of common ground water supply, as described by CM Rule 50.01.

Methodology Order, at 44 (footnote omitted). Effective July 1, 2024, Senate Bill 1341 added a new section to Idaho Code, Idaho Code § 42-233c, which modified the description of the ESPA area of common ground water supply.

30. The predicted July IDS for TFCC is 6,800 acre-feet.

31. In April 2024, pursuant to the *Methodology Order*, the Department ran the Eastern Snake Plain Aquifer Model version 2.2 ("ESPAM2.2") to calculate the priority curtailment date, such that the curtailment of all water rights junior to the date within the area of common ground water supply, would produce a volume of water equal to the April IDS in the Snake River between May 1 and September 30. The ESPAM2.2 simulation predicted curtailment of ground water rights bearing priority dates junior to March 31, 1954, would produce the volume of water equal to the predicted April IDS of 74,100 AF in the near Blackfoot to Minidoka reach. *April Forecast Supply Order*, at 4.

32. In July 2024, the Department ran the ESPAM2.2 to simulate the effect of adjusting the curtailment priority date in mid-July. The ESPAM2.2 simulation calculated that the curtailment of ground water rights junior to March 31, 1954, through mid-July, will produce a volume of water greater than the predicted July IDS of 6,800 AF in the near Blackfoot to Minidoka reach between July 1 and September 30 of this irrigation season. The following figure summarizes the results of the ESPAM2.2 simulation increase:



33. The July through September benefits to the near Blackfoot to Minidoka reach from the predicted curtailment of ground water rights bearing priority dates junior to March 31, 1954, are greater than 6,800 acre-feet. Accordingly, the continued curtailment of junior ground water rights is not necessary in response to the predicted July IDS.[6] Curtailment may be reinstated this irrigation season if the Step 7 revised IDS is greater than the simulated benefits to the near Blackfoot to Minidoka reach remaining to accrue by September 30.

CONCLUSIONS OF LAW

1. Idaho Code § 42-602 authorizes the Director to supervise water distribution within water districts:

> The director of the department of water resources shall have direction and control of the distribution of water from all natural water sources within a water district to the canals, ditches, pumps and other facilities diverting therefrom. Distribution of water within water districts created pursuant to section 42-604, Idaho Code, shall

[6] The method deployed in this as-applied order for calculating mid-season adjustments to the curtailment priority date using ESPAM2.2 was presented to the SWC Methodology Technical Working Group on November 28, 2022. The method assumes all groundwater users were curtailed or provided an equivalent aquifer enhancement mitigation volume at the same time and location as the curtailment. Some ground water users junior to March 31, 1954, were protected from curtailment this year by compliance with approved mitigation plans that authorize the direct delivery of storage water to the SWC as an alternative to full mitigation of pumping depletions to the aquifer. Therefore, the actual volume of water accruing to the near Blackfoot to Minidoka reach due to curtailment is less than the volume simulated by ESPAM2.2. If the Director were to calculate mid-season adjustments to the curtailment date without acknowledging the effects of pumping depletions mitigated by direct delivery of storage water, the curtailment date would unfairly shift to include more senior water users not protected by approved mitigation plans based on stipulated agreements.

> be accomplished by watermasters as provided in this chapter and supervised by the director. The director of the department of water resources shall distribute water in water districts in accordance with the prior appropriation doctrine. The provisions of chapter 6, title 42, Idaho Code, shall apply only to distribution of water within a water district.

2. Idaho Code § 42-607 states the watermaster, under the direction of the Idaho Department of Water Resources, shall regulate diversions "during times of water scarcity, in order to supply the prior rights of others from such stream or water supply . . . ."

3. Because the Department did not determine a shortfall to the SWC's reasonable carryover at the end of the 2023 irrigation season, junior water users are not obligated to secure or deliver storage water this year under Step 5 of the *Methodology Order.*

4. Based on the Findings of Fact 6 through 27 above, it is reasonably certain TFCC will be materially injured. The calculated shortfall to TFCC is 6,800 acre-feet.

5. In the *April Forecast Supply Order*, the Director predicted a demand shortfall for the SWC of 74,100 acre-feet. Because the shortfall volume calculated consistent with Step 6 of the *Methodology Order* is different than the shortfall predicted in the *April Forecast Supply Order*, the curtailment date established in the May 30, 2024, *Curtailment Order* must be adjusted.

6. Using the ESPAM2.2, the Department has determined that the curtailment of ground water rights bearing priority dates junior to March 31, 1954, from May 1–July 15 would result in a volume of water greater than the predicted July IDS of 6,800 AF in the near Blackfoot to Minidoka reach between July 1 and September 30 of this irrigation season. Accordingly, the continued curtailment of ground water rights beyond mid-July is unwarranted at this time.

7. Because further curtailment is unwarranted, it is necessary for the Department to amend the June 28, 2024 *Order Regarding Mid-Season Change to Area of Common Ground Water Supply for the Eastern Snake Plain Aquifer; Third Order Amending Curtailment List* ("*Third Amended Curtailment Order*") so that ground water users holding water rights listed in Attachment C to the *Third Amended Curtailment Order* are no longer curtailed.

ORDER

Based upon and consistent with the foregoing, IT IS HEREBY ORDERED as follows:

Effective immediately, all ground water users holding water rights listed in Attachment C to the June 28, 2024 *Third Amended Curtailment Order* are no longer curtailed.

IT IS FURTHER ORDERED that watermasters for the water districts within the ESPA ACGWS who regulate ground water are directed to review the water rights listed in Attachment C to the June 28, 2024 *Third Amended Curtailment Order* and inform water users that they are no longer curtailed.

Dated this 17th day of July 2024.

MATHEW WEAVER
Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 17th day of July 2024, the above and foregoing, was served by the method indicated below, and addressed to the following:

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Kayleen Richter
Deputy Attorney General

EXPLANATORY INFORMATION TO ACCOMPANY A FINAL ORDER

(To be used in connection with actions when a hearing was **not** held)

(Required by Rule of Procedure 740.02)

The accompanying order is a "**Final Order**" issued by the department pursuant to section 67-5246, 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 67-5246(4), Idaho Code.

REQUEST FOR HEARING

Unless the right to a hearing before the director or the water resource board is otherwise provided by statute, any person who is aggrieved by the action of the director, and who has not previously been afforded an opportunity for a hearing on the matter shall be entitled to a hearing before the director to contest the action. The person shall file with the director, within fifteen (15) days after receipt of written notice of the action issued by the director, or receipt of actual notice, a written petition stating the grounds for contesting the action by the director and requesting a hearing. See section 42-1701A(3), Idaho Code. **Note: The request must be received by the Department within this fifteen (15) day period.**

RECEIVED
Nov 19, 2024
DEPARTMENT OF
WATER RESOURCES

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STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

IN THE MATTER OF DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY OR FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY	Docket No. CM-MP-2024-003
IN THE MATTER OF THE SURFACE WATER COALITIONS' AND THE GROUND WATER DISTRICTS' 2024 STIPULATED MITIGATION PLAN	**JOINT MOTION FOR ORDER APPROVING 2024 STIPULATED MITIGATION PLAN**

Twin Falls Canal Company, North Side Canal Company, American Falls Reservoir District No. 2, Milner Irrigation District, Burley Irrigation District, A&B Irrigation District, and Minidoka Irrigation District (collectively, the "Surface Water Coalition"), and North Snake Ground Water District, Magic Valley Ground Water District, Carey Valley Ground Water District, Aberdeen-American Falls Ground Water District, Bingham Ground Water District, Bonneville-Jefferson Ground Water District, Jefferson-Clark Ground Water District, Madison Ground Water District, and Henry's Fork Ground Water District (collectively, the "Ground Water Districts"), through counsel, jointly move the director pursuant to rule 220 of the Rules of Procedure of the Idaho Department of Water Resources and rule 43 of the Rules for Conjunctive Management of Surface and Ground Water Resources for an order approving the 2024 Stipulated Mitigation Plan attached hereto as Appendix A (the "Plan").

Pursuant to Conjunctive Management Rule 43.01.a, the names and addresses of the entities submitting the Plan are:

- North Snake Ground Water District
  214 E. Yakima St., Suite A
  Jerome, Idaho 83338

- Magic Valley Ground Water District
  P.O. Box 430
  Paul, Idaho 83347

- Carey Valley Ground Water District
  P.O. Box 261
  Carey, Idaho 83320

- Aberdeen-American Falls Ground Water District
  P.O. Box 70
  American Falls, Idaho 83211

- Bingham Ground Water District
  P.O. Box 1268
  Blackfoot, Idaho 83221

- Bonneville-Jefferson Ground Water District
  P.O. Box 51121
  Idaho Falls, Idaho 83405

- Jefferson-Clark Ground Water District
  P.O. Box 118
  Terreton, Idaho 83450-0118

- Madison Ground Water District
  P.O. Box 15
  St. Anthony, Idaho 83445

- Henry's Fork Ground Water District
  P.O. Box 15
  St. Anthony, Idaho 83445

Pursuant to Conjunctive Management Rule 43.01.b, the Plan is designed to mitigate material injury to water rights held by members of the Surface Water Coalition, and to provide safe harbor to groundwater rights held by patrons of the Ground Water Districts and other entities representing groundwater users that participate in and comply with the Plan.

Pursuant to Conjunctive Management Rule 43.01.c, sections 4 and 6 of the Plan identify the water supply proposed to be used for mitigation and any circumstances or limitations on availability of such supplies.

Pursuant to Conjunctive Management Rule 43.01.d, the Plan includes information that will allow the Director to evaluate the factors set forth in Conjunctive Management Rule 43.03. The

Plan is submitted pursuant to stipulation of the Ground Water Districts and the Surface Water Coalition in accordance with Conjunctive Management Rule 43.03.o, as set forth in section 11 of the Plan.

RESPECTFULL SUBMITTED the 19th day of November, 2024.

SOMACH SIMMONS & DUNN, P.C.

/s/ Maximilian C. Bricker
Sarah A. Klahn
Maximilian C. Bricker
Attorneys for Aberdeen-American Falls Ground Water District

DYLAN ANDERSON LAW PLLC

/s/ Dylan Anderson
Dylan Anderson
Attorneys for Bingham Ground Water District

OLSEN TAGGART PLLC

/s/ Skyler C. Johns
Skyler C. Johns
Attorneys for Bonneville-Jefferson Ground Water District

SAWTOOTH LAW OFFICES, PLLC

/s/ Andrew J. Waldera
Andrew J. Waldera
Attorneys for Magic Valley Ground Water District and North Snake Ground Water District

RIGBY, ANDRUS & RIGBY LAW, PLLC

/s/ Jerry R. Rigby
Jerry R. Rigby
Hyrum Erickson
Attorneys for Henry's Fork Ground Water District, Jefferson Clark Ground Water District and Madison Ground Water District

MCHUGH BROMLEY, PLLC

/s/ Chris M. Bromley
Candice M. McHugh
Chris M. Bromley
Attorneys for Carey Valley Ground Water District

FLETCHER LAW OFFICE

/s/ W. Kent Fletcher
W. Kent Fletcher
Attorneys for American Falls Reservoir District No. 2 and Minidoka Irrigation District

MARTEN LAW LLP

/s/ Travis L. Thompson
Travis L. Thompson
Attorneys for A&B Irrigation District, Burley Irrigation District, Milner Irrigation District, North Side Canal Company, and Twin Falls Canal Company

APPENDIX A

2024 STIPULATED MITIGATION PLAN

This 2024 Stipulated Mitigation Plan ("Plan") is entered into between the parties defined in section 1. The parties agree as follows:

1. Parties. The parties to this Plan are (a) the members of the SWC, (b) ground water districts that sign this Plan by November 14, 2024, pursuant to section 2, and (c) ground water districts and other entities representing groundwater users that subsequently participate in this Plan pursuant to section 10. Parties may be referred to individually in this Plan as a "party."

1.1 Surface Water Coalition. The members of the SWC are A&B Irrigation District, American Falls Reservoir District No. 2, Burley Irrigation District, Milner Irrigation District, Minidoka Irrigation District, North Side Canal Company, and Twin Falls Canal Company (individually, a "SWC member," collectively, the "SWC"). Each SWC member is a party to this Plan.

1.2 Ground Water Districts. The ground water districts initially invited to participate in this Plan are Aberdeen-American Falls Ground Water District, Bingham Ground Water District, Bonneville-Jefferson Ground Water District, Carey Valley Ground Water District, Henry's Fork Ground Water District, Jefferson-Clark Ground Water District, Madison Ground Water District, Magic Valley Ground Water District, and North Snake Ground Water District. Only those ground water districts who sign this Plan by November 14, 2024, pursuant to section 2, or who participate in this Plan pursuant to section 10, are parties to this Plan. Ground water districts and other entities who participate in this Plan are referred to herein individually as "District" and collectively as the "Districts." Any ground water district who does not sign this Plan by November 14, 2024, or who does not participate in this Plan pursuant to section 10, shall not be a party to this Plan, shall not be bound by the terms of this Plan, and shall not benefit from this Plan. The failure of any ground water district to participate in this Plan shall not alter the proportionate obligations of any District.

2. Approval Process and Effective Date. This Plan shall be submitted to the boards of the SWC and the ground water districts identified in sections 1.1 and 1.2 for review by November 1, 2024. Ground water districts that elect to participate in this Plan pursuant to section 1.2 will have until November 14, 2024, to sign this Plan. The SWC will have until November 15, 2024, to sign this Plan. This Plan shall be effective once it is signed by all members of the SWC and at least five of the nine ground water districts identified in section 1.2. The SWC shall not enter into a separate stipulated mitigation plan or agreement with any ground water district that does not participate in this Plan during the term of this Plan.

3. Term.

3.1 Initial Term. The initial term of this Plan is four years, beginning January 1, 2024, and ending December 31, 2027. Compliance with section 4 (groundwater conservation) shall begin January 1, 2024. Compliance with all other sections shall begin November 1, 2024.

3.2 Renewal Terms. This Plan shall automatically renew for successive four-year terms unless a party provides written notice of termination to the other parties by September 15 prior to the end of the term then in effect, in which case this Plan will terminate at the end of such term.

4. Groundwater Conservation. During the term of this Plan, each District will conserve, at a minimum, the volume of groundwater set forth in the "Conservation Obligation" column in Appendix A, on an average annual basis over four-year periods, as measured from the District's baseline groundwater diversion set forth in Appendix A.

4.1 Compliance Periods. Groundwater conservation shall be measured over four-year periods known as "compliance periods." Each four-year term of this Plan is a compliance period; thus, the first compliance period is 2024-2027, the second compliance period is 2028-2031, and so on until Plan termination.

4.2 District Conservation Obligations. As of November 15, 2024, the conservation obligations of the Districts collectively total 205,000 acre-feet annually as initially shown in Appendix A. The Districts' collective conservation of 205,000 acre-feet equates to a total annual divertible volume of 1,590,034 acre-feet as initially shown in Appendix A. Each District's proportionate share of the annual divertible volume is also set forth in Appendix A. Appendix A will be updated annually by the Districts to reflect additions and removals of groundwater rights participating in this Plan through the Districts. Groundwater rights added to a District after November 15, 2024, shall proportionately increase the District's baseline diversion volume, annual conservation obligation, annual divertible volume, and compliance period allocation in Appendix A, and groundwater rights removed from a District after November 15, 2024, shall proportionately decrease the District's baseline diversion volume, annual conservation obligation, annual divertible volume, and compliance period allocation in Appendix A. If a groundwater right is added to or removed from a District for only part of a compliance period, the adjustment to the District's baseline diversion volume, annual conservation obligation, annual divertible volume, and compliance period allocation shall be prorated based on the portion of the compliance period in which the groundwater right participates in this Plan.

4.3 Compliance Period Allocations. At the beginning of each compliance period, each District will be allocated a volume of water that may be diverted during that four-year period, calculated by multiplying the District's annual divertible volume by four, plus surplus allocation carried over from the prior compliance period in accordance with section 4.7, if any. The Districts' four-year compliance period allocations are set forth in Appendix A. Districts are not restricted to the use of one-fourth of their compliance period allocation during each year of the compliance period; rather, Districts may divert more or less than one-fourth of their compliance period allocation in any given year so long as the total amount diverted during a compliance period does not exceed the District's total compliance period allocation. Each District shall independently comply with its individual compliance period allocation in accordance with sections 4.4 and 4.5.

4.4 Patron Allocations. Each District will apportion its compliance period allocation to the District's patrons in the form of a diversion allocation in accordance with Idaho Code § 42-5244A. Districts may allow patrons with multiple groundwater rights to pool their individual water right allocations for purposes of compliance. Districts may also allow patrons to exchange or transfer patron allocations within the District, so long as such patrons do not divert water in excess of the maximum rate or volume authorized under their water rights. District patrons may use their diversion allocation over a compliance period as they choose; however, when a District patron depletes their allocation, that patron will not receive any additional allocation until the next compliance period starts, unless the patron acquires additional allocation from (a) other patrons within the District in accordance with this section 4.4, or (b) the District as a result of managed aquifer recharge in accordance with section 4.5. If a District patron diverts more than their allocation and does not acquire additional allocation, the provisions of section 9.1 apply.

4.5 District Aquifer Recharge. Districts may supplement their compliance period allocation by performing managed aquifer recharge in accordance with standards set forth in Appendix C and with section 4 of the Memorandum of Agreement executed contemporaneously with this Plan. Credit for the managed aquifer recharge shall be determined as follows:

4.5.1 In-District Site. Recharge accomplished at a site within the boundaries of the District performing the recharge or at a site within 12 miles of the boundary of the

District ("In-District Site") will count 1:1 as a reduction in groundwater use within the District performing the recharge.

4.5.2 Out-of-District Site. Recharge performed at a site other than an In-District Site ("Out-of-District Site") will be modeled using the current version of the Eastern Snake Plain Aquifer ("ESPA") Model to quantify the steady-state impact to the Near Blackfoot to Minidoka reach of the Snake River. The impact of recharging the same volume of water at the In-District Site nearest to the Near Blackfoot to Minidoka reach will also be modeled using the ESPA Model to quantify the steady-state impact to the Near Blackfoot to Minidoka reach. The modeled steady-state impact of recharge at the Out-of-District Site will be divided by the modeled steady-state impact of recharge at the In-District Site. If the calculated ratio is less than two (the steady-state impact of recharge at the Out-of-District site is less than twice the steady-state impact of recharge at the In-District Site), the credit towards reduction in groundwater use will be equal to the calculated ratio multiplied by the volume of water recharged. If the calculated ratio is greater than two (the steady-state impact of recharge at the Out-of-District Site is greater than twice the steady-state impact of recharge at the In-District Site), the credit towards reduction in groundwater use will be limited to twice the volume of water recharged.

4.6 Measurement.

4.6.1 Groundwater. Measurement and reporting of non-irrigation diversions will occur on an annual basis. The Districts will develop and implement methods to read irrigation diversions monthly. Irrigation diversions shall be read from June to October, with the June reading including diversions from the start of the irrigation season. The Districts will have functioning programs by the start of the 2026 irrigation season to read irrigation diversions monthly. The Districts' methods may include telemetry, self-reporting with photo evidence, or other reliable techniques to report water diversions. Measurements shall be made available to the appropriate watermaster and the watermaster will make the measurement data publicly available upon request.

4.6.2 Surface Water. The SWC will continue to support the measurement and reporting of the SWC's surface water diversion by Water District 1 and the measurement and reporting of the SWC's return flows by the Idaho Department of Water Resources ("Department").

4.6.3 Reach Gains. Reach gains to the Near Blackfoot to Minidoka reach of the Snake River shall be measured based on calendar year reach gains from the ESPA as reported by the Department to the Idaho Water Resource Board.

4.7 Conservation Carryover. If a District has remaining allocation (*i.e.* the District performs surplus groundwater conservation) at the end of the first compliance period (2024-2027), the surplus will be carried over to the second compliance period (2028-2031). At the annual meeting held in 2031 pursuant to section 7, the parties shall commence discussions to determine the minimum reach gain conditions and other water supply factors that must be maintained to allow surplus allocation to be carried over from one compliance period to the next, which determination shall be documented by a written amendment to this Plan executed by the parties by September 15, 2031.

4.8 Annual Report. By February 15 annually, the Districts will submit a report to the SWC and the Department documenting the Districts' compliance with section 4 during the previous calendar year.

5. Reach Gain Mitigation Fund. The parties understand that the Idaho Water Resource Board ("Board") will contribute $5,000,000 to develop projects that will target and maximize benefits to the reach gains in the Near Blackfoot to Minidoka reach. The projects will be selected by the Board with input from the parties as to the criteria for ranking proposed projects. The Board will make the final decision on projects. Beginning in 2035, the Districts will collectively deposit $250,000 annually into a bank account maintained by the Districts to fund development and implementation of projects designed to further increase reach gains to the Near Blackfoot to Minidoka reach of the Snake River. If, during the second compliance period (2028-2031) or any subsequent compliance period, the average annual reach gains to the Near Blackfoot to Minidoka reach of the Snake River for that compliance period drops below the 2023 reach gains, the Districts will then deposit $500,000 annually, until average annual reach gains over the most recent compliance period equal or exceed the 2023 reach gains. Each District shall be independently responsible to deposit its proportionate share of the $250,000 or $500,000 in proportion to its respective steady-state impacts to the Near Blackfoot to Minidoka reach of the Snake River under the current version of the Model (ESPAM 2.2) as set forth in Appendix B.

6. Storage Water Component. The Districts will collectively secure the volume of storage water required by section 6.1 to meet irrigation needs and carryover storage of the SWC in accordance with section 6.4.

6.1 Storage Water Volume. The Districts will secure 75,000 acre-feet of storage water for the 2025 and 2026 irrigation seasons. In 2027, the maximum volume of storage water the Districts are required to secure is capped at 82,500 acre-feet. If reach gains to the Near Blackfoot to Minidoka reach of the Snake River in 2026 are greater than 2023 reach gains, the Districts will secure 75,000 acre-feet of storage for the 2027 irrigation season. If reach gains to the Near Blackfoot to Minidoka reach of the Snake River in 2026 are less than or equal to 2023 reach gains, the Districts will secure 82,500 acre-feet of storage for the 2027 irrigation season. At the annual meeting held in 2027 pursuant to section 7, the parties shall commence discussions to determine the amount of storage the Districts will be required to secure in 2028 and subsequent years, which determination shall be documented by a written amendment to this Plan executed by the parties by September 15, 2027.

6.2 Storage Water Allocation. Each District will secure its proportionate share of the storage water required by section 6.1 based on their respective steady-state impact to the Near Blackfoot to Minidoka reach of the Snake River as defined by the current version of the ESPA Model. The Districts' respective steady-state impacts under the current version of the Model (ESPAM 2.2) are set forth in Appendix B. If the Districts' respective steady-state impacts set forth in Appendix B change due to Model updates adopted by the Department, or due to changes in the universe of water rights participating in this Plan (e.g., additions or removals of groundwater participating in this Plan through the Districts), the parties will revise Appendix B to reflect the most up-to-date calculation of their respective steady-state impacts. If additional organized groundwater groups join this Plan as contemplated in section 10, they will provide a proportionate share of the storage water required by this section 6.1, thereby reducing the proportionate obligations of the Districts, and the parties will revise Appendix B to reflect the most up-to-date calculation of the proportionate shares of the Districts and additional organized groundwater groups participating in this Plan.

6.3 Acquisition of Storage. Within twenty-one (21) days after the Water District 1 "day of allocation," the Districts will secure, to the satisfaction of the Department, leases or options to lease the volume of storage water required by section 6.1, or demonstrate the ability to supply water under alternative

mitigation actions pursuant to section 6.7. Within seven (7) days thereafter, the Districts will supply copies of such agreements to the SWC.

6.4 Delivery of Storage. If the Water District 1 storage water account of any SWC member drops below the reasonable carryover volume listed in Appendix D between the Water District 1 day of allocation and November 10, the SWC member may draw on the secured storage for in-season irrigation needs and to maintain its reasonable carryover volume by notifying the Districts no later than November 15, and the Districts shall assign storage to such SWC member in the amount needed to maintain its reasonably carryover volume, up to the maximum volume required by section 6.1. The SWC shall not draw down their storage water accounts unnecessarily.

6.5 SWC Lease Adjustment. If a SWC member requesting delivery of storage water pursuant to section 6.4 leases storage water to another person or entity during an irrigation season, other than to the U.S. Bureau of Reclamation for flow augmentation as assigned by Water District 1 or as required rentals by Water District 1 to participate in the rental pool, such water shall be deducted from the volume of storage water the Districts are required to deliver to that SWC member under section 6.4.

6.6 2024 Storage Delivery. The Districts supplied 60,000 acre-feet of storage to the SWC for mitigation purposes pursuant to the *2024 Stipulation* dated June 24, 2024. Any portion of such storage that is not diverted by the SWC during the 2024 irrigation season or delivered to maintain reasonable carryover shall revert to the Districts.

6.7 Alternative Mitigation Actions. The Districts may take alternative actions to deliver water to the SWC, including but not limited to acquiring natural flow, in lieu of securing and delivering storage water. To the extent alternative actions deliver water to the SWC in accordance with state law (including Water District 1 procedures), they shall offset the amount of storage water the District implementing such alternative actions is required to secure under section 6.1 or deliver under section 6.4.

7. Oversight Committee. There will be an oversight committee ("Committee") established to review implementation of this Plan. The Committee shall be made up of the chairs (or their designees) of each party. Additional groundwater groups who join this Plan pursuant to section 10 will have a position on the Committee. Committee meetings will be co-chaired by one representative of the SWC and one representative of the Districts. By February 15 annually, the Committee shall meet to review (a) the annual report submitted by the Districts in accordance with section 4.8; (b) carryover storage from the prior irrigation season; (c) the reach gains to the Near Blackfoot to Minidoka reach of the Snake River; (d) the delivery of storage water to the SWC pursuant to section 6; (e) progress of any alternative mitigation actions taken pursuant to section 6.7; (f) progress of the Board's managed recharge program and the Cooperative Cloud Seeding Program; (g) changes to Appendix A pursuant to section 4.2; and (h) additional groundwater users joining this Plan pursuant to section 10 and the corresponding adjustment to Appendix B. The Committee is advisory in nature, has no authority to bind any party, but may submit recommendations to the Department upon unanimous agreement of Committee members.

8. Safe Harbor. Districts and their patrons that comply with this Plan shall receive safe harbor from the SWC delivery call (IDWR Docket No. CM-DC-2010-001) during the term of this Plan.

9. Enforcement. Each District is independently responsible for complying with its proportionate obligations under sections 4, 5 and 6. If a District does not comply, such non-compliance shall not adversely affect any other District that is in compliance with its proportionate obligations under this Plan.

9.1 Groundwater Conservation. If a District patron fails to comply with their patron allocation, the District shall report the patron to the Department for enforcement under Idaho Code § 42-5244B. Non-compliance shall result in curtailment by the Department, pursuant to Idaho Code § 42-5244B. District

patrons are independently responsible to comply with their respective patron allocations, such that non-compliance by one patron shall not adversely affect any other patron that is in compliance with its patron allocation. If a District reports a non-compliant patron to the Department for enforcement, that patron's allocation under section 4.4 will be deducted from the District's compliance period allocation under section 4.3, and the non-compliant patron's diversions will be deducted from a District's diversions when the District documents compliance under section 4.8, until the non-compliance is remedied. Non-compliant patrons subject to enforcement under this section 9.1 shall not be considered a participant in this Plan until the non-compliance is remedied.

9.2 Storage Water. If a District fails to secure its proportionate share of storage water in accordance with section 6.3, or deliver its proportionate share of storage water in accordance with section 6.4 or deliver water under alternative mitigation actions in accordance with section 6.7, the non-compliant District shall lose safe harbor under section 8, and patrons of the non-compliant District shall be subject to administration pursuant to Conjunctive Management Rule 40.05 unless and until such non-compliance is remedied.

9.3 Reach Gain Mitigation Fund. If a District fails to contribute its proportionate share of funding for projects to improve Near Blackfoot to Minidoka reach gains in accordance with section 5, patrons of the non-compliant District shall be subject to administration pursuant to Conjunctive Management Rule 40.05 until such non-compliance is remedied.

10. Additional Organized Ground Water Groups May Join Plan. Ground water districts or other entities representing groundwater users brought into the area of common ground water supply through the passage of Senate Bill 1341 (2024) or brought in through expansion of the area of common ground water supply as allowed by Senate Bill 1341 (2024) may seek to join this Plan. Upon the written consent of all parties, which consent shall not be unreasonably withheld, the parties and the entity joining this Plan shall execute an addendum to this Plan whereby the joining entity agrees to (a) perform groundwater conservation equivalent to the Districts, which conservation shall be in addition to the 205,000 acre-feet required under section 4; (b) contribute pro rata toward the reach gain fund under section 5; (c) contribute pro rata toward the storage water obligation under section 6, which shall proportionately reduce the storage obligation of the Districts; (d) perform such other obligations as may reasonably be required as a consequence of joining this Plan; and (e) consent to be bound by all other terms of this Plan on the same terms and conditions as the Districts.

11. Mitigation Plan Approval. Within ten (10) days after the Effective Date, the parties will submit this Plan to the Department for approval as a stipulated mitigation plan under rule 43 of the Conjunctive Management Rules. Upon approval, this Plan shall (a) supersede and replace the stipulated mitigation plan previously approved in IDWR Docket No. CM-MP-2016-001, and such plan, together with the agreements upon which it is predicated,[1] shall be null and void; (b) supersede and replace the mitigation plans previously approved in IDWR Docket Nos. CM-MP-2009-006 and CM-MP-2009-007, which shall be null and void. The parties acknowledge that all terms of the *2024 Stipulation* dated June 19, 2024, have been satisfied except for the groundwater conservation obligation in paragraph 5 which is superseded and replaced by section 4 of this Plan.

12. Miscellaneous.

[1] The mitigation plan approved in IDWR Docket No. CM-MP-2016-001 is predicated upon the *Settlement Agreement Entered Into June 30, 2015 Between Participating Members of the Surface Water Coalition and Participating Members of Idaho Ground Water Appropriators, Inc.*, which was amended and clarified by the *Agreement* dated October 7, 2015, the *Addendum to Settlement Agreement* dated October 19, 2015, and the *Second Addendum to Settlement Agreement* dated December 14, 2016.

12.1 Amendment. This Plan may be amended only by a written instrument signed by all parties and approved by the Department.

12.2 Notices. Notices required or permitted to be given to any party under this Plan shall be in writing and shall be effective (a) when personally delivered, (b) three days after mailing via U.S. Postal Service certified mail, (c) upon delivery by a reputable overnight courier, or (d) upon delivery via email to an authorized representative of the party. Notices sent by email shall be deemed received when the designated recipient acknowledges receipt via reply email.

12.3 Appendices. All appendices cited in, and attached to, this Plan are incorporated into this Plan by reference as if set forth fully herein.

12.4 Counterparts. This Plan may be executed in counterparts which, when taken together, shall constitute one and the same document.

12.5 Digital Signatures. Digital and scanned signatures to this Plan shall be valid and effective to bind the party so signing.

[End of text; signature pages below]

GROUND WATER DISTRICT SIGNATURES

North Snake Ground Water District

By: _____ Date: Nov. 12, 2024
Kevin Carlquist, Chairman

Magic Valley Ground Water District

By: _____ Date: _____
Dean Stevenson, Chairman

Carey Valley Ground Water District

By: _____ Date: _____
Leta Hansen, Chairwoman

Aberdeen-American Falls Ground Water District

By: _____ Date: _____
Tim Deeg, Chairman

Bingham Ground Water District

By: _____ Date: _____
Connie Christensen, Chairwoman

Bonneville-Jefferson Ground Water District

By: _____ Date: _____
Stephanie Mickelsen, Chairwoman

GROUND WATER DISTRICT SIGNATURES

North Snake Ground Water District

By:_____ Date:_____
Lynn Carlquist, Chairman

Magic Valley Ground Water District

By:_____ Date: 11/12/2024
Dean Stevenson, Chairman

Carey Valley Ground Water District

By:_____ Date:_____
Leta Hansen, Chairwoman

Aberdeen-American Falls Ground Water District

By:_____ Date:_____
Tim Deeg, Chairman

Bingham Ground Water District

By:_____ Date:_____
Connie Christensen, Chairwoman

Bonneville-Jefferson Ground Water District

By:_____ Date:_____
Stephanie Mickelsen, Chairwoman

GROUND WATER DISTRICT SIGNATURES

North Snake Ground Water District

By:_____ Date:_____
Lynn Carlquist, Chairman

Magic Valley Ground Water District

By:_____ Date:_____
Dean Stevenson, Chairman

Carey Valley Ground Water District

By: Leta Hansen Date: 11/8/2024
Leta Hansen, Chairwoman

Aberdeen-American Falls Ground Water District

By:_____ Date:_____
Tim Deeg, Chairman

Bingham Ground Water District

By:_____ Date:_____
Connie Christensen, Chairwoman

Bonneville-Jefferson Ground Water District

By:_____ Date:_____
Stephanie Mickelsen, Chairwoman

GROUND WATER DISTRICT SIGNATURES

North Snake Ground Water District

By:_____ Date:_____
Lynn Carlquist, Chairman

Magic Valley Ground Water District

By:_____ Date:_____
Dean Stevenson, Chairman

Carey Valley Ground Water District

By:_____ Date:_____
Leta Hansen, Chairwoman

Aberdeen-American Falls Ground Water District

By: Linda P. Deeg Date: 11-13-2024
Tim Deeg, Chairman

Bingham Ground Water District

By:_____ Date:_____
Connie Christensen, Chairwoman

Bonneville-Jefferson Ground Water District

By:_____ Date:_____
Stephanie Mickelsen, Chairwoman

GROUND WATER DISTRICT SIGNATURES

North Snake Ground Water District

By:_____ Date:_____
Lynn Carlquist, Chairman

Magic Valley Ground Water District

By:_____ Date:_____
Dean Stevenson, Chairman

Carey Valley Ground Water District

By:_____ Date:_____
Leta Hansen, Chairwoman

Aberdeen-American Falls Ground Water District

By:_____ Date:_____
Tim Deeg, Chairman

Bingham Ground Water District

By: Connie Christensen Date: 11-13-24
Connie Christensen, Chairwoman

Bonneville-Jefferson Ground Water District

By:_____ Date:_____
Stephanie Mickelsen, Chairwoman

GROUND WATER DISTRICT SIGNATURES

North Snake Ground Water District

By:_____ Date:_____
Lynn Carlquist, Chairman

Magic Valley Ground Water District

By:_____ Date:_____
Dean Stevenson, Chairman

Carey Valley Ground Water District

By:_____ Date:_____
Leta Hansen, Chairwoman

Aberdeen-American Falls Ground Water District

By:_____ Date:_____
Tim Deeg, Chairman

Bingham Ground Water District

By:_____ Date:_____
Connie Christensen, Chairwoman

Bonneville-Jefferson Ground Water District

By: Stephanie Mickelsen Date: 11/13/2024
Stephanie Mickelsen, Chairwoman

Jefferson-Clark Ground Water District

By: Kirk M Jacobs Date: 11/13/24
Kirk Jacobs, Chairman

Madison Ground Water District

By:_____ Date:_____
Bevan Jeppsen, Chairman

Henry's Fork Ground Water District

By:_____ Date:_____
Jeff Raybould, Chairman

Jefferson-Clark Ground Water District

By:_____ Date:_____
Kirk Jacobs, Chairman

Madison Ground Water District

By:_____ Date: 11-13-24
Bevan Jeppsen, Chairman

Henry's Fork Ground Water District

By:_____ Date:_____
Jeff Raybould, Chairman

Jefferson-Clark Ground Water District

By:_____ Date:_____
Kirk Jacobs, Chairman

Madison Ground Water District

By:_____ Date:_____
Bevan Jeppsen, Chairman

Henry's Fork Ground Water District

By:_____ Date: 11-11-24
Jeff Raybould, Chairman

SURFACE WATER COALITION SIGNATURES

Twin Falls Canal Company

By: _____ Date: 11/12/24
Roger Blass, Chairman

North Side Canal Company

By: _____ Date: 11/13/2024
Mike Elliott, Chairman

American Falls Reservoir District No. 2

By: _____ Date: _____
Ellis Gooch, Chairman

Milner Irrigation District

By: _____ Date: _____
Scott Breeding, Chairman

Burley Irrigation District

By: _____ Date: _____
Clifford Searle, Chairman

A&B Irrigation District

By: _____ Date: 11-12-24
Harold Mohlman, Chairman

Minidoka Irrigation District

By: _____ Date: _____
Ronald D. Kowitz, Chairman

SURFACE WATER COALITION SIGNATURES

Twin Falls Canal Company

By:_____ Date:_____
Roger Blass, Chairman

North Side Canal Company

By:_____ Date:_____
Mike Elliott, Chairman

American Falls Reservoir District No. 2

By: Ellis Gooch Date: 11-15-24
Ellis Gooch, Chairman

Milner Irrigation District

By:_____ Date:_____
Scott Breeding, Chairman

Burley Irrigation District

By:_____ Date:_____
Clifford Searle, Chairman

A&B Irrigation District

By:_____ Date:_____
Harold Mohlman, Chairman

Minidoka Irrigation District

By: Ronald D Kowitz Date: 11 12 24
Ronald D. Kowitz, Chairman

SURFACE WATER COALITION SIGNATURES

Twin Falls Canal Company

By:_____ Date:_____
Roger Blass, Chairman

North Side Canal Company

By:_____ Date:_____
Mike Elliott, Chairman

American Falls Reservoir District No. 2

By:_____ Date:_____
Ellis Gooch, Chairman

Milner Irrigation District

By: Scott Breeding Date: 11-12-24
Scott Breeding, Chairman

Burley Irrigation District

By:_____ Date:_____
Clifford Searle, Chairman

A&B Irrigation District

By:_____ Date:_____
Harold Mohlman, Chairman

Minidoka Irrigation District

By:_____ Date:_____
Ronald D. Kowitz, Chairman

SURFACE WATER COALITION SIGNATURES

Twin Falls Canal Company

By:_____ Date:_____
Roger Blass, Chairman

North Side Canal Company

By:_____ Date:_____
Mike Elliott, Chairman

American Falls Reservoir District No. 2

By:_____ Date:_____
Ellis Gooch, Chairman

Milner Irrigation District

By:_____ Date:_____
Scott Breeding, Chairman

Burley Irrigation District

By: Clifford Searle Date: 11/12/24
Clifford Searle, Chairman

A&B Irrigation District

By:_____ Date:_____
Harold Mohlman, Chairman

Minidoka Irrigation District

By:_____ Date:_____
Ronald D. Kowitz, Chairman

APPENDIX A

Groundwater Conservation Allocations

District	Baseline Diversion Volume	Annual Conservation Obligation	Annual Divertible Volume	Compliance Period Allocation
American Falls-Aberdeen	286,111	34,132	251,979	1,007,916
Bingham	274,578	32,756	241,822	967,287
Bonneville-Jefferson	161,987	16,500	145,487	581,948
Carey	5,545	661	4,883	19,533
Jefferson-Clark	445,393	53,134	392,259	1,569,037
Henry's Fork	76,241	9,095	67,146	268,583
Madison	78,095	3,000	75,095	300,380
Magic Valley	258,203	30,803	227,400	909,601
North Snake	208,881	24,919	183,962	735,849
	1,795,034	**205,000**	**1,590,034**	**6,360,135**

APPENDIX B

Storage Water Allocations Based on Initial 75,000AF Obligation

District	Baseline Diversion Volume	NB-M SS Baseline Impact	% of total SS Impact	Share of 75k Storage
American Falls-Aberdeen	286,111	210,298	28.6%	21,420.0
Bingham	274,578	173,258	23.5%	17,647.0
Bonneville-Jefferson	161,987	79,000	10.7%	8,047.0
Carey	5,545	2,714	0.4%	277.0
Jefferson-Clark	445,393	109,276	14.8%	11,130.0
Henry's Fork	76,241	3,528	0.5%	359.0
Madison	78,095	2,949	0.4%	300.0
Magic Valley	258,203	123,758	16.8%	12,605.0
North Snake	208,881	31,566	4.3%	3,215.0
	1,795,034	**736,347**	**100%**	**75,000**

APPENDIX C

Managed Aquifer Recharge Standards

1. Natural flow water rights used for recharge must have "recharge" listed as an authorized beneficial use.

2. Water must be recharged in the calendar year of the irrigation season in which mitigation credit is claimed.

3. In-canal recharge will be accounted for in accordance with Idaho Water Resource Board standards taking into consideration historical diversion rates.

4. The following information must be provided by the entity conducting the recharge:

    4.1 Water source.

    4.2 Water right number or storage spaceholder providing storage.

    4.3 If storage water is leased, a copy of the lease contract.

    4.4 Copy of the recharge contract with the entity that performed the recharge.

    4.5 Location(s) where recharge occurred.

    4.6 Dates recharge was performed.

    4.7 Total volume recharged at each recharge site.

    4.8 Daily or weekly measurement data supporting the total volume recharged.

    4.9 Description of measurement device and accuracy

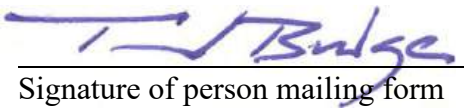
APPENDIX D

Reasonable Carryover Volumes

SWC Member	Carryover Volume
A&B Irrigation District	22,700
American Falls Reservoir Dist. #2	16,700
Burley Irrigation District	0
Milner Irrigation District	16,100
Minidoka Irrigation District	0
North Side Canal Company	113,300
Twin Falls Canal Company	37,400

CERTIFICATE OF SERVICE

I hereby certify that on this 19th day of November, 2024, I served the foregoing document on the persons below via email as indicated:



Signature of person mailing form

Director Mat Weaver Garrick Baxter Sarah Tschohl IDAHO DEPT. OF WATER RESOURCES 322 E Front St. Boise, ID 83720-0098	mat.weaver@idwr.idaho.gov garrick.baxter@idwr.idaho.gov sarah.tschohl@idwr.idaho.gov file@idwr.idaho.gov
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Courtesy Copies to:

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BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY OR FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY	Docket No. CM-DC-2010-001 **FINAL ORDER CURTAILING GROUND WATER RIGHTS JUNIOR TO JANUARY 25, 1970**

The Director of the Idaho Department of Water Resources ("Department") finds, concludes, and orders as follows:

FINDINGS OF FACT

1. On July 19, 2023, the Department issued its *Sixth Final Order Regarding Methodology for Determining Material Injury to Reasonable In-Season Demand and Reasonable Carryover* ("*Methodology Order*"). The *Methodology Order* established nine steps for determining material injury to members of the Surface Water Coalition ("SWC").[1]

2. On November 29, 2024, the Director issued the *Final Order Establishing 2024 Reasonable Carryover (Methodology Step 9)* ("*Step 9 Order*"). Therein, the Director concluded there is a 44,900-acre-foot ("AF") volume of material injury to Twin Falls Canal Company's reasonable carryover. *Step 9 Order*, at 5. The Director concluded no other members of the SWC have a reasonable carryover shortfall. *Id*.

3. The Director ordered that within fourteen days of November 29, 2024, "junior ground water users holding consumptive ground water rights within the Eastern Snake Plain Aquifer area of common ground water supply [2] bearing priority dates junior to January 25, 1970, must mitigate for the reasonable carryover shortfall of 44,900 AF in accordance with an approved mitigation plan." *Id*. The Director also ordered that, if such junior ground water users cannot establish that they can mitigate for the reasonable carryover shortfall "in accordance with an approved mitigation plan, the Director will issue an order curtailing the junior-priority ground water use." *Id.* at 5–6.

[1] The SWC is comprised of A&B Irrigation District, American Falls Reservoir District #2, Burley Irrigation District, Milner Irrigation District, Minidoka Irrigation District, North Side Canal Company, and Twin Falls Canal Company.

[2] In 2024, the Idaho Legislature established a new area of common ground water supply boundary for the Eastern Snake Plain Aquifer in Idaho Code § 42-233c. The new boundary is currently the ESPAM2.2 model boundary, but the boundary may be expanded by the Director in the future. I.C. § 42-233c(1)–(2). This new boundary supersedes the boundary in Rule 50.01 of the Department's Rules for Conjunctive Management of Surface and Ground Water Resources ("CM Rules"). *See Idaho Cnty. Nursing Home v. Idaho Dep't of Health & Welfare*, 120 Idaho 933, 937, 821 P.2d 988, 992 (1991) ("When a conflict exists between a statute and a regulation, the regulation must be set aside to the extent of the conflict."); *compare* I.C. § 42-233c, *with* IDAPA 37.03.11.050.01. The Department used the ESPAM2.2 model boundary in the model simulation for the *Step 9 Order*.

4. There are currently seven approved mitigation plans in place responding to the SWC delivery call.[3]

(1) Docket No. CM-MP-2007-001 for the benefit of J.R. Simplot Company, Basic American Foods, and ConAgra Foods Packaged Foods Company, Inc., d/b/a Lamb-Weston (collectively, the "Water Mitigation Coalition");

(2) Docket No. CM-MP-2009-006 for the benefit of the Idaho Ground Water Appropriators, Inc. ("IGWA") (conversions, dry ups, and recharge);

(3) Docket No. CM-MP-2009-007 for the benefit of IGWA (delivery of stored water);

(4) Docket No. CM-MP-2010-001 for the benefit of the Southwest Irrigation and Goose Creek Irrigation Districts (collectively, "SWID");

(5) Docket No. CM-MP-2015-003 for the benefit of the A&B Irrigation District ("A&B");

(6) Docket No. CM-MP-2016-001 for the benefit of IGWA ("*2016 Mitigation Plan*"); and

(7) Docket No. CM-MP-2019-001 for the benefit of certain cities commonly referred to as the "Coalition of Cities," the City of Idaho Falls, and the City of Pocatello (collectively, the "Cities").

5. In the *Step 9 Order*, the Director found that due to the nature of the approved mitigation plans for the Water Mitigation Coalition, SWID, and the Cities, these entities do not need to establish that they can mitigate for their proportionate share of the reasonable carryover shortfall. *Step 9 Order*, at 5 n.10.

6. Regarding IGWA's approved *2016 Mitigation Plan*, on June 20, 2024, the SWC and IGWA submitted a *Joint Motion for Order Approving 2024 Stipulation*, requesting that the Director issue an order accepting a stipulation entered into by the parties ("*2024 Stipulation*") as compliance with the *2016 Mitigation Plan* for the 2024 irrigation season. On June 20, 2024, the Director issued an *Order Approving 2024 Stipulation as Compliance with Approved Mitigation Plan* ("*Order Approving 2024 Stipulation*").[4] At the issuance of this order, the Director does not know whether IGWA complied with the *2024 Stipulation* or whether IGWA is in compliance with the *2016 Mitigation Plan*.

7. In the *Step 9 Order*, the Director found that "following the Director's issuance of his *Order Approving 2024 Stipulation*, the SWC and IGWA worked in good faith and at length to establish a new ongoing stipulated mitigation plan. On November 19, 2024, the SWC and certain

[3] In December 2023 and January 2024, a number of ground water districts submitted new individual mitigation plans. The plans were advertised, and they were protested by various entities. The Director has appointed an independent hearing officer, Gerald F. Schroeder, to hear the contested cases on behalf of the Department. Those proceeding are ongoing and no final orders have been issued related to the new mitigation plans.

[4] The *2024 Stipulation* and *Order Approving 2024 Stipulation* can be viewed on the Department's website: https://idwr.idaho.gov/legal-actions/mitigation-plan-actions/SWC/IGWA/.

ground water districts[5] submitted a new stipulated mitigation plan ("*2024 Stipulated Mitigation Plan*") and requested that the Director issue an order approving the plan." *Id*. The *2024 Stipulated Mitigation Plan* was publicly advertised in December 2024 in accordance with Idaho Code § 42-222(1) and CM Rule 43. *See id*. Protests against approval of the *2024 Stipulated Mitigation Plan* must be filed with the Department by December 23, 2024. "Because of the new *2024 Stipulated Mitigation Plan*, the Director will not at this time subject junior ground water users in good standing with the [Districts] to curtailment under this order." *Id*. The Districts do not need to establish that they can mitigate for their proportionate share of the reasonable carryover shortfall.

8. However, in the *Step 9 Order*, the Director found that due to the nature of A&B's mitigation plan, within fourteen days of November 29, 2024, "A&B must establish to the satisfaction of the Director its ability to mitigate for its proportionate share of the reasonable carryover shortfall, which is 248 AF." *Id*.

9. In response to the *Step 9 Order's* requirement for A&B to establish how it will mitigate its proportionate share of the reasonable carryover shortfall, A&B's attorney sent a letter to the Director stating, "I have conferred with manager Justin Temple and it is [A&B's] intent to continue to curtail the enlargement water rights (2,063 acres) for the 2025 irrigation season." Ltr. from Travis Thompson, attorney for A&B, to Mat Weaver, Department Director (Dec. 13, 2024).

CONCLUSIONS OF LAW

1. Idaho Code § 42-602 authorizes the Director to supervise water distribution within water districts:

> The director of the department of water resources shall have direction and control of the distribution of water from all natural water sources within a water district to the canals, ditches, pumps and other facilities diverting therefrom. Distribution of water within water districts created pursuant to section 42-604, Idaho Code, shall be accomplished by watermasters as provided in this chapter and supervised by the director.
>
> The director of the department of water resources shall distribute water in water districts in accordance with the prior appropriation doctrine. The provisions of chapter 6, title 42, Idaho Code, shall apply only to distribution of water within a water district.

2. As explained above, within fourteen days of November 29, 2024, "junior ground water users holding consumptive ground water rights within the Eastern Snake Plain Aquifer area of common ground water supply bearing priority dates junior to January 25, 1970, must mitigate for the reasonable carryover shortfall of 44,900 AF in accordance with an approved mitigation plan." *Step 9 Order*, at 5. If a junior ground water user does not establish that they can

[5] The signatory districts to the new *2024 Stipulated Mitigation Plan* are American Falls-Aberdeen Ground Water District, Bingham Ground Water District, Bonneville-Jefferson Ground Water District, Carey Valley Ground Water District, Henry's Fork Ground Water District, Jefferson-Clark Ground Water District, Madison Ground Water District, Magic Valley Ground Water District, and North Snake Ground Water District. For purposes of this order, said nine ground water districts are collectively referred to as the "Districts."

mitigate for the reasonable carryover shortfall in accordance with an approved mitigation plan, the ground water user will be subject to this "order curtailing the junior-priority ground water use." *Id.* at 5–6.

3. Due to the nature of the approved mitigation plans for the Water Mitigation Coalition, IGWA, SWID, and the Cities, these entities do not need to establish that they can mitigate for their proportionate share of the reasonable carryover shortfall. Junior ground water users entitled to protection under the Water Mitigation Coalition's, IGWA's, SWID's, or the Cities' approved mitigation plans will not be subject to curtailment related to the reasonable carryover shortfall.

4. A&B has failed to provide timely documentation that it has adequately secured the storage water necessary to mitigate fully for its obligation under its approved mitigation plan. Instead, A&B sent a letter stating that it intends "to continue to curtail the enlargement water rights (2,063 acres) for the 2025 irrigation season." Accordingly, to ensure that A&B's enlargement ground water rights junior to January 25, 1970, are curtailed during the 2025 irrigation season, the Director will include A&B's enlargement water rights junior to January 25, 1970, on the curtailment list in Attachment A to this order.

5. The Director concludes that junior-priority ground water users who have not established that they can mitigate for the reasonable carryover shortfall in accordance with an approved mitigation plan should be curtailed. Junior-priority ground water users subject to curtailment are listed in Attachment A to this order.

ORDER

Based upon and consistent with the foregoing, IT IS HEREBY ORDERED that effective December 17, 2024, ground water users holding water rights bearing priority dates junior to January 25, 1970, within the Eastern Snake Plain Aquifer area of common ground water supply ("ESPA ACGWS") and listed in Attachment A to this order, shall curtail/refrain from diversion and use of ground water pursuant to those water rights unless notified by the Department that the curtailment order has been modified or rescinded as to their water rights.

IT IS FURTHER ORDERED that watermasters for the water districts within the ESPA ACGWS who regulate ground water are directed to review the water rights listed in Attachment A to this order and begin the curtailment process.

IT IS FURTHER ORDERED that this order applies to consumptive ground water rights, including but not limited to, agricultural, commercial, industrial, and municipal uses. This order excludes ground water rights used for *de minimis* domestic purposes where such domestic use is within the limits of the definition set forth in Idaho Code § 42-111 and ground water rights used for *de minimis* stock watering where such stock watering use is within the limits of the definitions set forth in Idaho Code § 42-1401A(11), pursuant to IDAPA 37.03.11.020.11.

Dated 17th day of December 2024.

MATHEW WEAVER
Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 17th day of December 2024, the above and foregoing, was served by the method indicated below, and addressed to the following:

John K. Simpson MARTEN LAW LLP PO Box 2139 Boise, ID 83701-2139 jsimpson@martenlaw.com	☒ U.S. Mail, postage prepaid ☒ Email
Travis L. Thompson Abigail Bitzenburg MARTEN LAW LLP PO Box 63 Twin Falls, ID 83303-0063 tthompson@martenlaw.com abitzenburg@martenlaw.com jnielsen@martenlaw.com	☒ U.S. Mail, postage prepaid ☒ Email
W. Kent Fletcher FLETCHER LAW OFFICE PO Box 248 Burley, ID 83318 wkf@pmt.org	☒ U.S. Mail, postage prepaid ☒ Email
Thomas J. Budge Elisheva M. Patterson RACINE OLSON PO Box 1391 Pocatello, ID 83204-1391 tj@racineolson.com elisheva@racineolson.com	☒ U.S. Mail, postage prepaid ☒ Email
David W. Gehlert Natural Resources Section Environment and Natural Resources Division U.S. Department of Justice 999 18th St., South Terrace, Suite 370 Denver, CO 80202 david.gehlert@usdoj.gov	☒ U.S. Mail, postage prepaid ☒ Email
Matt Howard US Bureau of Reclamation 1150 N Curtis Road Boise, ID 83706-1234 mhoward@usbr.gov	☒ U.S. Mail, postage prepaid ☒ Email
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Robert L. Harris HOLDEN, KIDWELL, HAHN & CRAPO, PLLC PO Box 50130 Idaho Falls, ID 83405 rharris@holdenlegal.com	☒ U.S. Mail, postage prepaid ☒ Email
Michael A. Kirkham City Attorney, City of Idaho Falls PO Box 50220 Idaho Falls, ID 83405 mkirkham@idahofallsidaho.gov	☒ U.S. Mail, postage prepaid ☒ Email
Skyler C. Johns Nathan M. Olsen Steven L. Taggart OLSEN TAGGART PLLC PO Box 3005 Idaho Falls, ID 83403 sjohns@olsentaggart.com nolsen@olsentaggart.com staggart@olsentaggart.com	☒ U.S. Mail, postage prepaid ☒ Email
Dylan Anderson Dylan Anderson Law PLLC PO Box 35 Rexburg, Idaho 83440 dylan@dylanandersonlaw.com	☒ U.S. Mail, postage prepaid ☒ Email

[6] Through informal means and the receipt of undelivered mail, the Department has been made aware that the mailing address for counsel of McHugh Bromley, PLLC has changed from the service address the Department has on record in this matter: 380 South 4th Street, Suite 103, Boise, ID 83702. To avoid additional unnecessary expense, the Department has updated the mailing address for McHugh Bromley, PLLC in this matter. However, this update does not remove any duty that counsel of McHugh Bromley, PLLC may have to formally notify the Department and the parties of their change of mailing address for service in this matter.

COURTESY COPY TO: Craig Chandler IDWR—Eastern Region 900 N. Skyline Drive, Ste. A Idaho Falls, ID 83402 craig.chandler@idwr.idaho.gov	☒ Email
COURTESY COPY TO: Corey Skinner IDWR—Southern Region 1341 Fillmore St., Ste. 200 Twin Falls, ID 83301-3033 corey.skinner@idwr.idaho.gov	☒ Email
COURTESY COPY TO: William A. Parsons PARSONS, LOVELAND, SHIRLEY & LINDSTROM, LLP PO Box 910 Burley, ID 83318 wparsons@pmt.org wparsons@magicvalley.law	☒ Email
COURTESY COPY TO: Jerry R. Rigby RIGBY, ANDRUS & RIGBY LAW, PLLC PO Box 250 Rexburg, ID 83440 jrigby@rex-law.com	☒ Email
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Sarah Tschohl
Paralegal

Attachment A
List of Ground Water Rights Junior to January 25, 1970
Sorted by Owner

Owner	Water Right No.	Basis	Priority Date	Water Use List	Diversion Rate (cfs)	Total Acres	Enlargement
1523 LLC	35-14566	Decreed	11/03/1972	IRRIGATION	0.05	2.6	
2 K FARMS	35-8766	License	06/01/1989	COMMERCIAL, DOMESTIC	0.02	0.0	
2B LEGACY LLC	31-7043A	Decreed	11/12/1970	COMMERCIAL, STOCKWATER	0.28	0.0	
2-K FARMS	35-8767	License	06/09/1989	COMMERCIAL	0.01	0.0	
3 STRING CATTLE OF IDAHO LLC	37-23203	Decreed	07/24/1973	COMMERCIAL, STOCKWATER	0.16	0.0	
A & B IRRIGATION DISTRICT / US BUREAU OF RECLAMATION	36-15193B	Decreed	04/01/1965	IRRIGATION	0.31	0.0	Yes
A & B IRRIGATION DISTRICT / US BUREAU OF RECLAMATION	36-15194B	Decreed	04/01/1968	IRRIGATION	2.51	0.0	Yes
A & B IRRIGATION DISTRICT / US BUREAU OF RECLAMATION	36-15195B	Decreed	04/01/1978	IRRIGATION	2.24	0.0	Yes
A & B IRRIGATION DISTRICT / US BUREAU OF RECLAMATION	36-15196B	Decreed	04/01/1981	IRRIGATION	0.08	0.0	Yes
A & B IRRIGATION DISTRICT / US BUREAU OF RECLAMATION	36-15127B	Decreed	04/01/1984	IRRIGATION	28.89	0.0	Yes
ADAMS, CHERYL L; ADAMS, H LYLE; ADAMS, RODDY L	37-7078	Decreed	10/12/1970	COMMERCIAL, DOMESTIC, STOCKWATER	0.08	0.0	
AEI CORP	29-8037	License	11/13/1990	DOMESTIC, INDUSTRIAL	0.06	0.0	
AGRICULTURAL SERVICES INC	35-8857	License	09/06/1989	COMMERCIAL	0.04	0.0	
AKL PROPERTIES LLC	36-8416	License	03/30/1989	COMMERCIAL	0.04	0.0	
ALLEN, CECIL; ALLEN, FLORENCE I	31-7398	Decreed	06/16/1983	COMMERCIAL, DOMESTIC	0.06	0.0	
ANDERLAND LLC	45-14554	Decreed	09/27/1972	IRRIGATION	0.19	33.0	
ANDERLAND LLC	45-14555	Decreed	09/27/1972	COMMERCIAL, STOCKWATER	0.24	0.0	
ANDERSON, CHAD ALLEN; ANDERSON, JASHELLE HEATHER	45-7650	License	06/21/1989	DOMESTIC, IRRIGATION	0.06	1.0	
ANDERSON, SAM; ANDERSON, STACIE	25-7490	License	03/15/1989	COMMERCIAL	0.04	0.0	
ARD, CHARLES BRUCE	22-7555	License	08/24/1988	COMMERCIAL, DOMESTIC	0.04	0.0	
ARLENCO INC	22-7423	Decreed	02/24/1983	COMMERCIAL	0.01	0.0	
ARTCO INC	22-7473	License	12/23/1983	INDUSTRIAL, IRRIGATION	0.84	17.0	
ATKINSON, ANDREW ; ATKINSON, MARY	29-13736	License	02/21/2006	DOMESTIC	0.08	0.0	
B & F DISTRIBUTING CO	25-7555	License	10/12/1989	COMMERCIAL	0.04	0.0	
BABEL, PAUL; HAMPTON, WALLACE; PARKS, FRED A	25-7083	License	01/28/1976	DOMESTIC	0.06	0.0	
BAISCH, ROBERT L	35-7481	License	02/21/1975	DOMESTIC	0.08	0.0	
BARBEN, GORDON E; SAMPSON, KEN	27-7025	License	04/02/1973	DOMESTIC	0.08	0.0	
BARBER, BETH; BARBER, KENT	25-7017B	Decreed	03/20/1972	IRRIGATION	0.92	45.3	
BARBER, BETH; BARBER, KENT	25-7073A	Decreed	08/01/1975	IRRIGATION	1.50	75.0	
BARRUS, KEITH; MINKS, ROY; PLOCK, STEPHEN R; SCHNEIDER, SCOT L	25-7080	Decreed	01/28/1976	DOMESTIC	0.11	0.0	
BARTLETT, ERWIN; BARTLETT, JANICE	45-7653	License	06/06/1989	COMMERCIAL	0.04	0.0	
BATES, ROBERT W; BATES, SHARON H; WILKINS, ELMA; WILKINS, LLOYD	25-7357	Decreed	06/16/1983	DOMESTIC	0.06	0.0	
BEAR CREST LTD LLC	22-14440		12/06/2021	COMMERCIAL	1.22	0.0	
BEAR ISLAND WATER ASSN INC	35-8672	License	09/06/1988	DOMESTIC	0.20	0.0	
BECK, DAVID; BECK, SUSAN K	45-11122	Decreed	01/09/1975	DOMESTIC, STOCKWATER	0.07	0.0	
BENNETT, UDO	29-13940	Decreed	10/03/1977	IRRIGATION	0.13	7.5	
BENSON, CLIFFORD; BENSON, LADAWN C	35-8124		03/25/1983	IRRIGATION	6.40	320.0	
BEYER, PATRICK	25-7313	Decreed	04/11/1983	DOMESTIC, IRRIGATION	0.05	0.7	
BIG FIVE WATER ASSN	25-7199	Decreed	07/24/1980	DOMESTIC	0.11	0.0	
BIG SKY DAIRY	37-20858	Decreed	01/01/1971	STOCKWATER	0.04	0.0	
BIG SKY DAIRY	37-20859	Decreed	01/01/1974	STOCKWATER	0.04	0.0	

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BIG SKY DAIRY	37-20860	Decreed	01/01/1975	STOCKWATER	0.04	0.0	
BIG SKY DAIRY	37-12833	Decreed	01/01/1977	DOMESTIC, STOCKWATER	0.17	0.0	
BIGGS, DONALD; BIGGS, HELEN ; BUSH, ROBERT; OCKERMAN, JOY ; WINGERT, JEAN M	25-7082	Decreed	01/28/1976	DOMESTIC	0.16	0.0	
BINGHAM, BOYD A; BINGHAM, SHERRY R	36-8425	License	06/23/1989	IRRIGATION	0.88	105.0	
BINGHAM, JENNIFER; BINGHAM, JOSEPH	37-23384	Decreed	02/04/1976	IRRIGATION	0.24	30.0	
BINGHAM, JERRY D; BINGHAM, VALERIE H	35-12226	Decreed	04/01/1987	IRRIGATION	0.59	285.0	Yes
BIRD, WARREN A; FARNES, LYLE R; RICKS, RICHARD; TOMCHAK, TYE	25-7375	Decreed	06/29/1983	DOMESTIC	0.10	0.0	
BLEDSOE, HELEN M; HACKMAN, ERNEST A	35-7916	License	09/16/1980	DOMESTIC	0.08	0.0	
BLUE SAGE PROPERTIES LLC	36-17171	Decreed	08/10/1973	IRRIGATION	0.07	5.3	
BOLINDER, CATHERINE L	27-7322	License	06/08/1982	DOMESTIC	0.06	0.0	
BONNIE BARTON BANDY IRREVOCABLE TRUST	36-17287	Decreed	05/14/1974	IRRIGATION	0.08	4.0	
BORAN , MICHAEL J	35-8635B	Decreed	12/17/1986	FISH PROPAGATION	0.72	0.0	
BORAN , MICHAEL J	35-8782	License	05/23/1989	FISH PROPAGATION	4.64	0.0	
BOWDEN, CHEREE; BOWDEN, GUY	31-12542	Decreed	06/09/1977	IRRIGATION	0.03	7.2	
BOWEN PETROLEUM	22-7464	License	06/29/1983	COMMERCIAL	0.04	0.0	
BRADY, LANCE; BRADY, SHANNON; HAGAN, DANNY D; HAGAN, MARILYNN J ; HOLMES, BILL; HOLMES, LINDA	25-7330	Decreed	06/14/1983	DOMESTIC, IRRIGATION	0.08	0.4	
BRIGGS, DAVID L; BRIGGS, JEANIE K	25-7466	License	11/17/1988	COMMERCIAL	0.04	0.0	
BRINKMANN, GEORGE	35-8893	License	03/29/1990	COMMERCIAL	0.01	0.0	
BROADHEAD, LYNN	35-8765	License	05/23/1989	COMMERCIAL	0.05	0.0	
BROWN, HAROLD	31-7513	License	11/23/1988	COMMERCIAL, DOMESTIC	0.07	0.0	
BROWN, JAN A; BROWN, SID E; MOMBERGER, JESSE C	31-7510	License	11/14/1988	DOMESTIC, IRRIGATION, STOCKWATER	0.11	2.0	
BRP INC	25-7622	License	09/23/1998	DOMESTIC	0.23	0.0	
BRP INC	25-14504		10/12/2021	DOMESTIC	0.26	0.0	
BURDETTE INC	25-7532	License	09/20/1989	COMMERCIAL	0.04	0.0	
BURGESS SUBDIVISION WATER ASSN INC	25-7457	License	10/27/1988	DOMESTIC	0.11	0.0	
BURNS CONCRETE INC	25-13982	License	12/18/2002	COMMERCIAL	3.53	0.0	
BURNS, KIRK E; SZIMHARDT, LINDA J	25-7426	License	06/06/1988	IRRIGATION	0.08	5.6	
BURRELL, GEORGE W; BURRELL, LURANA J; KEETCH, SHYANN; KEETCH, STETSON	29-13900	License	04/03/2009	DOMESTIC	0.08	0.0	
BURT, DEBRA L; LIVERMORE, SEAN	25-14531	Decreed	08/01/1975	IRRIGATION	0.10	5.0	
CANNERS SEED CORP	25-7449	License	10/13/1988	COMMERCIAL, DOMESTIC	0.04	0.0	
CARPENTER, BARBARA; CARPENTER, MAURICE	25-7193B	Decreed	04/30/1980	DOMESTIC, IRRIGATION, STOCKWATER	0.02	2.5	
CARRENO, OSCAR	36-15669	Decreed	02/18/1971	COMMERCIAL, STOCKWATER	0.02	0.0	
CARRENO, OSCAR	36-16240	Decreed	01/07/1974	COMMERCIAL, STOCKWATER	0.01	0.0	
CARSTENS, JULIUS M J	25-7481	License	12/22/1988	IRRIGATION	0.04	1.4	
CASA DEL NORTE LP	37-7081	Decreed	12/08/1970	IRRIGATION	1.67	840.0	
CASSIDY, FRANCIS J; HOFFMAN, RICHARD P; MEYER, DAVID DANIEL; MEYER, JENNY CLUFF; TANNER, TOMMY C	25-7638	License	04/25/1995	DOMESTIC	0.10	0.0	
CEYNAR, MARCENE; FANN, LAVEDA A; FANN, R E; FARNSWORTH, BETH; FARNSWORTH, JAY; PICKERING, CRAIG; PICKERING, VICKY	25-7272	Decreed	02/04/1982	DOMESTIC	0.10	0.0	

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CHALLENGER PALLET & SUPPLY	25-7451	License	12/01/1988	COMMERCIAL	0.04	0.0	
CHAMBERS, RALEIGH R	25-7343	License	06/27/1983	DOMESTIC	0.06	0.0	
CHAPMAN, GARY RAY; CHAPMAN, REBECCA LYNN	22-14405	Decreed	04/22/1979	IRRIGATION	0.04	2.0	
CHERRY, MARY ANN; CHERRY, ROBERT	25-14402	Decreed	07/19/1973	IRRIGATION	0.02	1.2	
CHRISTENSEN, ADAM W; NELSON, DIANE K	37-23133	Decreed	09/20/1974	IRRIGATION	0.02	0.8	
CHURCH OF JESUS CHRIST OF LATTER DAY SAINTS	22-13745	License	07/23/2007	DOMESTIC	0.11	0.0	
CITY OF MUD LAKE	31-7146	Decreed	11/15/1974	FIRE PROTECTION, MUNICIPAL	2.23	0.0	
CLAYSON, CASEY; CLAYSON, SHANE	45-7496	Decreed	01/27/1982	DOMESTIC, IRRIGATION	0.06	0.7	
COOK, CLYDE A; COOK, LA RAE L; LOVELL, RONALD L; LOVELL, TAMMY	25-14060	Decreed	12/22/1971	IRRIGATION	1.78	1120.1	
COOK, DANNY; COOK, DARRELL L	35-7979	License	05/05/1981	DOMESTIC	0.06	0.0	
COOK, DONALD J	35-7362	License	12/27/1973	DOMESTIC, STOCKWATER	0.05	0.0	
CORDES, RONALD A	25-7488	License	02/14/1989	DOMESTIC, IRRIGATION	0.10	3.0	
COUNTRY CLUB ESTATES WATER ASSN INC	36-8607	License	11/18/1991	DOMESTIC, FIRE PROTECTION, STOCKWATER	0.50	0.0	
COUNTRY CLUB WATER	25-14447	Decreed	01/27/1976	IRRIGATION	0.03	18.7	
COUNTRY CLUB WATER	25-14448	Decreed	10/31/1986	IRRIGATION	0.01	18.7	Yes
COUNTRY LIFE ESTATES WATER USERS ASSN	25-7033	Decreed	03/27/1973	DOMESTIC	0.20	0.0	
COUNTRY LIFE ESTATES WATER USERS ASSN	25-7046	Decreed	03/08/1974	DOMESTIC	0.73	0.0	
COUNTY OF JEFFERSON	25-13985	License	05/13/2003	RECREATION STORAGE	0.00	0.0	
CRANDALL, JEFF; CRANDALL, SUSAN	35-8658	License	11/02/1985	DOMESTIC	0.06	0.0	
CRANE, CALVIN C	45-7303	Decreed	05/10/1977	IRRIGATION, STOCKWATER	1.28	62.0	
CRANER, DAVID A; CRANER, HELEN B	45-7442	Decreed	04/04/1980	IRRIGATION	0.12	4.0	
CREG & LETA HANSEN FAMILY LTD PARTNERSHIP	37-23353	Decreed	06/07/1977	IRRIGATION	0.73	37.0	
CRESPO TRUCKING INC	37-8355	License	08/09/1988	COMMERCIAL, DOMESTIC	0.04	0.0	
CRESTVIEW CALVES LLC	36-17207	License	12/11/1973	COMMERCIAL, STOCKWATER	0.12	0.0	
CRM CO	25-7554	License	09/08/1989	COMMERCIAL	0.04	0.0	
CROMWELL, VERNAL D	25-7446	License	10/21/1988	DOMESTIC	0.06	0.0	
CROP PRODUCTION SERVICES	27-7371	Decreed	06/29/1983	COMMERCIAL	0.04	0.0	
CROP PRODUCTION SERVICES	35-8627	Decreed	04/04/1989	COMMERCIAL	0.16	0.0	
CROWN OF LIFE LUTHERAN CHURCH	25-7434	License	08/30/1988	COMMERCIAL	0.04	0.0	
CRYSTAL POND ANGLERS ASSN INC	22-7577	License	08/24/1988	RECREATION STORAGE	0.00	0.0	
CVRH FARM LLC	27-12324	Decreed	05/14/1970	IRRIGATION	0.10	41.0	
D & M WATER ASSN	29-7281	Decreed	08/04/1975	DOMESTIC	0.26	0.0	
D & M WATER ASSN	29-7367	Decreed	02/07/1977	DOMESTIC	0.40	0.0	
DALTON, DOUG	29-7858	License	02/22/1989	COMMERCIAL	0.08	0.0	
DANCE, DAVID P; DANCE, KARAN D	35-8822	License	07/03/1989	COMMERCIAL	0.01	0.0	
DANIEL, BRENDA	25-7447	License	10/25/1988	IRRIGATION	0.02	1.0	
DANIEL, BRENDA; DANIEL, DAVID S	25-7261	Decreed	10/08/1981	DOMESTIC, IRRIGATION, STOCKWATER	0.04	2.0	
DANIEL, MELVIN R JR	25-7538	License	09/19/1989	COMMERCIAL	0.07	0.0	
DANSIE, CAROL L; DANSIE, CHARLES N	27-12318	Decreed	05/18/1982	IRRIGATION	3.45	215.0	
DASCANIO, ELIZABETH; DASCANIO, JUSTIN	35-14589	Decreed	09/28/1981	IRRIGATION	0.01	15.0	
DAVIS, ERNIE; DAVIS, RHONDA	35-8814	License	09/05/1989	COMMERCIAL	0.04	0.0	

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DAVISON, NANCY; DAVISON, RANDY LEE	25-7017A	Decreed	03/20/1972	IRRIGATION	0.42	21.0	
DE MOSS, GARY A; DE MOSS, HELEN	37-22168	Decreed	09/20/1974	IRRIGATION, STOCKWATER	1.61	802.0	
DE MOTT, WILLIAM J; GROVER, LA VAR; RIGBY, WILLIAM F	25-7537	License	09/20/1989	COMMERCIAL	0.08	0.0	
DE VRIES, KRISTY; DE VRIES, WIETZE	45-14557	Decreed	12/08/1981	COMMERCIAL	0.06	0.0	
DEES, ELDON G; DEES, KATHALINE; DEES, RONALD K; DEES, SHIRLEY	25-7351	Decreed	06/24/1983	DOMESTIC, STOCKWATER	0.06	0.0	
DERBYHAWK LLC	25-7553	License	09/27/1989	DOMESTIC	0.11	0.0	
DIAMOND A LIVESTOCK INC	37-21492	Decreed	06/01/1971	COMMERCIAL	0.04	0.0	
DIXON, ANNIE; JAHN, ROBERT	35-7823	License	11/22/1978	DOMESTIC, STOCKWATER	0.05	0.0	
DOMINICK, TERESA	25-7073F	Decreed	08/01/1975	IRRIGATION	0.10	5.0	
DREW, STAN	29-8237	License	04/17/2000	DOMESTIC	0.11	0.0	
DUFFY & CONNIE ENTERPRISES LLC	22-7605	License	10/19/1988	COMMERCIAL	0.02	0.0	
EAMES, LINDA J	25-7643	License	12/04/1995	DOMESTIC	0.18	0.0	
EAST RIVER COMMONS HOME OWNER ASSN	25-7143	Decreed	03/12/1978	DOMESTIC	0.16	0.0	
EDSTROM CONSTRUCTION PROPERTIES LLP	22-14542		03/27/2023	INDUSTRIAL STORAGE, INDUSTRIAL, RECREATION STORAGE	4.00	0.0	
EGANS GREEN HOUSE	25-7433	License	07/25/1988	COMMERCIAL	0.04	0.0	
EL RANCHO NO 3 LLC	25-7077	Decreed	11/04/1975	IRRIGATION	1.39	78.0	
ELK RIDGE RV LLC	36-17283	Decreed	03/01/1975	COMMERCIAL	0.03	0.0	Yes
EVANS GRAIN & ELEVATOR CO	35-8848	License	11/06/1989	COMMERCIAL	0.04	0.0	
FALL RIVER TRADING POST	21-7412	License	03/01/1989	COMMERCIAL, DOMESTIC	0.04	0.0	
FARMERS MERCHANT INC	35-7723	Decreed	07/04/1977	DOMESTIC, INDUSTRIAL	0.04	0.0	
FARMS LLC	35-14706	Decreed	06/01/1975	IRRIGATION	0.03	68.0	Yes
FARMS LLC	35-14760	Decreed	06/01/1975	IRRIGATION	0.01	428.0	
FARMS LLC	35-14719	Decreed	10/01/1976	IRRIGATION	0.01	68.0	Yes
FARMS LLC	35-14765	Decreed	10/01/1976	IRRIGATION	0.01	428.0	Yes
FELD, TODD	35-13284	Decreed	02/23/1972	COMMERCIAL, STOCKWATER	0.30	0.0	
FERGUSON, DANNY G; FERGUSON, MARCENE M	25-7599	License	09/25/1991	IRRIGATION	2.28	118.0	
FERGUSON, ROGER N	21-7385	License	09/30/1988	COMMERCIAL	0.04	0.0	
FIELDS, KAREN C; FIELDS, VIRGIL	37-7699	Decreed	02/23/1978	DOMESTIC, STOCKWATER	0.20	0.0	
FOSTER FAMILY FARMS INC	35-8773	License	06/07/1989	COMMERCIAL, DOMESTIC	0.04	0.0	
FOSTER FAMILY FARMS INC	35-8774	License	06/20/1989	COMMERCIAL	0.04	0.0	
FOUR SEASONS WATER CO	27-7351	License	04/20/1983	DOMESTIC	0.29	0.0	
FOUR SQUARE WATER WELL CORP	25-7327	Decreed	02/04/1985	DOMESTIC, IRRIGATION	0.16	3.0	
FOWLER, GARY; SOMSEN, G FRANK; SOMSEN, KRISTINE P	45-7192	Decreed	10/07/1974	IRRIGATION, STOCKWATER	0.36	18.0	
FOX WAREHOUSE LLC	25-7424	License	04/01/1988	IRRIGATION	0.09	3.0	
GARNER, KAY R; GARNER, LESLIE	35-14288	License	11/13/2012	COOLING, HEATING	0.04	0.0	
GARY & PAMELA ROGERS FAMILY TRUST	34-7118B	Decreed	11/24/1975	IRRIGATION	8.81	440.0	
GILLEN, NORMAN	27-7585	License	04/20/1999	DOMESTIC	0.14	0.0	
GLEN CAPPS INC	36-8176	Decreed	03/31/1983	COMMERCIAL, DOMESTIC	0.04	0.0	
GOLDEN VALLEY MEAT LLC	35-7642	Decreed	10/01/1976	COMMERCIAL	0.05	0.0	
GOLDEN VALLEY MEAT LLC	35-8710	License	03/08/1989	COMMERCIAL	0.94	0.0	

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GONZALES, FERNANDO B; GONZALES, IRENE H	29-7238	Decreed	10/31/1974	DOMESTIC, IRRIGATION	0.11	8.0	
GONZALES, FERNANDO B; GONZALES, IRENE H	29-7984	Decreed	04/23/1990	IRRIGATION	0.03	8.0	
GOOCH, BEATRICE; GOOCH, ELLIS	37-21156	Decreed	02/18/1971	COMMERCIAL, STOCKWATER	0.02	0.0	
GOODWIN EXCAVATING LLC; POCATELLO READY MIX	35-14326	Decreed	05/02/1977	INDUSTRIAL	0.10	0.0	
GOUGH, SHAUN	37-23373	License	08/22/1988	IRRIGATION	0.03	1.5	
GRAVES, FRANCES M; GRAVES, RICHARD L	37-7371		07/31/1974	DOMESTIC, IRRIGATION, STOCKWATER	6.49	320.0	
GROVER, ALICE MAE; GROVER, MELVIN G	25-7480	License	01/09/1989	DOMESTIC, IRRIGATION, STOCKWATER	0.07	3.0	
GUNDERSON, ADEN	35-14178	Decreed	09/28/1981	IRRIGATION	0.01	20.0	
GUNDERSON, BONNIE; GUNDERSON, GARTH	35-14585	Decreed	09/28/1981	IRRIGATION	0.01	3.2	
H & T PROPERTIES LLC	36-8312	License	08/15/1986	STOCKWATER	0.05	0.0	
HAMMOND, LORNA O; THE SHELTERED TRUST	35-8016	License	01/18/1982	DOMESTIC, STOCKWATER	0.06	0.0	
HANCOCK, DEAN	25-14496	Decreed	04/22/1979	IRRIGATION	0.02	1.0	
HANEY SEED CO	45-7639	License	03/30/1989	COMMERCIAL	0.04	0.0	
HANSEN FARMS LAND LLC	36-17225	Decreed	02/20/1976	IRRIGATION	0.04	3.5	
HANSEN FARMS LAND LLC	36-17226	Decreed	02/20/1976	IRRIGATION	0.04	2.0	
HANSEN FARMS LAND LLC	36-17227	Decreed	02/20/1976	IRRIGATION	0.04	2.0	
HANSEN FARMS LAND LLC	36-17228	Decreed	02/20/1976	IRRIGATION	0.04	2.0	
HANSEN FARMS LAND LLC	36-17229	Decreed	02/20/1976	IRRIGATION	0.04	2.0	
HANSEN, BRANDON	27-12312	License	03/30/1984	IRRIGATION	0.02	1.0	
HANSEN, TYLER	27-12313	License	03/30/1984	IRRIGATION	0.02	1.0	
HANSEN, WILLIAM KORBY	25-7458	License	11/08/1988	DOMESTIC, IRRIGATION	0.09	1.7	
HANSENS QUALITY JERSEYS LLC	36-17211	Decreed	09/23/1967	COMMERCIAL, STOCKWATER	0.02	0.0	Yes
HANSENS QUALITY JERSEYS LLC	36-17213	Decreed	11/15/1970	COMMERCIAL, STOCKWATER	0.06	0.0	
HANSENS QUALITY JERSEYS LLC	36-17217	Decreed	11/15/1970	COMMERCIAL, STOCKWATER	0.04	0.0	
HANSENS QUALITY JERSEYS LLC	36-17215	Decreed	05/26/1971	COMMERCIAL, STOCKWATER	0.01	0.0	Yes
HANSENS QUALITY JERSEYS LLC	36-17220	Decreed	05/26/1971	COMMERCIAL, STOCKWATER	0.01	0.0	
HANSENS QUALITY JERSEYS LLC	36-17219	Decreed	05/26/1977	COMMERCIAL, STOCKWATER	0.01	0.0	
HANSENS QUALITY JERSEYS LLC	36-17214	Decreed	05/16/1980	COMMERCIAL, STOCKWATER	0.01	0.0	
HANSENS QUALITY JERSEYS LLC	36-17218	Decreed	05/16/1980	COMMERCIAL, STOCKWATER	0.01	0.0	
HARDY, ANITA KAY	36-17152	Decreed	11/07/1974	IRRIGATION	0.63	31.5	
HAROLDSEN, G ERIC; HAROLDSEN, GRANT O	25-7300	Decreed	01/05/1983	DOMESTIC, STOCKWATER	0.06	0.0	
HARPER, DAVID; HARPER, HEATHER	35-14728	Decreed	09/28/1981	IRRIGATION	0.01	17.2	
HART, BOB; HART, MELANIE	25-7520	License	10/16/1989	COMMERCIAL	0.04	0.0	
HART, BOB; HART, NORMA; JOHNSTON, JACOB; JONES, ROBERT I; STIBAL, JOHN	25-7081	Decreed	01/28/1976	DOMESTIC	0.19	0.0	
HASLAM, LAVORE	35-8629	License	04/08/1986	DOMESTIC, STOCKWATER	0.06	0.0	
HAYES, AMY; HAYES, DESTRY	35-14639	Decreed	09/28/1981	IRRIGATION	0.02	3.3	
HEATH, AFTON M; HEATH, CLEM J	35-8617	Decreed	08/18/1985	COMMERCIAL	0.04	0.0	
HELENA CHEMICAL CO	22-7520	Decreed	11/07/1985	COMMERCIAL	0.02	0.0	
HELSLEY HENDRIX, JEANINE P; HELSLEY, BRIAN T	36-16561	Decreed	02/08/1971	IRRIGATION	0.03	3.0	
HENRIE, JAREM	25-7302	Decreed	01/25/1983	DOMESTIC, IRRIGATION, STOCKWATER	0.05	2.0	

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HENSLEY, FLOYD W; LOCKES, DAROLD; REYNOLDS, LYNN; WESSEL, TERESA	25-7084	Decreed	01/28/1976	DOMESTIC	0.06	0.0	
HERITAGE DEVELOPMENT	29-8173	License	07/19/1996	DOMESTIC	0.27	0.0	
HIGHWAY ESTATES WATER USERS INC	25-7038	Decreed	09/20/1973	DOMESTIC	0.20	0.0	
HINCKLEY, LA PREAL	25-14005	License	10/12/2003	IRRIGATION	0.06	3.0	
HOBBS, LAURA LEE	25-7540	License	08/18/1989	DOMESTIC	0.10	0.0	
HOOPER, LLOYD C	25-7531	License	10/22/1989	COMMERCIAL	0.04	0.0	
HUNSTMANS PROPERTIES	27-7511	License	04/20/1990	COMMERCIAL	0.33	0.0	
HUNTING, AUDREY	25-7453	License	10/28/1988	IRRIGATION	0.03	1.0	
HURTADO FARMS LLC	36-17180	License	12/11/1973	COMMERCIAL, STOCKWATER	0.66	0.0	
ID DEPARTMENT OF LANDS	37-7372		06/30/1999	IRRIGATION, STOCKWATER	6.54	320.0	
ID DEPARTMENT OF PARKS AND RECREATION	36-17147	Decreed	08/07/1973	IRRIGATION	0.06	5.0	
ID DEPARTMENT OF TRANSPORTATION	22-7317	Decreed	01/31/1980	COMMERCIAL, DOMESTIC	0.04	0.0	
ID DEPARTMENT OF TRANSPORTATION	31-7372	Decreed	01/28/1982	INDUSTRIAL	0.05	0.0	
ID DEPARTMENT OF TRANSPORTATION	35-8625	License	01/13/1986	DOMESTIC	0.06	0.0	
IDAHO PACIFIC CORP	25-7056	Decreed	08/05/1974	INDUSTRIAL	1.20	0.0	
IDAHO PACIFIC CORP	25-7475	Decreed	12/06/1988	INDUSTRIAL	0.93	0.0	
IDAHO POTATO PACKERS CORP	35-8909	License	08/03/1990	COMMERCIAL	0.01	0.0	
IDAHO POWER CO	37-8484	License	01/17/1989	COMMERCIAL	0.02	0.0	
IDAHO POWER CO	45-7669	License	01/09/1990	DOMESTIC	0.06	0.0	
IDAHO WATER COMPANY LLC	35-14701	Decreed	05/27/1974	IRRIGATION	0.07	23.8	
INTERSTATE MFG	36-8454	License	09/14/1989	COMMERCIAL	0.04	0.0	
IRELAND ACRES #2	25-7273	Decreed	02/01/1982	DOMESTIC	0.05	0.0	
IRELAND ACRES MOBILE HOME PARK	25-7195	Decreed	06/04/1980	DOMESTIC	0.54	0.0	
J & D PROPERTIES LLC	31-7511	License	11/30/1988	COMMERCIAL	0.03	0.0	
J & L HOLDINGS LLC	25-14509	Decreed	04/22/1979	IRRIGATION	0.04	2.0	
J & L HOLDINGS LLC	25-14497		02/24/2021	DOMESTIC	0.51	0.0	
J & L HOLDINGS LLC	25-14512		01/24/2022	IRRIGATION	0.50	25.0	
J D HEISKELL HOLDINGS LLC	37-22665	Decreed	09/12/1973	COMMERCIAL	0.02	0.0	
J K MERRILL & SONS INC	29-7754	License	06/17/1983	COMMERCIAL	0.81	0.0	
J T LAND LLC	36-11081	Decreed	10/01/1984	DOMESTIC, STOCKWATER	0.04	0.0	
JACOBS, GEORGE J	25-7321	License	05/09/1983	DOMESTIC, STOCKWATER	0.08	0.0	
JANSS FARMS	37-7351	Decreed	04/12/1974	STOCKWATER	0.14	0.0	
JANSSEN, KARLEEN A	25-12143	Decreed	02/08/1985	COMMERCIAL	0.04	0.0	
JEFFERSON COUNTY	25-14398	Decreed	11/29/1971	IRRIGATION	0.04	68.2	
JEFFERSON COUNTY	25-14399	Decreed	11/29/1971	IRRIGATION	0.00	68.2	
JEFFERSON COUNTY	25-14382	Decreed	07/19/1973	IRRIGATION	0.04	68.2	
JEFFERSON COUNTY	25-14281	License	09/09/2010	COMMERCIAL	0.65	0.0	
JEFFERSON SCHOOL DISTRICT #251	35-8683	License	12/02/1988	INDUSTRIAL	0.02	0.0	
JEFFERSON SCHOOL DISTRICT #251	25-7472	License	01/23/1989	DOMESTIC	0.07	0.0	
JENCO ACRES WATER BOARD ASSN	25-7454	License	11/14/1988	DOMESTIC, IRRIGATION	0.50	33.0	
JENKINS, FRANK L	22-11197	Decreed	06/06/1980	COMMERCIAL, DOMESTIC	0.04	0.0	

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JENSON, KATHRYN; JENSON, MONTE	25-14061	Decreed	12/22/1971	IRRIGATION	0.03	18.9	
JEROME COUNTY ROD & GUN CLUB	36-8620	License	11/14/1991	COMMERCIAL, IRRIGATION	0.02	0.5	
JOHNSON, DON A; JOHNSON, LAURIE	25-7493	License	03/08/1989	DOMESTIC	0.06	0.0	
JOHNSON, MELISSA	25-7455	License	10/21/1988	DOMESTIC, IRRIGATION	0.07	1.0	
JOHNSON, RODNEY M; JOHNSON, SHERRY L	36-17277	Decreed	11/28/1977	IRRIGATION	0.04	2.0	
JOSEPHSON, JEANETTE; JOSEPHSON, JOHN	35-8719	License	04/14/1989	INDUSTRIAL	0.04	0.0	
JOURNEYS END HOMEOWNERS ASSN	35-13612	License	11/24/2003	DOMESTIC	0.40	0.0	
JOURNEYS END HOMEOWNERS ASSN	35-13611	License	01/13/2007	COMMERCIAL, DOMESTIC	0.11	0.0	
JUNIPER & CEDAR ESTATES WATER ASSN	25-7432	License	07/19/1988	DOMESTIC, IRRIGATION	0.24	5.0	
KAREY LANE WELL ASSN	35-7698	Decreed	08/11/1983	DOMESTIC	0.14	0.0	
KAREY LANE WELL ASSN	35-8943	License	05/03/1991	DOMESTIC	0.09	0.0	
KERBS OIL CO INC	45-7643	License	05/19/1989	COMMERCIAL	0.04	0.0	
KERBS OIL CO INC	45-7644	License	05/22/1989	COMMERCIAL	0.04	0.0	
KEYBANK NATIONAL ASSOC	25-7517	License	08/24/1989	COMMERCIAL	0.50	0.0	
KING, FERRIL; KING, RENE	36-8440	License	09/07/1989	COMMERCIAL	0.02	0.0	
KIRBY, DORIS F; KIRBY, ELWOOD	35-7860	License	06/20/1979	DOMESTIC	0.08	0.0	
KIT CIRCLE LLC	22-7296	Decreed	06/19/1979	DOMESTIC	0.16	0.0	
KITS FOUNDRY & MACHINE SHOP INC	27-7460	License	05/16/1989	DOMESTIC, INDUSTRIAL	0.05	0.0	
KLASSEN, HAROLD J	35-8724	License	04/10/1989	COMMERCIAL	0.02	0.0	
KNIFE RIVER CORPORATION MOUNTAIN WEST	25-14351	Decreed	07/19/1973	MITIGATION	0.05	0.0	
KNIFE RIVER CORPORATION MOUNTAIN WEST	25-14498	Decreed	04/22/1979	INDUSTRIAL	0.08	0.0	
KNIFE RIVER CORPORATION MOUNTAIN WEST	25-14499	License	01/14/1983	INDUSTRIAL	0.07	0.0	
KOON, JACK E	22-7751	License	09/18/1992	DOMESTIC	0.06	0.0	
KRUCKEBERG, ALEISHA; KRUCKEBERG, MATTHEW	35-14730	Decreed	09/28/1981	IRRIGATION	0.01	2.4	
KUGLER, DIANE K; KUGLER, JOHN B	35-8359		11/28/1984	IRRIGATION	6.00	313.0	
L & S LAND HOLDINGS LLC	36-15655	Decreed	02/18/1971	COMMERCIAL, STOCKWATER	0.02	0.0	
L & S LAND HOLDINGS LLC	36-17188	Decreed	01/23/1973	COMMERCIAL, STOCKWATER	0.09	0.0	
L & S LAND HOLDINGS LLC	36-17242	Decreed	01/23/1973	COMMERCIAL, STOCKWATER	0.08	0.0	
L & S LAND HOLDINGS LLC	36-17190	Decreed	10/27/1973	COMMERCIAL, STOCKWATER	0.08	0.0	
L & S LAND HOLDINGS LLC	36-17187	License	09/24/1979	COMMERCIAL, STOCKWATER	0.20	0.0	
LACEYS VISTA ACRES WATER CORP	29-7607	License	07/15/1981	DOMESTIC	0.67	0.0	
LAMBERT, LYLE; LAMBERT, NADINE	29-7640	Decreed	05/17/1982	DOMESTIC, IRRIGATION, STOCKWATER	0.04	1.0	
LAMBERT, R J	35-8670	License	09/14/1988	COMMERCIAL	0.04	0.0	
LARSEN, HELEN	35-8127	License	04/28/1983	DOMESTIC, STOCKWATER	0.08	0.0	
LARSEN, PEGGY A; LARSEN, RICHARD J	31-7129	License	07/30/1974	DOMESTIC, STOCKWATER	0.08	0.0	
LAZY EIGHT ESTATES DIVISION 2 HOMEOWNERS ASSN INC	25-14189	License	10/26/2006	DOMESTIC	0.50	0.0	
LEE, CAROLYN C; LEE, LARRY O	31-7166A		06/27/1975	IRRIGATION	3.20	160.0	
LEE, MARTIN R	36-8410	License	02/10/1989	COMMERCIAL	0.03	0.0	
LEISHMAN ELECTRIC	22-7558	License	08/30/1988	COMMERCIAL	0.02	0.0	
LIMA, GUADALUPE	36-17128	Decreed	09/20/1973	IRRIGATION	0.02	1.2	
LOOSLI, S LYNN	21-13258	Decreed	07/14/1977	IRRIGATION	6.75	1651.5	

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LORDS, DARRELL M	35-8778	License	05/31/1989	IRRIGATION	0.10	4.5	
LOVELL, HOPE; LOVELL, JAMES R	25-7598	License	09/25/1991	IRRIGATION	0.03	1.9	
LYLE, BLAKE; OHARO, VICKIE	35-13701	License	01/14/2008	MUNICIPAL	0.26	0.0	
LYNCH, LESLIE R	36-7154	Decreed	01/25/1971	INDUSTRIAL	0.02	0.0	
M & B INVESTMENTS LLC	25-14163	License	12/09/2004	DOMESTIC	0.30	0.0	
M & B INVESTMENTS LLC	25-14379	License	08/13/2012	DOMESTIC	0.39	0.0	
MAD MOOSE PIZZA IDAHO LLC	22-7633	License	03/02/1989	COMMERCIAL	0.04	0.0	
MADISON SCHOOL DISTRICT #321	22-14474		05/13/2022	DOMESTIC	0.26	0.0	
MAGNIFY LAND CONSULTING LLC	36-17208	Decreed	04/13/1976	IRRIGATION	0.20	10.0	
MALONY, CAROL	27-12333	Decreed	09/11/1974	IRRIGATION	0.10	5.0	
MARSHALL, DON W	25-7462	License	11/10/1988	DOMESTIC, IRRIGATION	0.07	1.0	
MARTIAN, ERICA; MARTIAN, PETER	35-7855	Decreed	05/01/1979	COMMERCIAL, HEATING	0.04	0.0	
MASON, JOHN D; MASON, VALERIE	29-7294	Decreed	11/04/1975	DOMESTIC, IRRIGATION	0.12	8.0	
MASONS	35-8828	License	07/28/1989	COMMERCIAL	0.04	0.0	
MAUPIN, JESSICA; MAUPIN, JUSTIN DEELANE	22-7656	License	11/21/1989	COMMERCIAL	0.04	0.0	
MC CAIN FOODS USA INC	45-7137	Decreed	05/24/1973	INDUSTRIAL	3.43	0.0	
MC CAIN FOODS USA INC	45-7241	Decreed	05/27/1975	COMMERCIAL, FIRE PROTECTION	0.25	0.0	
MC CALL OIL & CHEMICAL	25-7045	Decreed	02/25/1974	DOMESTIC, INDUSTRIAL	0.08	0.0	
MC COWIN, BRENDA	25-7544	License	08/16/1989	DOMESTIC	0.07	0.0	
MERRILL, KENT	25-14364	License	02/28/1992	IRRIGATION	0.19	12.2	
MICHAUD CREEK RANCHES INC	29-7089	Decreed	06/09/1972	IRRIGATION	1.08	196.0	
MIDNIGHT SUN INC	35-8722	License	04/21/1989	INDUSTRIAL	0.01	0.0	
MIKKOLA, ARTHUR; MIKKOLA, MARK	25-7389	Decreed	11/02/1983	DOMESTIC, STOCKWATER	0.06	0.0	
MILES, BETTY; MILES, KENNETH RICK	25-14502	Decreed	04/22/1979	IRRIGATION	0.03	1.5	
MILLER, CHARLES; MILLER, RACHEL	25-7442	License	09/08/1988	DOMESTIC, IRRIGATION	0.05	1.0	
MITCHELL, DELL N; MITCHELL, SUSAN L	45-14546	Decreed	10/20/1980	IRRIGATION	0.24	18.8	
MITCHELL, RALPH M	45-7640	License	05/23/1989	DOMESTIC, IRRIGATION	0.07	1.5	
MODEL WATER USERS ASSN INC	35-7986	Decreed	06/01/1981	DOMESTIC	0.10	0.0	
MORRISS, JUDITH L; MORRISS, VIRGIL R	25-7483	License	12/22/1988	DOMESTIC, IRRIGATION, STOCKWATER	0.04	3.0	
MOUNTAIN RIVER SPORTSMANS RV PARK & CAMP	25-14229	License	09/02/2008	COMMERCIAL	0.20	0.0	
MOUNTAIN VIEW COURT LLC	21-7428	License	03/23/1989	COMMERCIAL	0.09	0.0	
MOUNTAIN VIEW LAND LLC	36-17192	Decreed	09/24/1976	COMMERCIAL, STOCKWATER	0.20	0.0	
MOUNTAIN WEST BARK PRODUCTS INC	22-7573	License	08/08/1988	COMMERCIAL	0.08	0.0	
MOYLE, KEVIN A; MOYLE, TAYLOR N	36-17240	License	03/16/1989	COMMERCIAL, DOMESTIC, STOCKWATER	0.33	0.0	
MURDOCK, O BRIAN; MURDOCK, ROBERT A	35-14798	Decreed	07/19/1974	IRRIGATION	0.32	18.0	
MURDOCK, O BRIAN; MURDOCK, ROBERT A	35-14799	Decreed	07/19/1974	IRRIGATION	0.11	6.0	
MURDOCK, O BRIAN; MURDOCK, ROBERT A	35-14800	Decreed	07/19/1974	IRRIGATION	0.08	4.4	
MURDOCK, O BRIAN; MURDOCK, ROBERT A	35-14801	Decreed	07/19/1974	IRRIGATION	0.21	11.6	
MURDOCK, O BRIAN; MURDOCK, ROBERT A	35-14802	Decreed	07/19/1974	IRRIGATION	0.09	5.0	
MURDOCK, O BRIAN; MURDOCK, ROBERT A	35-14803	Decreed	07/19/1974	IRRIGATION	0.21	12.0	
NAPOLI, MARIA; ULIAN, PETER	34-7211	Decreed	01/06/1978	DOMESTIC, IRRIGATION	0.10	4.0	

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NEIBAUR, RYAN	25-7561	License	03/02/1990	IRRIGATION	4.00	360.5	
NELSEN DAIRY	36-8745	License	11/07/1995	COMMERCIAL, STOCKWATER	0.11	0.0	
NEW PHASE INVESTMENTS LLC	25-14186	License	09/18/2006	COMMERCIAL	0.05	0.0	
NICKELSON, DALENE C	25-7193A	Decreed	04/30/1980	DOMESTIC, IRRIGATION, STOCKWATER	0.02	2.9	
NORTH HIGHLANDER FARMS INC	25-7438	License	08/08/1988	COMMERCIAL	0.04	0.0	
NORTHLAND TERRACE WATER USERS ASSN INC	27-7138	License	05/18/1979	DOMESTIC	0.68	0.0	
NULPH BROTHERS INC	27-7466	License	05/03/1989	COMMERCIAL	0.04	0.0	
NUR WATER CORP INC	25-7035	Decreed	06/13/1973	DOMESTIC	0.62	0.0	
NUTTALL, ALIESHA DAWN; NUTTALL, JEFFREY DOUGLAS	25-7275	Decreed	02/08/1982	DOMESTIC, IRRIGATION, STOCKWATER	0.03	1.0	
OLSEN, JOHN W	27-7016	Decreed	04/22/1971	IRRIGATION	1.48	74.0	
OLSEN, JOHN W	27-7039	Decreed	04/23/1974	IRRIGATION	0.38	19.0	
ON TIME FINANCIAL LLC	22-14478		07/14/2022	COMMERCIAL, DOMESTIC	0.21	0.0	
PACIFIC CONTAINER INC	25-7420	License	11/08/1987	COMMERCIAL	0.04	0.0	
PACIFICORP	25-7403	License	06/14/1985	WATER QUALITY IMPROVEMENT	0.45	0.0	
PACIFICORP	25-14431	License	02/19/2016	WATER QUALITY IMPROVEMENT	0.47	0.0	
PARKER, BRENT E; PARKER, KRISTINE	25-7073E	Decreed	08/01/1975	IRRIGATION	0.20	10.0	
PARKINSON FARMS	34-10393	Decreed	05/01/1976	IRRIGATION	0.26	306.0	Yes
PARKWOOD ACRES WATER CO INC	25-7175	Decreed	07/03/1979	DOMESTIC	0.50	0.0	
PARNELL, KEVIN	37-21266	Decreed	02/27/1979	IRRIGATION, MITIGATION	0.07	3.6	
PERFORMIX NUTRITION SYSTEMS LLC	36-17196	Decreed	05/27/1974	COMMERCIAL	0.06	0.0	
PETERSEN, KIMBERLY ANN; PETERSEN, RYAN CLAIR	34-7219	Decreed	07/04/1978	COMMERCIAL, HEATING, IRRIGATION, MITIGATION	0.92	69.8	
PHILLIPS, ELIZABETH H; PHILLIPS, JOSEPH	35-14743	License	04/10/1998	IRRIGATION	0.02	25.0	
PILKINTON, C R; PILKINTON, THOMAS R	36-7650B	Decreed	07/30/1976	IRRIGATION	0.08	4.0	
PINGREE LAND CO LLC	29-7806	Decreed	12/10/1985	COMMERCIAL	0.01	0.0	
PINSON, JANICE	25-14182	License	03/24/2006	COMMERCIAL	0.20	0.0	
PIONEER WATER USERS ASSN INC	35-7671	Decreed	02/07/1977	DOMESTIC	0.11	0.0	
PONY ACRES WATER ASSN	29-7625	Decreed	12/15/1981	DOMESTIC, IRRIGATION	0.16	2.0	
PORT OF ENTRY TRAVEL CENTER LLC	31-11787	Decreed	09/07/1971	COMMERCIAL	0.12	0.0	
PRICE, MARJORIE	22-14447		02/16/2022	COMMERCIAL	0.02	0.0	
QUALITY INSULATION & CONSTRUCTION INC	25-7539	License	08/18/1989	COMMERCIAL	0.04	0.0	
QUINTON, BERNADENE L; QUINTON, RAY E	25-7536	License	09/18/1989	COMMERCIAL	0.02	0.0	
R C WILLEY HOME FURNISHINGS	35-14596		05/25/2018	COMMERCIAL	0.78	0.0	
RABURN, JAYNEE N; RABURN, LENARD H	29-7143B	Decreed	07/02/1973	DOMESTIC, IRRIGATION	0.03	1.0	
RANDALL, GLADYS	22-7594	License	08/25/1988	COMMERCIAL	0.04	0.0	
REES, CARL C; REES, PATRICIA	29-7240	Decreed	11/29/1974	DOMESTIC, IRRIGATION, STOCKWATER	0.09	1.3	
RHODEHOUSE, KEVIN	35-8659	License	10/15/1987	COMMERCIAL, STOCKWATER	0.15	0.0	
RICHAN, CLYDE L; RICHAN, ELVERA L	36-8486	License	09/19/1989	COMMERCIAL, DOMESTIC	0.03	0.0	
RICHARDS, DENICE	27-7343	Decreed	03/02/1983	DOMESTIC, IRRIGATION	0.08	5.0	
RICHARDSON, BRIAN	35-8769	License	05/31/1989	COMMERCIAL, DOMESTIC	0.07	0.0	
RICKS, CONNIE	25-7183	Decreed	01/14/1980	DOMESTIC, STOCKWATER	0.06	0.0	
RIM ROCK LEASING LLC	36-8512	License	02/27/1990	COMMERCIAL	0.02	0.0	

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RINDFLEISCH, JAMES A	34-7511		06/12/1989	IRRIGATION	1.85	92.4	
RINGEL, LORI; RINGEL, MERLYN R	35-14630	Decreed	09/28/1981	IRRIGATION	0.01	4.7	
RIVERBEND ESTATES	29-8015	License	06/22/1990	DOMESTIC	0.25	0.0	
RIVERVIEW TWO LLC	35-8632	Decreed	01/19/1981	COMMERCIAL, INDUSTRIAL	0.04	0.0	
ROEDER, JAMES L; ROEDER, JOHN	29-7177	License	03/04/1974	DOMESTIC, STOCKWATER	0.08	0.0	
ROKER, ELAINE; ROKER, JIM	25-7132	Decreed	08/25/1977	IRRIGATION	1.22	61.0	
RUDY, THOMAS A	45-7278	Decreed	12/06/1976	DOMESTIC	0.24	0.0	
RUNHARD LLC	22-7293	Decreed	05/24/1979	COOLING, HEATING	0.15	0.0	
RURAL ELECTRIC CO	36-8435	License	08/11/1989	COMMERCIAL	0.04	0.0	
SCHREINER FARMS IDAHO LLC	35-8951	License	07/29/1991	IRRIGATION	0.88	44.0	
SCHWANS SALES ENTERPRISES INC	27-7439	License	08/14/1987	COMMERCIAL	0.04	0.0	
SCOTT, STANLEY K	31-7512	License	11/30/1988	DOMESTIC, STOCKWATER	0.19	0.0	
SELENSKY, CATHY; SELENSKY, CLARENCE J	25-7392B	License	12/16/1983	IRRIGATION	0.15	5.0	
SHOSHONE BANNOCK TRIBES	29-7326	Decreed	04/28/1976	IRRIGATION	2.53	160.0	
SHOSHONE BANNOCK TRIBES	29-13941	Decreed	10/03/1977	IRRIGATION	0.18	10.5	
SHURTLIFF, MERLENE; SHURTLIFF, RODNEY	35-8855	License	09/07/1989	DOMESTIC, STOCKWATER	0.08	0.0	
SILVER CREEK DISTILLERS INC	25-7194	License	12/01/1988	INDUSTRIAL	0.11	0.0	
SMITH CATTLE COMPANY LLC	25-13990	Decreed	09/25/1973	COMMERCIAL	0.39	0.0	
SMITH CATTLE COMPANY LLC	25-13991	Decreed	09/25/1973	COMMERCIAL	0.39	0.0	
SMITH CATTLE COMPANY LLC	25-13992	Decreed	04/18/1974	COMMERCIAL	0.05	0.0	
SMITH CATTLE COMPANY LLC	25-13993	Decreed	04/08/1975	COMMERCIAL	0.39	0.0	
SMITH CATTLE COMPANY LLC	25-13994	Decreed	05/23/1975	COMMERCIAL	0.20	0.0	
SMITH, ANTON	29-7403	Decreed	05/23/1977	IRRIGATION	0.32	16.0	
SMITH, BLAINE; SMITH, GARRY	22-7554	License	08/08/1988	COMMERCIAL	0.02	0.0	
SMITH, JOAN; SMITH, SCOTT	34-14313	License	07/08/1992	IRRIGATION	0.01	1.0	
SMITH, NORBERT DARRELL	29-7171	Decreed	02/04/1974	DOMESTIC	0.16	0.0	
SNAKE RIVER BUSINESS PARK BLDG #1 LLC	35-14787		08/19/2022	COMMERCIAL	0.20	0.0	
SNAKE RIVER SCHOOL DISTRICT #52	35-14693	Decreed	05/27/1974	IRRIGATION	0.03	6.0	
SNELL, MARK	29-7696	License	03/16/1983	DOMESTIC, IRRIGATION	0.08	2.0	
SOHN, EDNA G; SOHN, HERBERT F; SOHNS INC	35-8333	Decreed	12/12/1983	COMMERCIAL, DOMESTIC	0.08	0.0	
SOUTH PARK ESTATES WATER & SEWER INC	27-7052	Decreed	03/12/1975	DOMESTIC, FIRE PROTECTION	0.33	0.0	
SOUTH PARK ESTATES WATER & SEWER INC	27-7581	License	10/21/1997	DOMESTIC, FIRE PROTECTION	0.69	0.0	
SOUTH, BARRY; SOUTH, ELINOR	35-14618	Decreed	09/28/1981	IRRIGATION	0.01	3.3	
STANGER, KARA; STANGER, SPENCER	35-14729	Decreed	09/28/1981	IRRIGATION	0.01	5.2	
STANGER, MARILYN	25-7541	License	07/12/1989	COMMERCIAL	0.02	0.0	
STEEL, EVAN; STEEL, KIRSTIE	27-12332	Decreed	09/25/1974	IRRIGATION	0.11	8.9	
STEEL, KEVIN J	35-8756	License	05/11/1989	COMMERCIAL, DOMESTIC	0.02	0.0	
STOKES, ELIZABETH DORTHEA; STOKES, JOSHUA WYNNDALE	37-8112	Decreed	06/02/1983	COMMERCIAL, COOLING	0.02	0.0	
STORER, BETTY; STORER, GALE	25-7530	License	08/28/1989	COMMERCIAL	0.04	0.0	
STROMBERG REPAIR INC	25-7445	License	10/18/1988	COMMERCIAL	0.04	0.0	
STUBBS, AVIS B; STUBBS, ROSS A	35-8210	License	06/16/1983	DOMESTIC	0.06	0.0	

Attachment A
List of Ground Water Rights Junior to January 25, 1970
Sorted by Owner

Owner	Water Right No.	Basis	Priority Date	Water Use List	Diversion Rate (cfs)	Total Acres	Enlargement
SULLIVAN HOLDINGS LLC	35-8775	License	05/26/1989	COMMERCIAL	0.01	0.0	
SUMMERS, RICHARD K; SUMMERS, STELLA F	25-7518	License	08/24/1989	COMMERCIAL, DOMESTIC	0.08	0.0	
SUNSET FARM & RANCH LLC	34-14772	Decreed	08/18/1974	IRRIGATION	6.86	612.0	
SWENDSEN, BRENT; SWENDSEN, NANCY	25-7464	License	11/30/1988	COMMERCIAL	0.04	0.0	
SWENSON, HANS	37-23303	Decreed	09/20/1974	IRRIGATION	0.12	6.0	
T VILLE AG	29-7050	Decreed	03/24/1970	IRRIGATION	0.70	35.0	
T VILLE AG	29-7613	Decreed	08/19/1981	IRRIGATION	1.30	79.0	
TABLE ROCK HOLDINGS	35-13320	License	08/07/2001	DOMESTIC	0.10	0.0	
TANNER LANE RANCH LLLP	27-12320	Decreed	09/06/1982	IRRIGATION	0.05	180.0	
TAYLOR, CHRISTY; TAYLOR, MICHAEL	29-14369	Decreed	05/27/1974	IRRIGATION	0.03	6.0	
TAYLOR, LOIS; TAYLOR, LYLE D	25-7110	Decreed	05/09/1977	IRRIGATION	1.30	65.0	
TAYLORS QUIK STOP INC	25-7450	License	10/25/1988	COMMERCIAL	0.04	0.0	
TED BAAR HOLDINGS LLC	36-17236	Decreed	01/28/1972	DOMESTIC, STOCKWATER	0.05	0.0	
TED BAAR HOLDINGS LLC	36-17235	License	11/07/1989	DOMESTIC, STOCKWATER	0.05	0.0	
TED MILLER DAIRY	36-16189	Decreed	08/10/1973	IRRIGATION	0.04	3.0	
TELFORD, MICHAEL S; TELFORD, ROBERT	37-8212	Decreed	05/11/1983	COMMERCIAL, STOCKWATER	0.01	0.0	
TERRETON PUMP NO 2	31-7515	License	01/07/1989	COMMERCIAL, DOMESTIC	0.10	0.0	
TERRETON TRACTOR INC	31-7346	Decreed	12/02/1980	COMMERCIAL, DOMESTIC	0.04	0.0	
TETON WATER WORKS LLC	27-7359C	License	06/03/1983	COMMERCIAL, DOMESTIC	0.03	0.0	
TFT LLC	21-7419	License	03/09/1989	COMMERCIAL, DOMESTIC	0.02	0.0	
THATCHER SUMMIT INC	22-7626	License	04/08/1989	COMMERCIAL	0.04	0.0	
THE LOVELAND FAMILY TRUST	27-7069	Decreed	12/03/1976	IRRIGATION	3.42	171.0	
THOMPSON, BETTY L; THOMPSON, LYNN	29-7075A	Decreed	02/04/1972	IRRIGATION	0.10	5.6	
THOMPSON, HOWARD M	25-7508	License	06/19/1989	DOMESTIC, STOCKWATER	0.11	0.0	
TOMLIN, STEPHEN	29-13730	License	06/07/1983	IRRIGATION	0.01	0.5	
TRAINOR, LISA; TRAINOR, MARK	25-7392A	License	12/16/1983	IRRIGATION	0.14	7.0	
TYLER, ALDON	25-7542	License	07/14/1989	DOMESTIC	0.06	0.0	
UNITED ALLIANCE & FIDELITY CORP	25-7387	Decreed	12/04/1983	IRRIGATION	0.10	5.0	
US BUREAU OF LAND MANAGEMENT	37-20839	Decreed	02/06/1974	IRRIGATION	0.19	64.0	
US BUREAU OF LAND MANAGEMENT	36-7466	Decreed	04/10/1974	STOCKWATER, WILDLIFE	0.10	0.0	
US BUREAU OF LAND MANAGEMENT	36-7497	Decreed	08/21/1974	STOCKWATER, WILDLIFE	0.05	0.0	
US BUREAU OF LAND MANAGEMENT	35-7685	Decreed	03/22/1977	IRRIGATION	2.48	124.0	
US BUREAU OF LAND MANAGEMENT	35-7750	Decreed	10/20/1977	IRRIGATION	1.32	66.0	
US BUREAU OF LAND MANAGEMENT	35-14179	Decreed	09/28/1981	IRRIGATION	0.03	44.0	
US BUREAU OF LAND MANAGEMENT	21-7517	License	02/27/1992	STOCKWATER, WILDLIFE	0.07	0.0	
US BUREAU OF LAND MANAGEMENT	36-8726		04/28/1994	STOCKWATER, WILDLIFE	0.12	0.0	
US BUREAU OF LAND MANAGEMENT	21-13032	License	02/24/2006	STOCKWATER, WILDLIFE	0.02	0.0	
US BUREAU OF LAND MANAGEMENT	34-14459		08/26/2014	STOCKWATER, WILDLIFE	0.15	0.0	
US FISH & WILDLIFE SERVICE	31-7301	Decreed	06/02/1978	WILDLIFE	8.78	0.0	
USDA ARS SHEEP EXPERIMENT STATION	34-7546	Decreed	06/29/1983	DOMESTIC, IRRIGATION, STOCKWATER	0.25	2.8	
VALLEY READY MIX INC	25-7167	License	01/29/1979	INDUSTRIAL	0.36	0.0	

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List of Ground Water Rights Junior to January 25, 1970
Sorted by Owner

Owner	Water Right No.	Basis	Priority Date	Water Use List	Diversion Rate (cfs)	Total Acres	Enlargement
VALLEY SCHOOL DISTRICT #262	36-16299	License	09/22/2004	DOMESTIC, FIRE PROTECTION	1.52	0.0	
VALLEY WIDE COOP INC	22-7622	License	12/30/1988	COMMERCIAL, DOMESTIC	0.03	0.0	
VAN ORDEN, JAY; VAN ORDEN, SHELLI	35-8713	License	04/01/1989	COMMERCIAL	0.02	0.0	
VERBREE LAND HOLDINGS LLC	36-10147	Decreed	01/02/1975	DOMESTIC, STOCKWATER	0.04	0.0	
VERBREE LAND HOLDINGS LLC	36-8609	License	10/21/1991	DOMESTIC, IRRIGATION, STOCKWATER	0.02	2.5	
WADE, NANCY; WADE, RONALD	25-7425	License	06/06/1988	DOMESTIC, IRRIGATION	0.05	1.0	
WAGNER JR, EDWARD P; WAGNER, KRISTIE L	35-8856	Decreed	08/11/1989	DOMESTIC, STOCKWATER	0.10	0.0	
WALKER, YOUNG HARVEY	34-10473	Decreed	08/10/1977	IRRIGATION	0.36	190.0	Yes
WALL, DIANA R; WALL, LARRY G	36-8451	License	09/28/1989	COMMERCIAL	0.02	0.0	
WALTERS, BRUCE A; WALTERS, MARCEY L	25-7596	License	06/26/1991	DOMESTIC, IRRIGATION	0.15	10.0	
WANSTROM, JOSEPH SCOTT	34-7172	Decreed	03/13/1977	IRRIGATION	0.94	47.0	
WARD, HOLLY; WARD, PERRY	35-14691	License	01/15/1992	IRRIGATION	0.16	38.9	
WARD, OPAL M; WARD, OWEN K	35-8892	License	03/28/1990	DOMESTIC	0.18	0.0	
WELLS, DELOS H	35-8220	License	08/04/1983	DOMESTIC, IRRIGATION	0.11	9.5	
WESTERN SLOPE LLC	35-14617	Decreed	09/28/1981	IRRIGATION	0.05	83.0	
WESTOVER RANCH CORP	22-7543	License	12/14/1988	DOMESTIC	0.10	0.0	
WHEELER, DEE RAY; WHEELER, LINDA	36-8488	License	10/10/1989	COMMERCIAL	0.03	0.0	
WHITWORTH, BOYD	45-7638	License	03/10/1989	INDUSTRIAL	0.06	0.0	
WILLMORE, JUDY	31-7551	License	08/26/1991	COMMERCIAL	0.04	0.0	
WILSON, JOHN CHARLES	29-7916	License	03/20/1990	IRRIGATION	0.09	4.5	
WOODLAND HEIGHTS WATER USERS ASSN	35-7576	Decreed	01/28/1976	DOMESTIC	0.38	0.0	
WRIDE FARMS	35-8949		08/26/1991	IRRIGATION	3.00	150.0	
WRIGHT, DEE; WRIGHT, RUBY	25-7256	Decreed	05/12/1981	IRRIGATION	0.10	1.4	
WRIGHT, LISA; WRIGHT, SCOTT	25-7461	License	01/21/1989	IRRIGATION	0.09	3.0	
YANCEY, CLEM R	35-7955	License	03/10/1981	DOMESTIC, STOCKWATER	0.06	0.0	
YANCEY, JERRY; YANCEY, NATALIE	35-14849	License	03/14/2012	DOMESTIC	0.06	0.0	
YERION, GEORGE A; YERION, SUSAN F	37-23372		01/28/2022	DOMESTIC	0.08	0.0	
YOUNG, DE VONA; YOUNG, WILLIAM N	25-7437	License	08/26/1988	DOMESTIC, STOCKWATER	0.07	0.0	
YOUNG, JUDY D; YOUNG, KENNETH A	25-7436	License	09/14/1988	IRRIGATION	0.03	1.5	

EXPLANATORY INFORMATION TO ACCOMPANY A FINAL ORDER

(To be used in connection with actions when a hearing was **not** held)

The accompanying document is a "**Final Order**" issued by the Idaho Department of Water Resources ("Department") pursuant to Idaho Code § 67-5246.

PETITION FOR RECONSIDERATION

(*See* Idaho Code § 67-5246(4))

Any party may file a petition for reconsideration of this 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 presiding officer 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.

REQUEST FOR HEARING

(*See* Idaho Code § 42-1701A(3))

Unless the right to a hearing before the Department or the Water Resource Board is otherwise provided by statute, any person aggrieved by any final decision, determination, order or action of the Director, and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to Idaho Code § 42-1701A(3). A written petition to the Director contesting this final order and requesting a hearing must be filed with the Department by any aggrieved person **within fifteen (15) days after service of this final order**.

CERTIFICATE OF SERVICE

(*See* IDAPA 37.01.01.053, 37.01.01.202)

All documents filed with the Department in connection with a petition for reconsideration or a request for hearing of this final order shall be served on all other parties to the proceedings in accordance with Rules of Procedure 53 and 202.

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF THE MITIGATION PLAN FILED BY A&B IRRIGATION DISTRICT FOR THE DISTRIBUTION OF WATER TO WATER RIGHTS HELD BY THE SURFACE WATER COALITION	Docket No. CM-MP-2015-003 **FINAL ORDER APPROVING AMENDED MITIGATION PLAN**

The Director of the Idaho Department of Water Resources ("Department") finds, concludes, and orders as follows:

FINDINGS OF FACT

1. On May 12, 2005, the Department received A&B Irrigation District's ("A&B") *Request for Approval of Mitigation Plan of A&B Irrigation District* filed in the underlying Surface Water Coalition ("SWC")[1] delivery call case, No. CM-DC-2010-001. This mitigation plan was not published by the Department and no order was issued approving the plan.

2. On May 21, 2015, the Department received *A&B Irrigation District's Amended Rule 43 Mitigation Plan* ("*A&B Mitigation Plan*"). The *A&B Mitigation Plan* was submitted pursuant to Rule 43 of the Department's Rules for Conjunctive Management of Surface and Ground Water Resources ("CM Rules"). IDAPA 37.03.11.043. The plan was not stipulated to by the SWC.

3. The *A&B Mitigation Plan* "mitigate[s] for any shortfalls caused by [A&B's] junior priority ground water that are subject to curtailment." *A&B Mitigation Plan*, at 3. The components of the plan are: (1) conversion of approximately 1,378 acres from ground water irrigation to surface water irrigation; (2) enrolling 121 acres in the federal Conservation Reserve Enhancement Program; (3) development of a future ground water to surface water conversion pumping plant and pipeline project; and (4) delivering available storage water to injured SWC members, if necessary, from A&B's storage water rights held in American Falls Reservoir and Palisades Reservoir or renting storage water through Water District 01's Rental Pool ("storage water component"). *Id*.

4. Notice of the proposed *A&B Mitigation Plan* was advertised in the Idaho Mountain Express, Mountain Home News, and Times News in accordance with Idaho Code § 42-222(1) and CM Rule 43. No protests were received.

5. On December 16, 2015, the Director issued a *Final Order Approving Mitigation Plan*, approving the *A&B Mitigation Plan*, "conditioned upon confirmation that A&B's mitigation activities fully mitigate for depletions caused by A&B's junior-priority ground water diversions in each year that a curtailment order is issued." *Final Order Approving Mitigation Plan*, at 3.

[1] The SWC members include American Falls Reservoir District #2, Burley Irrigation District, Milner Irrigation District, Minidoka Irrigation District, North Side Canal Company, and Twin Falls Canal Company.

6. If, during the irrigation season, the Director determines that junior ground water users' diversions will result in injury to the SWC and that a shortfall obligation is owed to the SWC, junior ground water users are given no less than 14 days to establish, to the satisfaction of the Director, that they can mitigate for their proportionate share of the obligation in accordance with an approved mitigation plan. *Final Order Regarding April 2023 Forecast Supply (Methodology Steps 1-3)* ¶ 13, at 3–4, No. CM-DC-2010-001 (April 21, 2023) (citing *Methodology Order* ¶ 4, at 40). The exception to this is if their mitigation plan is of a nature such that they do not need to mitigate for their proportionate share. *See id*. at 5 n.5. A&B is required to submit documentation to the Department for the Director to determine whether A&B will fully mitigate for its proportionate share of any shortfall obligation. *E.g*., *id*. at 5 n.5, at 6; *see Final Order Approving Mitigation Plan*, at 3.

7. On December 27, 2023, A&B and the SWC filed a *Stipulation Regarding A&B Irrigation District's Amended Rule 43 Mitigation Plan* ("*Stipulated Mitigation Plan*") with the Department, pursuant to CM Rule 43.

8. A&B and the SWC filed the *Stipulated Mitigation Plan* "so that A&B does not have to submit new documentation every year showing that it can mitigate for its proportionate share of a predicted demand shortfall." *Stipulated Mitigation Plan*, at 2. A&B explains that historically it has mitigated injury to the SWC members through its practice of curtailing ground water diversions to approximately 3,574 acres within Unit B of A&B's irrigation service area and replacing the ground water with surface water (i.e., soft conversions). *Id*. A&B states that it holds rights to storage water in American Falls Reservoir (46,826 acre-feet) and Palisades Reservoir (90,800 acre-feet) and can provide storage water to injured SWC members "if the benefits of the [soft] conversions do not satisfy the injury caused by A&B's ground water rights that are found to be subject to curtailment in any given year." *Id*. at 2–3.[2]

9. In January 2024 notice of the proposed *Stipulated Mitigation Plan* was advertised in the Idaho Statesman, Mountain Home News, Idaho Mountain Express, Post Register, Idaho State Journal, Times News, Lewiston Tribune, and Rexburg Standard Journal in accordance with Idaho Code § 42-222(1) and CM Rule 43.

10. The *Stipulated Mitigation Plan* was timely protested by the Coalition of Cities.[3] However, on May 9, 2024, the Department received a conditional *Stipulated Withdrawal of Protest* from A&B and the Coalition of Cities.[4] The withdrawal of the Coalition of Cities' protest is conditioned upon the Department approving the *Stipulated Mitigation Plan* and including the following findings:

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[2] Although not discussed in the *Stipulated Mitigation Plan*, it is the Department's understanding that there are a total of 61.6 acres within A&B that are currently enrolled in the federal Conservation Reserve Enhancement Program.

[3] The Coalition of Cities consists of the cities of Bliss, Burley, Carey, Declo, Dietrich, Gooding, Hazelton, Heyburn, Jerome, Paul, Richfield, Rupert, Shoshone, and Wendell.

[4] After receiving the Coalition of Cities' protest, the Director authorized Gerald F. Schroeder to hear the contested case in this matter. *Notice of Prehr'g; Order Appointing Hr'g Officer*, at 2. Given the requested amendment was filed as a stipulation and the Coalition of Cities conditionally withdrew its protest, the Director has determined the assistance of a hearing officer is no longer needed to resolve the contested case. The Director hereby withdraws the order of appointment and issues this final order as the presiding officer.

- The Stipulation addresses a procedural issue pertaining to its December 16, 2015 approved Mitigation Plan and the Stipulation does not affect any mitigation obligations of the Coalition of Cities.
- The Stipulation does not impact or shift any calculated proportionate impact of any injury finding to the Coalition of Cities that may be attributed to A&B's junior priority groundwater rights for purposes of the SWC delivery call.

Stipulated Withdrawal of Protest, at 2.

11. The Director finds that the *Stipulated Mitigation Plan* does not affect any mitigation obligations of the Coalition of Cities. Further, it does not impact or shift any calculated proportionate impact of any injury finding to the Coalition of Cities that may be attributed to A&B's junior priority ground water rights for purposes of the SWC delivery call.

CONCLUSIONS OF LAW

1. Idaho Code § 42-602, addressing the authority of the Director over the supervision of water distribution within water districts, provides:

> The director of the department of water resources shall have direction and control of the distribution of water from all natural water sources within a water district to the canals, ditches, pumps and other facilities diverting therefrom. Distribution of water within water districts created pursuant to section 42-604, Idaho Code, shall be accomplished by watermasters as provided in this chapter and supervised by the director.
>
> The director of the department of water resources shall distribute water in water districts in accordance with the prior appropriation doctrine. The provisions of chapter 6, title 42, Idaho Code, shall apply only to distribution of water within a water district.

2. In addition, Idaho Code § 42-1805(8) provides the Director with authority "[t]o promulgate, adopt, modify, repeal and enforce rules implementing or effectuating the powers and duties of the department."

3. Idaho Code § 42-603 grants the Director authority to adopt rules governing water distribution. In accordance with chapter 52, title 67, Idaho Code, the Department adopted rules regarding the conjunctive management of surface and ground water that were last updated on March 18, 2022. IDAPA 37.03.11.000. "The [CM Rules] prescribe procedures for responding to a delivery call made by the holder of a senior-priority surface or ground water right against the holder of a junior-priority ground water right in an area having a common ground water supply." IDAPA 37.03.11.001.

4. CM Rule 42.02 states: "The holder of a senior-priority surface or ground water right will be prevented from making a delivery call for curtailment of pumping of any well used by the holder of a junior-priority ground water right where use of water under the junior-priority

right is covered by an approved and effectively operating mitigation plan." IDAPA 37.03.11.042.02.

5. CM Rule 43.01 (a–d) sets forth the criteria for submission of a mitigation plan to the Director.

6. CM Rule 43.03 establishes the "[f]actors that may be considered by the Director in determining whether a proposed mitigation plan will prevent injury to senior rights . . . ." IDAPA 37.03.11.043.03. Factors that may be considered by the Director include:

> b. Whether the mitigation plan will provide replacement water, at the time and place required by the senior-priority water right . . . .
>
> c. Whether the mitigation plan provides replacement water supplies or other appropriate compensation to the senior-priority water right when needed during a time of shortage . . . .
>
> . . . .
>
> o. Where the petitioners and respondents have entered into an agreement on an acceptable mitigation plan even though such plan may not otherwise be fully in compliance with these provisions.

Id.

7. The *Stipulated Mitigation Plan* does not fundamentally change the components of the *A&B Mitigation Plan*. Instead, the *Stipulated Mitigation Plan* addresses what A&B has referred to as "a procedural issue." *Stipulated Withdrawal of Protest*, at 2. A&B states "[t]he parties are filing the current stipulation consistent with other stipulated mitigation plans (i.e., [Southwest Irrigation District and Goose Creek Irrigation District (collectively, "SWID")], [Idaho Ground Water Appropriators, Inc.], Coalition of Cities) so that A&B does not have to submit new documentation every year showing that it can mitigate for its proportionate share of a predicted demand shortfall." *Stipulated Mitigation Plan*, at 2. The problem with A&B's statement is that the other stipulated mitigation plans are fundamentally different from A&B's plan. In those other stipulated mitigation plans, the SWC stipulated to junior ground water users providing aquifer mitigation actions every year during the term of the plans, regardless of any annual mitigation obligation. And in return, the junior ground water users get safe harbor from the SWC delivery call. For example, in its mitigation plan,[5] SWID agrees to undertake recharge, conversions, voluntary curtailment, and limit their season of use as mitigation activities. *SWID Mitigation Plan*, at 2. And in return, the SWC stipulated that SWID's junior ground water users would not be subject to curtailment "[i]n exchange for the mitigation activities identified" in the plan. *Id.* at 3. Unlike the *SWID Mitigation Plan*, the *A&B Mitigation Plan* does not provide safe harbor for specific activities. Instead, A&B's plan requires that A&B "mitigate for any shortfalls caused by" A&B's junior ground water diversions. *A&B Mitigation Plan*, at 3. Under its plan, A&B may undertake a series of different mitigation activities, and if those activities do not offset

[5] The SWID-SWC mitigation agreement ("*SWID Mitigation Plan*") was submitted to the Department as Exhibit A to the parties' January 4, 2018 *Joint Motion for Approval of Mitigation Agreement*, *In re SWID Mitigation Plan for the SWC Delivery Call*, No. CM-MP-2010-01.

their depletive effect on the SWC, A&B has committed to provide storage water to make up the difference. *Id.* This has not changed in the *Stipulated Mitigation Plan*. *Stipulated Mitigation Plan*, at 2.

8. In the SWC delivery call, the mitigation obligation owed by ground water users can vary from year to year and within an irrigation season depending on current water supply and crop need requirements. Only by applying current water supply and crop need requirements and the methodology order process can the Department determine A&B's proportionate share of any obligation, and whether A&B must provide storage water to offset the depletive effects of its pumping on the SWC. Accordingly, when an injury determination is made, A&B will still be required to submit documentation to the Department regarding its execution of the storage water component of its mitigation activities.

9. If the Director determines that A&B's ground water rights are subject to curtailment and A&B seeks to have its junior priority water rights removed from any curtailment list, A&B cannot simply state that it has storage water available to mitigate for its proportionate share of any predicted shortfall. Instead, A&B must submit legally enforceable contracts, options, or similar documentation to the Director to establish that it has secured the water necessary to mitigate for its obligation. Similar documentation includes any written commitments between A&B and the watermaster for storage water to be deducted from A&B's annual storage allocation and to be controlled, assigned, and delivered by the watermaster to mitigate injury to other members of the SWC.

10. While the new *Stipulated Mitigation Plan* does not fundamentally change the components of the *A&B Mitigation Plan* and will not allow A&B to avoid providing documentation showing that it can mitigate for its proportionate share of a predicted demand shortfall, the Director recognizes that the *A&B Mitigation Plan* was not stipulated to by the SWC and this new plan is stipulated to by the SWC. The Director should approve the plan in recognition that the SWC has now stipulated to it.

ORDER

Based upon and consistent with the foregoing, IT IS HEREBY ORDERED that the *Stipulation Regarding A&B Irrigation District's Amended Rule 43 Mitigation Plan* submitted by A&B and SWC is APPROVED as an amendment to the *A&B Irrigation District's Amended Rule 43 Mitigation Plan*.

IT IS FURTHER ORDERED that when required by the Department, A&B must submit adequate documentation to the Department establishing it has secured the water necessary to mitigate for its proportionate share of any predicted shortfall or otherwise be subject to curtailment.

DATED this 10th day of January 2025.

MATHEW WEAVER
Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 10th day of January 2025, the above and foregoing was served on the following by the method(s) indicated below:

Travis L. Thompson Abigail Bitzenburg MARTEN LAW LLP PO Box 63 Twin Falls, ID 83303-0063 tthompson@martenlaw.com abitzenburg@martenlaw.com jnielsen@martenlaw.com	☒ U.S. Mail, postage prepaid ☒ Email
W. Kent Fletcher FLETCHER LAW OFFICE PO Box 248 Burley, ID 83318 wkf@pmt.org	☒ U.S. Mail, postage prepaid ☒ Email
Candice McHugh Chris Bromley MCHUGH BROMLEY, PLLC PO Box 107[6] Boise, ID 83701 cbromley@mchughbromley.com cmchugh@mchughbromley.com	☒ U.S. Mail, postage prepaid ☒ Email

COURTESY COPY TO:

John K. Simpson MARTEN LAW LLP jsimpson@martenlaw.com	☒ Email
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David W. Gehlert Natural Resources Section Environment and Natural Resources Division U.S. Department of Justice david.gehlert@usdoj.gov	☒ Email
Matt Howard US Bureau of Reclamation mhoward@usbr.gov	☒ Email

[6] Through informal means and the receipt of undelivered mail, the Department has been made aware that the mailing address for counsel of McHugh Bromley, PLLC has changed from the service address the Department has on record in this matter: 380 South 4th Street, Suite 103, Boise, ID 83702. To avoid additional unnecessary expense, the Department has updated the mailing address for McHugh Bromley, PLLC in this matter. However, this update does not remove any duty that counsel of McHugh Bromley, PLLC may have to formally notify the Department and the parties of their change of mailing address for service in this matter.

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Sarah Tschohl
Paralegal

EXPLANATORY INFORMATION TO ACCOMPANY A FINAL ORDER

(To be used in connection with actions when a hearing was **not** held)

The accompanying document is a "**Final Order**" issued by the Idaho Department of Water Resources ("Department") pursuant to Idaho Code § 67-5246.

PETITION FOR RECONSIDERATION

(*See* Idaho Code § 67-5246(4))

Any party may file a petition for reconsideration of this 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 presiding officer 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.

REQUEST FOR HEARING

(*See* Idaho Code § 42-1701A(3))

Unless the right to a hearing before the Department or the Water Resource Board is otherwise provided by statute, any person aggrieved by any final decision, determination, order or action of the Director, and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to Idaho Code § 42-1701A(3). A written petition to the Director contesting this final order and requesting a hearing must be filed with the Department by any aggrieved person **within fifteen (15) days after service of this final order**.

CERTIFICATE OF SERVICE

(*See* IDAPA 37.01.01.053, 37.01.01.202)

All documents filed with the Department in connection with a petition for reconsideration or a request for hearing of this final order shall be served on all other parties to the proceedings in accordance with Rules of Procedure 53 and 202.

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY OR FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY	Docket No. CM-MP-2024-003 **AMENDED FINAL ORDER APPROVING STIPULATED MITIGATION PLAN**
IN THE MATTER OF THE SURFACE WATER COALITIONS' AND THE GROUND WATER DISTRICTS' 2024 STIPULATED MITIGATION PLAN	

This order amends and replaces the *Final Order Approving Stipulated Mitigation Plan* ("*Approval Order*") issued on January 3, 2025, under the above caption.

The Director of the Idaho Department of Water Resources ("Department") finds, concludes, and orders as follows:

FINDINGS OF FACT

1. On November 15, 2024, A&B Irrigation District, American Falls Reservoir District No. 2, Burley Irrigation District, Milner Irrigation District, Minidoka Irrigation District, North Side Canal Company, and Twin Falls Canal Company (collectively, the "Surface Water Coalition" or "SWC"), and Aberdeen-American Falls Ground Water District, Bingham Ground Water District, Bonneville-Jefferson Ground Water District, Carey Valley Ground Water District, Henry's Fork Ground Water District, Jefferson-Clark Ground Water District, Madison Ground Water District, Magic Valley Ground Water District, and North Snake Ground Water District (collectively, the "Districts") fully executed the *2024 Stipulated Mitigation Plan* ("*Mitigation Plan*"). The previously listed entities are collectively known as the "Stipulating Parties."

2. On November 19, 2024, the Stipulating Parties filed the *Mitigation Plan* with the Department as Appendix A of their *Joint Motion for Order Approving 2024 Stipulated Mitigation Plan* ("*Joint Motion*"). The *Mitigation Plan* was submitted pursuant to Rule 43 of the Department's Rules for Conjunctive Management of Surface and Ground Water Resources ("CM Rules"). IDAPA 37.03.11.043.

3. The *Mitigation Plan* is designed to mitigate material injury to water rights held by members of the SWC and is intended to satisfy the Districts' obligations under the ongoing SWC delivery call case, No. CM-DC-2010-001. *See Joint Motion*, at 3.

4. The initial term of the *Mitigation Plan* is four years, beginning January 1, 2024, and ending December 31, 2027. *Mitigation Plan*, § 3.1. The plan automatically renews for successive four-year terms unless terminated as described in the plan. *Id.* § 3.2

5. Through the *Mitigation Plan*, the SWC and the Districts agree that:

(a) during the term of the plan, "each District will conserve, at a minimum, the volume of groundwater set forth in the 'Conservation Obligation' column in Appendix A" of the *Mitigation Plan*, *id*. § 4, on an average annual basis over four-year periods known as compliance periods, *id*. §§ 4–4.1;

(b) as of November 15, 2024, the Districts' conservation obligations collectively total 205,000 acre-feet annually, which equates to a total annual divertible volume of 1,590,034 acre-feet, *id*. § 4.2;

(c) "[a]t the beginning of each compliance period, each District will be allocated a volume of water that may be diverted during that four-year period, calculated by multiplying the District's annual divertible volume by four, plus surplus allocation carried over from the prior compliance period," if allowed, *id*. § 4.3;

(d) each District's "four-year compliance period allocations are set forth in Appendix A" of the *Mitigation Plan*, *id*. § 4.3, which "will be updated annually by the Districts to reflect additions and removals of groundwater rights participating in [the *Mitigation Plan*] through the Districts," *id*. § 4.2;

(e) "[e]ach District will apportion its compliance period allocation to the District's patrons in the form of a diversion allocation in accordance with Idaho Code § 42-5244A," *id*. § 4.4;

(f) the "Districts may supplement their compliance period allocation by performing managed aquifer recharge" in accordance with certain standards set forth in the *Mitigation Plan*, *id*. § 4.5;

(g) the "[m]easurement and reporting of non-irrigation diversions will occur on an annual basis" and "[t]he Districts will develop and implement methods to read irrigation diversions monthly" as set forth in the *Mitigation Plan*, *id*. § 4.6.1;

(h) "[r]each gains to the Near Blackfoot to Minidoka reach of the Snake River shall be measured based on calendar year reach gains from the ESPA as reported by the Department to the Idaho Water Resource Board," *id*. § 4.6.3;

(i) "[b]y February 15 annually, the Districts will submit a report to the SWC and the Department documenting the Districts' compliance with section 4 [(concerning groundwater conservation)] during the previous calendar year," *id*. § 4.8 (emphasis omitted);

(j) "[b]eginning in 2035, the Districts will collectively deposit $250,000 annually into a bank account maintained by the Districts to fund development and implementation of projects designed to further increase reach gains to the Near Blackfoot to Minidoka reach of the Snake River" and this amount may increase under certain circumstances described in the plan, *id*. § 5;

(k) "[t]he Districts will collectively secure the volume of storage water required by section 6.1 to meet irrigation needs and carryover storage of the SWC in accordance with section 6.4" of the *Mitigation Plan*, *id*. § 6 (emphasis omitted);

(l) "[t]he Districts may take alternative actions to deliver water to the SWC, including but not limited to acquiring natural flow, in lieu of securing and delivering storage water," *id*. § 6.7;

(m) "[t]here will be an oversight committee [ ] established to review implementation of [the *Mitigation Plan*]," *id*. § 7;

(n) the "Districts and their patrons that comply with [the *Mitigation Plan*] shall receive safe harbor from the SWC delivery call" during the term of the plan, *id*. § 8;

(o) "[e]ach District is independently responsible for complying with its proportionate obligations under sections 4, 5 and 6" of the *Mitigation Plan,* and "[i]f a District does not comply, such non-compliance shall not adversely affect any other District that is in compliance with its proportionate obligations" under the plan, *id*. § 9 (emphasis omitted); and

(p) "[g]round water districts or other entities representing groundwater users brought into the area of common ground water supply through the passage of Senate Bill 1341 (2024) or brought in through expansion of the area of common ground water supply as allowed by Senate Bill 1341 (2024) may seek to join [the *Mitigation Plan*]," *id*. § 10.

6. The *Mitigation Plan* will supersede and replace previously approved mitigation plans in Department Docket Nos. CM-MP-2009-006, CM-MP-2009-007, and CM-MP-2016-001. *Id.* § 11.

7. Notice of the proposed *Mitigation Plan* was advertised in the Idaho Statesman, Mountain Home News, Idaho Mountain Express, Post Register, and Idaho State Journal on December 4 and 11, 2024; the Times News and Lewiston Tribune on December 5 and 12, 2024; and the Rexburg Standard Journal on December 6 and 13, 2024, in accordance with Idaho Code § 42-222(1) and CM Rule 43. No protests were received.

8. On January 3, 2025, the Director issued a final order approving the *Mitigation Plan*. However, the Director concluded that sections 4.6.1 and 4.6.3 of the *Mitigation Plan* should be revised to avoid future misunderstandings. *Approval Order* ¶¶ 10–12. Accordingly, the *Approval Order* was issued with certain alterations to sections 4.6.1 and 4.6.3. *Id*. at 5.

9. On January 17, 2025, pursuant to Idaho Code § 67-5246(4), the SWC filed for reconsideration of the *Approval Order*. *Pet. for Recons./Req. for Hr'g*, at 1–2 [hereinafter *SWC Petition*]. No responses to the *SWC Petition* were filed with the Department.

10. On reconsideration, the Director found the SWC's argument for an alternate revision of section 4.6.3 reasonable. *Order Granting Pet. for Recons. & Den. Req. for Hr'g*, at 3 [hereinafter *Order Granting Reconsideration*]. Therefore, exercising his discretion, the Director granted the SWC's petition for reconsideration and now amends Conclusion of Law 11 and the order below to be consistent with the concurrently issued *Order Granting Reconsideration*. *See id*.

CONCLUSIONS OF LAW

1. Idaho Code § 42-602 grants authority to the Director to supervise water distribution within water districts:

> The director of the department of water resources shall have direction and control of the distribution of water from all natural water sources within a water district to the canals, ditches, pumps and other facilities diverting therefrom. Distribution of water within water districts created pursuant to section 42-604, Idaho Code, shall be accomplished by watermasters as provided in this chapter and supervised by the director.
>
> The director of the department of water resources shall distribute water in water districts in accordance with the prior appropriation doctrine. The provisions of chapter 6, title 42, Idaho Code, shall apply only to distribution of water within a water district.

2. Idaho Code § 42-1805(8) authorizes the Director "[t]o promulgate, adopt, modify, repeal and enforce rules implementing or effectuating the powers and duties of the department."

3. Idaho Code § 42-603 grants the Director authority to adopt rules governing water distribution.

4. In accordance with chapter 52, title 67, Idaho Code, the Department adopted rules regarding the conjunctive management of surface and ground water that were last updated on March 31, 2022. IDAPA 37.03.11.000. "The [CM Rules] prescribe procedures for responding to a delivery call made by the holder of a senior-priority surface or ground water right against the holder of a junior-priority ground water right in an area having a common ground water supply." IDAPA 37.03.11.001.

5. CM Rule 42.02 states: "The holder of a senior-priority surface or ground water right will be prevented from making a delivery call for curtailment of pumping of any well used by the holder of a junior-priority ground water right where use of water under the junior-priority right is covered by an approved and effectively operating mitigation plan." IDAPA 37.03.11.042.02.

6. CM Rule 43.01.a–d sets forth the criteria for submission of a mitigation plan to the Director.

7. CM Rule 43.03 establishes the "[f]actors that may be considered by the Director in determining whether a proposed mitigation plan will prevent injury to senior rights . . . ." IDAPA 37.03.11.043.03(a)–(o). One such factor the Director may consider is "[w]hether the petitioners and respondents have entered into an agreement on an acceptable mitigation plan even though such plan may not otherwise be fully in compliance with these provisions." IDAPA 37.03.11.043.03(o).

8. The SWC and the Districts have entered into an agreement on a mitigation plan in accordance with CM Rule 43.03(o). The SWC stipulates that the *Mitigation Plan* "is designed to mitigate material injury to water rights held by members of the Surface Water Coalition." *Joint Motion*, at 3. The SWC and the Districts agree that "Districts and their patrons that comply with [the *Mitigation Plan*] shall receive safe harbor from the SWC delivery call" during the term of the plan. *Mitigation Plan*, § 8.

9. The *Mitigation Plan* describes numerous ongoing activities including: (a) setting conservation obligations and compliance periods; (b) setting individual patron level allocation and compliance requirements; (c) allowing aquifer recharge to supplement the Districts' compliance period allocation; (d) requiring measurement and reporting obligations; (e) allowing conservation carryover; (f) establishing a reach gain mitigation fund; (g) securing and assigning storage water; (h) permitting alternative mitigation actions; (i) establishing an oversight committee; (j) providing safe harbor; and (k) establishing enforcement procedures. *Id.* §§ 4–10.

10. Section 4.6.1 of the *Mitigation Plan* uses more precise language to describe the measurement actions required for non-irrigation diversions than irrigation diversions. It states that non-irrigation diversions shall be "measure[d] and report[ed]" but that irrigation diversions shall be "read." To avoid ambiguity and the potential for future misunderstanding, the need to measure and report all ground water diversions should be clarified and the term "read" should be replaced with "measure," "report," or both in section 4.6.1.

11. Section 4.6.3 of the *Mitigation Plan* states that "[r]each gains to the Near Blackfoot to Minidoka reach of the Snake River shall be measured based on calendar year reach gains from the ESPA as reported by the Department to the Idaho Water Resource Board." The problem with this statement is that it is inaccurate. In fact, the Department measures and reports Near Blackfoot to Minidoka reach gains to the Idaho Water Resource Board based on a water year schedule, not a calendar year schedule. To ensure accuracy and avoid the potential for future misunderstanding, while still preserving the intent of the stipulating parties, "as reported by the Department to the Idaho Water Resource Board" should be stricken from section 4.6.3.

12. Having reviewed the *Mitigation Plan* and the CM Rules, the Director will approve the *Mitigation Plan* with alterations to sections 4.6.1 and 4.6.3, consistent with paragraphs 10 and 11 above.

ORDER

Based upon and consistent with the foregoing, IT IS HEREBY ORDERED that the *2024 Stipulated Mitigation Plan* is APPROVED with the following alterations in strikeout/underline:

(a) **4.6.1 Groundwater.** Measurement and reporting of non-irrigation diversions will occur on an annual basis. The Districts will develop and implement methods to ~~read~~ measure irrigation diversions monthly. Irrigation diversions shall be ~~read~~ measured and reported from June to October, with the June ~~reading~~ reporting including diversions from the start of the irrigation season. The Districts will have functioning measurement and reporting programs by the start of the 2026 irrigation season to ~~read~~ measure and report irrigation diversions monthly. The Districts' methods may include telemetry, self-reporting with photo evidence, or other reliable techniques to report water diversions. Measurements shall be ~~made available~~ reported to the appropriate watermaster and the watermaster will make the measurement data publicly available upon request.

(b) **4.6.3 Reach Gains.** Reach gains to the Near Blackfoot to Minidoka reach of the Snake River shall be measured based on calendar year reach gains from the ESPA ~~as reported by the Department to the Idaho Water Resource Board~~.

Dated this 7th day of February 2025.

MATHEW WEAVER
Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 7th day of February 2025, the above and foregoing, was served by the method indicated below, and addressed to the following:

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[1] Through informal means and the receipt of undelivered mail, the Department has been made aware that the mailing address for counsel of McHugh Bromley, PLLC has changed from the service address the Department has on record in this matter: 380 South 4th Street, Suite 103, Boise, ID 83702. To avoid additional unnecessary expense, the Department has updated the mailing address for McHugh Bromley, PLLC in this matter. However, this update does not remove any duty that counsel of McHugh Bromley, PLLC may have to formally notify the Department and the parties of their change of mailing address for service in this matter.

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Sarah Tschohl
Paralegal

EXPLANATORY INFORMATION TO ACCOMPANY A FINAL ORDER

(To be used in connection with actions when a hearing was **not** held)

The accompanying document is a "**Final Order**" issued by the Idaho Department of Water Resources ("Department") pursuant to Idaho Code § 67-5246.

PETITION FOR RECONSIDERATION

(*See* Idaho Code § 67-5246(4))

Any party may file a petition for reconsideration of this 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 presiding officer 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.

REQUEST FOR HEARING

(*See* Idaho Code § 42-1701A(3))

Unless the right to a hearing before the Department or the Water Resource Board is otherwise provided by statute, any person aggrieved by any final decision, determination, order or action of the Director, and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to Idaho Code § 42-1701A(3). A written petition to the Director contesting this final order and requesting a hearing must be filed with the Department by any aggrieved person **within fifteen (15) days after service of this final order**.

CERTIFICATE OF SERVICE

(*See* IDAPA 37.01.01.053, 37.01.01.202)

All documents filed with the Department in connection with a petition for reconsideration or a request for hearing of this final order shall be served on all other parties to the proceedings in accordance with Rules of Procedure 53 and 202.

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY OR FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY	Docket No. CM-DC-2010-001 **FINAL ORDER REGARDING APRIL 2025 FORECAST SUPPLY** **(METHODOLOGY STEPS 1–3)**

FINDINGS OF FACT

1. On July 19, 2023, the Idaho Department of Water Resources ("Department") issued its *Sixth Final Order Regarding Methodology for Determining Material Injury to Reasonable In-Season Demand and Reasonable Carryover* ("*Methodology Order*"). The *Methodology Order* established nine steps for determining material injury to members of the Surface Water Coalition ("SWC"). This order applies steps 1, 2, and 3 of the *Methodology Order*.[1]

A. Step 1

2. By April 1 of each year, Step 1 requires members of the SWC to submit to the Department electronic shapefiles delineating the total anticipated irrigated acres for the upcoming year "or confirm in writing that the existing electronic shape file submitted by SWC has not varied by more than five percent." *Methodology Order* ¶ 1, at 41.

3. On March 13, 2025, Minidoka Irrigation District ("Minidoka") submitted its electronic shapefile delineating its total irrigated acres to the Department. The Department also received a letter from Milner Irrigation District ("Milner") stating that its total number of irrigated acres has not varied by more than five percent.

4. On March 14, 2025, the Department received a letter from American Falls Reservoir District #2 ("AFRD2"), stating that its total number of irrigated acres has not varied by more than five percent.

5. On March 25, 2025, the Department received a letter from A&B Irrigation District ("A&B"), Burley Irrigation District ("BID"), North Side Canal Company ("NSCC"), and Twin Falls Canal Company ("TFCC"). In the letter, A&B, BID, and NSCC confirmed that their total

[1] Shortly after the *Methodology Order* was issued, the Idaho Ground Water Appropriators, Inc. ("IGWA") and certain Idaho cities filed petitions for judicial review in Ada County (Nos. CV01-23-13173 and CV01-23-13238). IGWA's petition for judicial review is stayed until December 31, 2027. The cities' petition for judicial review is pending before the Idaho Supreme Court. The filing of a petition for judicial review does not stay the effectiveness of an order. I.C. § 67-5274. No party to the judicial review proceedings has requested a stay of the *Methodology Order*. Accordingly, the Director will apply the *Methodology Order* in this order.

number of irrigated acres for 2025 will not vary by more than five percent from the electronic shapefiles submitted in prior years. With the letter, TFCC submitted an electronic shapefile delineating its total irrigated acres.

6. Based on the information submitted by the SWC, the Department will use the following total irrigated acres:

	Total Irrigated Acres[2]	Data Source
A&B	14,749[3]	SRBA Partial Decree
AFRD2	62,361	SRBA Partial Decree
BID	46,035	2013 shapefile submitted by BID, reduced by the Department for overlapping acres and acres outside of service area.
Milner	13,264	2010 service area shapefile, reduced by the Department for overlapping acres and acres outside of service area.
Minidoka	74,759	2025 shapefile submitted by Minidoka, reduced by the Department for overlapping acres and acres outside of the service area.
NSCC	154,067	SRBA Partial Decree
TFCC	195,568	2025 shapefile submitted by TFCC, reduced by the Department for overlapping acres and acres outside of service area.

B. Step 2

7. Step 2 states that, within fourteen days of the issuance of the joint forecast prepared by the United States Bureau of Reclamation ("USBR") and the United States Army Corp of Engineers ("USACE"), the Director "will issue a final order predicting the April [Forecast Supply] for the water year for each SWC entity. The Director will compare the April [Forecast Supply] for each SWC entity to the [Baseline Demand] for each SWC entity to determine if an in-season demand shortfall ("IDS") is anticipated for the upcoming irrigation season." *Methodology Order* ¶ 3, at 42.

8. On April 2, 2025, the USBR and USACE issued their joint forecast ("Joint Forecast"), predicting an unregulated inflow of 3,380,000 acre-feet at the Snake River near Heise gage for the period of April through July. The forecasted flow volume equates to 102% percent of the average.[4] The Joint Forecast "is generally as accurate a forecast as is possible using current data gathering and forecasting techniques." *Id.* ¶ 49, at 19 (citation omitted).

[2] "The number of irrigated acres used in this methodology order is the number of reported acres unless that number is larger than the decreed irrigated acres, and if so, then the decreed acres are used." *Methodology Order* ¶ 22, at 11.

[3] The Department has modified the total A&B irrigated acreage count to 14,749 acres. Based on Judge Wildman's district court decision, the new acreage count removes A&B's enlargement acres. *Mem. Decision & Order*, at 8, *City of Idaho Falls v. Idaho Dep't of Water Res.*, No. CV01-23-13238 (Ada Cnty. Dist. Ct. Idaho May 31, 2024).

[4] The average is based on the years 1991–2020. The Joint Forecast relies on a "30-Year Climate Normal" to calculate an average April through July runoff volume.

9. The April–July Heise natural flow data from the years 1990–2024 were data inputs for the development of regression equations for A&B and Milner to predict the natural flow supply.[5] Data greater or less than two standard deviations from average were excluded from the regression development.

10. The April–July Heise natural flow data from the years 1990–2024 and Box Canyon November–March total discharge data for the period 1989–2024, were data inputs for the development of multiple linear regression equations to predict the natural flow supplies for AFRD2, BID, Minidoka, NSCC, and TFCC. *Methodology Order* ¶ 49, at 19. The U.S. Geological Survey measures and monitors the flow at the Box Canyon stream flow measurement gage. The Box Canyon November–March total discharge used by the Director in the regression models for 2025 totaled 93,344 acre-feet.

11. The storage allocations were predicted for each SWC member. As of April 6, 2025, Water District No. 1's preliminary water right accounting indicates water rights for Jackson Lake 1906, Lake Walcott, Jackson Lake 1910, Jackson Lake 1913, Palisades Winter Water Savings, Island Park 1921, American Falls Winter Water Savings, and Henrys Lake 1965 are satisfied. The remaining reservoir rights are 445,474 acre-feet short of satisfaction. Based on a comparison of the current Heise natural flow forecast to the analogous year of 2020, the Director anticipates the remaining reservoir water rights will be satisfied, and the SWC will receive a full storage allocation. The storage allocations are based on the anticipated full allocation minus evaporation charges.

12. Based on the above, the Director projects the following shortfalls:

	Predicted Natural Flow Supply	Predicted Storage Allocation	Minidoka Credit Adjustment	Total Forecast Supply	Baseline Demand (BLY 2018)	In-Season Demand Shortfall
A&B	11,718	135,194		146,912	64,192	0
AFRD2	103,492	386,596	1,000	491,088	458,890	0
BID	106,140	222,485	5,130	333,755	262,211	0
Milner	15,143	87,870		103,013	58,417	0
Minidoka	150,989	360,077	8,370	519,436	354,851	0
NSCC	431,090	844,703	-7,750	1,268,043	1,026,661	0
TFCC	823,929	241,584	-6,750	1,058,763	1,121,717	63,000
		Total Predicted April In-Season Demand Shortfall (AF)				63,000

[5] Attached hereto, as Attachment A, are the regression analyses for each SWC entity used to predict natural flow supply.

C. Step 3

13. Step 3 requires the following:

> Step 3: By May 1, or within fourteen (14) days from issuance of the final order predicting the April [Forecast Supply], whichever is later in time, junior ground water users with approved mitigation plans for delivery of water must secure, to the satisfaction of the Director, a volume of water equal to their proportionate share of the April IDS unless the April IDS is revised as explained below in paragraph 6. If junior ground water users secured water for a reasonable carryover shortfall to an individual SWC member in the previous year, the current-year mitigation obligation to the individual SWC member will be reduced by the quantity of water secured for the reasonable carryover shortfall. The secured water will not be required to be delivered to the injured members of the SWC until the Time of Need.

Methodology Order ¶ 4, at 42.

14. The predicted April IDS for TFCC is 63,000 acre-feet. Because the TFCC is the only SWC entity with a predicted shortfall, the total predicted April IDS is 63,000 acre-feet.

15. The Eastern Snake Plain Aquifer Model ("ESPAM") is used to predict the junior priority water rights that must be curtailed to produce the volume of water equal to the predicted April IDS in the near Blackfoot to Minidoka reach. The ESPAM is updated periodically as new field measurements and advancements in modeling technology become available. ESPAM Version 2.2 ("ESPAM2.2") is the latest model version.[6]

16. The Department ran ESPAM2.2 to predict the junior priority water rights within the area of common ground water supply[7] that must be curtailed to produce the volume of water equal to the predicted April IDS between May 1 and September 30 of this irrigation season pursuant to the *Methodology Order*. Ground water rights bearing priority dates junior to August 28, 1955, must be curtailed to produce the volume of water equal to the predicted April IDS in the near Blackfoot to Minidoka reach.

CONCLUSIONS OF LAW

1. The Fifth Judicial District Court, in and for the County of Minidoka, held that the evidentiary standard of proof to apply in conjunctive administration of hydraulically connected water rights is clear and convincing. *See Mem. Decision & Order on Pets. for Jud. Rev.*, *A&B*

[6] The Department finalized ESPAM2.2 model documentation reports (including a model calibration report, a predictive uncertainty analysis, a superposition model scenario, and a curtailment scenario) on May 27, 2021. *See* Idaho Dep't of Water Res., *ESPAM2.2 Reports* (2021), https:// research.idwr.idaho.gov/files/projects/espam/browse/ESPAM22_Reports/.

[7] The current area of common ground water supply for the Eastern Snake Plain Aquifer is defined in Idaho Code § 42-233c as the aquifer underlying the Eastern Snake River Plain as described in the model calibration report for ESPAM2.2 dated May 2021.

Irr. Dist., Inc. v. Idaho Dep't of Water Res., No. CV-2009-647 (Minidoka Cnty. Dist. Ct. Idaho May 4, 2010); *Mem. Decision & Order on Pets. for Reh'g*, *A&B Irr. Dist., Inc. v. Idaho Dep't of Water Res.*, No. CV-2009-647 (Minidoka Cnty. Dist. Ct. Idaho Nov. 2, 2010).

2. "Clear and convincing evidence refers to a degree of proof greater than a mere preponderance." *Idaho State Bar v. Topp*, 129 Idaho 414, 416, 925 P.2d 1113, 1115 (1996) (internal quotations omitted). "Clear and convincing evidence is generally understood to be '[e]vidence indicating that the thing to be proved is highly probable or reasonably certain.'" *State v. Kimball*, 145 Idaho 542, 546, 181 P.3d 468, 472 (2008) (citing *In re Adoption of Doe*, 143 Idaho 188, 191, 141 P.3d 1057, 1060 (2006)); *see also Idaho Dep't of Health & Welfare v. Doe*, 150 Idaho 36, 41, 244 P.3d 180, 185 (2010).

3. The Director must utilize the best available technology for determining the impact of junior ground water diversions. *See Clear Springs Foods, Inc. v. Spackman*, 150 Idaho 790, 814, 252 P.3d 71, 95 (2011). ESPAM 1.1 and 2.1 are the model versions utilized previously in the SWC delivery call proceedings. Previously, the Director determined that ESPAM 2.1 was the best available scientific tool for predicting the effects of ground water pumping. *See Idaho Ground Water Assoc. v. Idaho Dep't of Water Res.*, 160 Idaho 119, 124, 369 P.3d 897, 902 (2016). ESPAM 2.2 is the latest version of the ESPAM model. The improvements incorporated into ESPAM 2.2, as discussed in Finding of Fact 15, make it the best available scientific tool for predicting the effects of ground water pumping in this proceeding.

4. In 2025, the Director will have sufficient information to quantify the irrigated areas for each of the SWC members as required by Step 1.

5. The USBR-USACE April Joint Forecast predicts an unregulated inflow of 3,380,000 acre-feet at the Snake River near Heise gage from April to July. The forecasted volume equates to 102% of the average.

6. The predicted April IDS is 63,000 acre-feet. Junior ground water users holding consumptive water rights bearing priority dates junior to August 28, 1955, within the Eastern Snake Plain Aquifer area of common ground water supply must mitigate for their proportionate share of the predicted April IDS in accordance with an approved mitigation plan.[8] Junior ground water users mitigating for their proportionate share of the predicted April IDS with a secured volume of water pursuant to an approved mitigation plan must, to the satisfaction of the Director, secure their proportionate share for delivery to the injured members of the SWC on or before May 1, 2025. There was a reasonable carryover shortfall of 44,900 acre-feet in the fall of 2024.

[8] There are five approved mitigation plans responding to the SWC delivery call, each is stipulated to by the SWC: (1) No. CM-MP-2015-003 for the benefit of A&B; (2) No. CM-MP-2010-001 for the benefit of Southwest Irrigation District and Goose Creek Irrigation District (collectively, "SWID"); (3) No. CM-MP-2024-003 for the benefit of the Ground Water Districts; (4) No. CM-MP-2019-001 for the benefit of the Coalition of Cities; and (5) No. CM-MP-2007-001 for the benefit of the Water Mitigation Coalition. Given the nature of certain plans, the Department must calculate the proportionate share of the predicted IDS. With regard to A&B's mitigation plan, A&B's proportionate share of the predicted April IDS of 63,000 acre-feet is 384 acre-feet. Due to the nature of the mitigation plans for SWID, the Ground Water Districts, the Coalition of Cities, and the Water Mitigation Coalition, these entities do not need to establish that they can mitigate for their proportionate share of the predicted IDS.

However, because junior ground water users did not secure any mitigation water for a carryover shortfall, there is no adjustment to the mitigation obligation.

7. If, on or before May 1, 2025, ground water users holding consumptive water rights bearing priority dates junior to August 28, 1955, within the Eastern Snake Plain Aquifer area of common ground water supply[9] fail to establish, to the satisfaction of the Director, that they can mitigate for their proportionate share of the predicted April IDS of 63,000 acre-feet in accordance with an approved mitigation plan, the Director will issue an order curtailing the junior-priority ground water user. Junior ground water users who are mitigating with a secured volume of water are not required to assign the secured volume of water until after the Director issues a subsequent order requiring the assignment of the water.

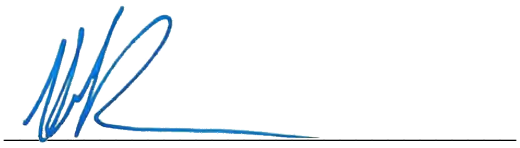
8. If, at any time prior to the Director's final determination of the April Forecast Supply, the Director can determine with certainty that any member of the SWC has diverted more natural flow than predicted, or has accrued more storage than predicted, the Director will revise his initial, predicted IDS determination.

ORDER

Based upon and consistent with the foregoing, IT IS HEREBY ORDERED as follows:

The Director predicts an April IDS of 63,000 acre-feet. On or before May 1, 2025, ground water users holding consumptive water rights bearing priority dates junior to August 28, 1955, within the Eastern Snake Plain Aquifer area of common ground water supply shall establish, to the satisfaction of the Director, that they can mitigate for their proportionate share of the predicted April IDS of 63,000 acre-feet in accordance with an approved mitigation plan. If a junior ground water user cannot establish, to the satisfaction of the Director, that they can mitigate for their proportionate share of the predicted April IDS in accordance with an approved mitigation plan, the Director will issue an order curtailing the junior-priority ground water user.

Dated this 16th day of April 2025.



MATHEW WEAVER
Director

[9] On June 28, 2024, the Director issued an order declaring that ground water rights that were to be newly included in the Eastern Snake Plain Aquifer area of common ground water starting July 1, 2024, due to the passage of Senate Bill 1341, would not be subject to administration until November 1, 2025. *Order Re. Mid-Season Change to Area of Common Ground Water Supply for E. Snake Plain Aquifer; 3d Order Am. Curtailment List*, at 4; *see* S.B. 1341, 67th Leg., 2d Reg. Sess. (Idaho 2024) (enacted as I.C. § 42-233c). Accordingly, ground water users holding consumptive water rights bearing priority dates junior to August 28, 1955, that were newly included in the Eastern Snake Plain Aquifer area of common ground water supply per the Director's June 28, 2024 order, are not subject to administration at this time and are not required to establish that they can mitigate for their proportionate share of the predicted April IDS.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 16th day of April 2025, the above and foregoing, was served by the method indicated below, and addressed to the following:

John K. Simpson MARTEN LAW LLP PO Box 2139 Boise, ID 83701-2139 jsimpson@martenlaw.com	☒ U.S. Mail, postage prepaid ☒ Email
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Thomas J. Budge Elisheva M. Patterson RACINE OLSON PO Box 1391 Pocatello, ID 83204-1391 tj@racineolson.com elisheva@racineolson.com	☒ U.S. Mail, postage prepaid ☒ Email
David W. Gehlert Natural Resources Section Environment and Natural Resources Division U.S. Department of Justice 999 18th St, Ste 370 Denver, CO 80202 david.gehlert@usdoj.gov	☒ U.S. Mail, postage prepaid ☒ Email
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Dylan Anderson DYLAN ANDERSON LAW PLLC PO Box 35 Rexburg, Idaho 83440 dylan@dylanandersonlaw.com	☒ U.S. Mail, postage prepaid ☒ Email

COURTESY COPIES TO:

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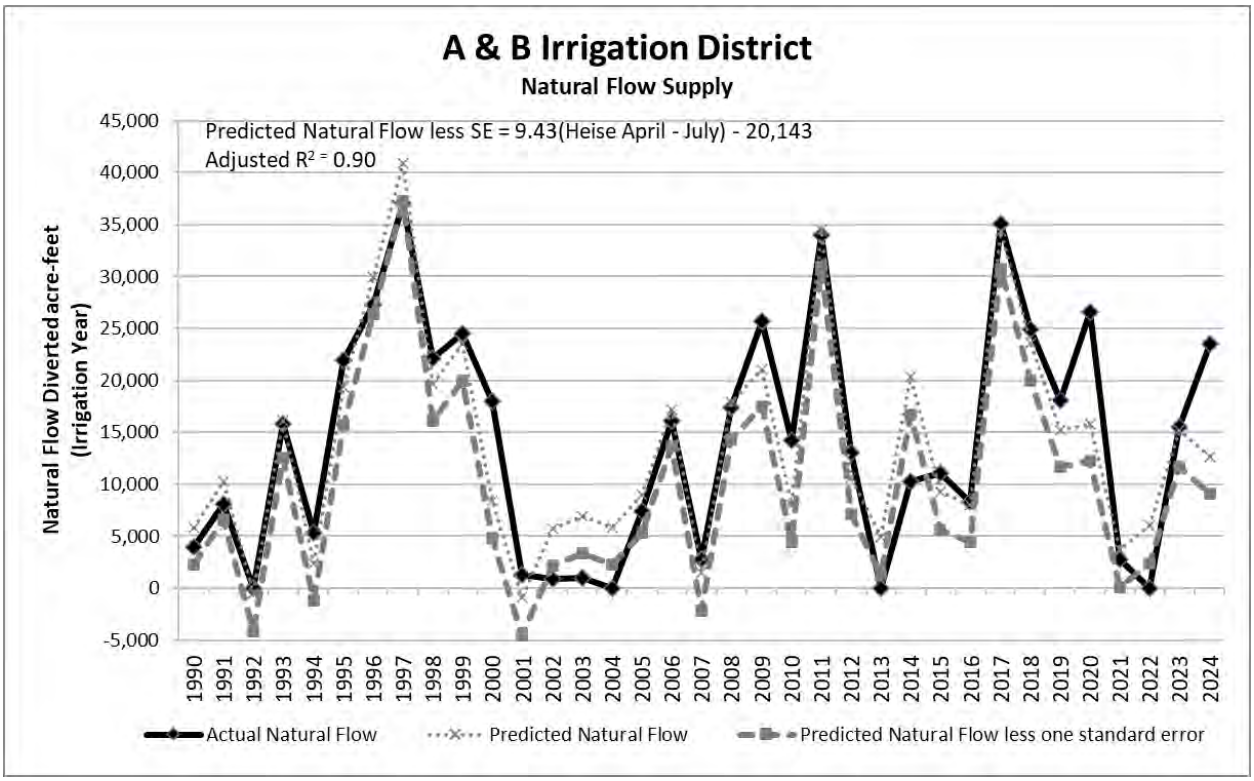
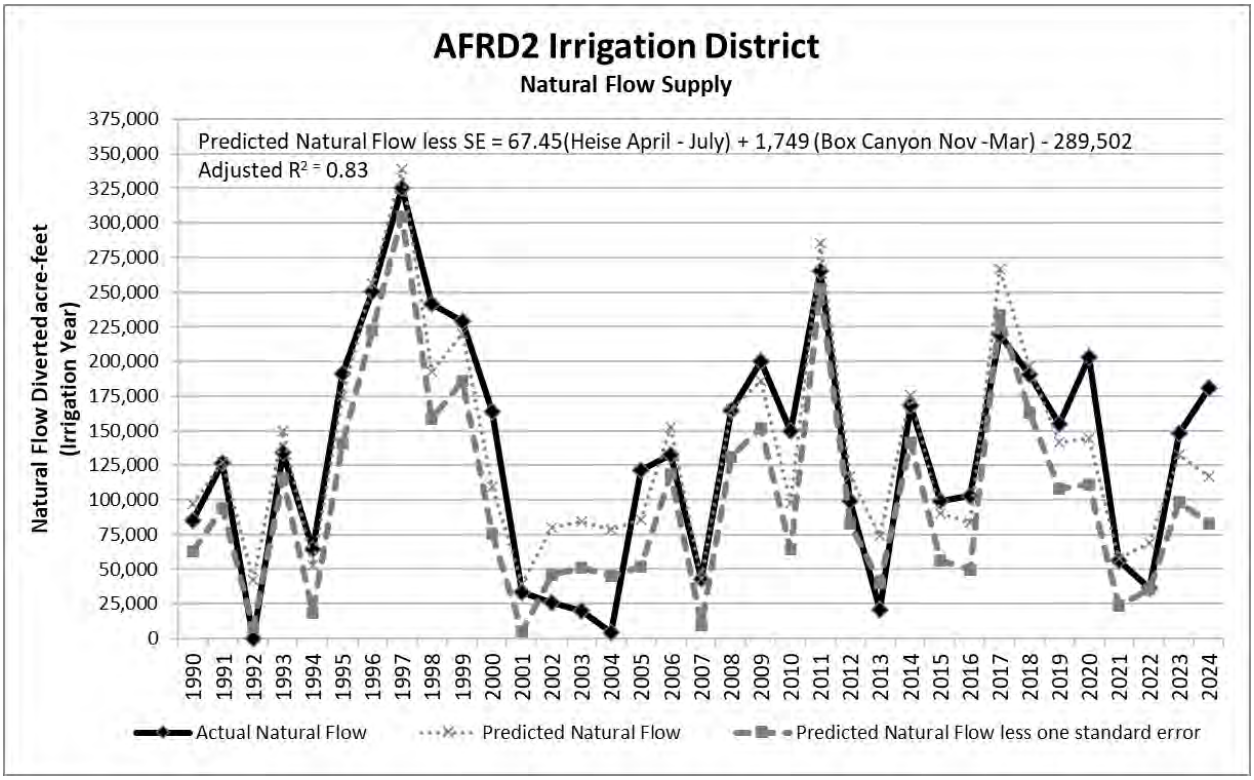
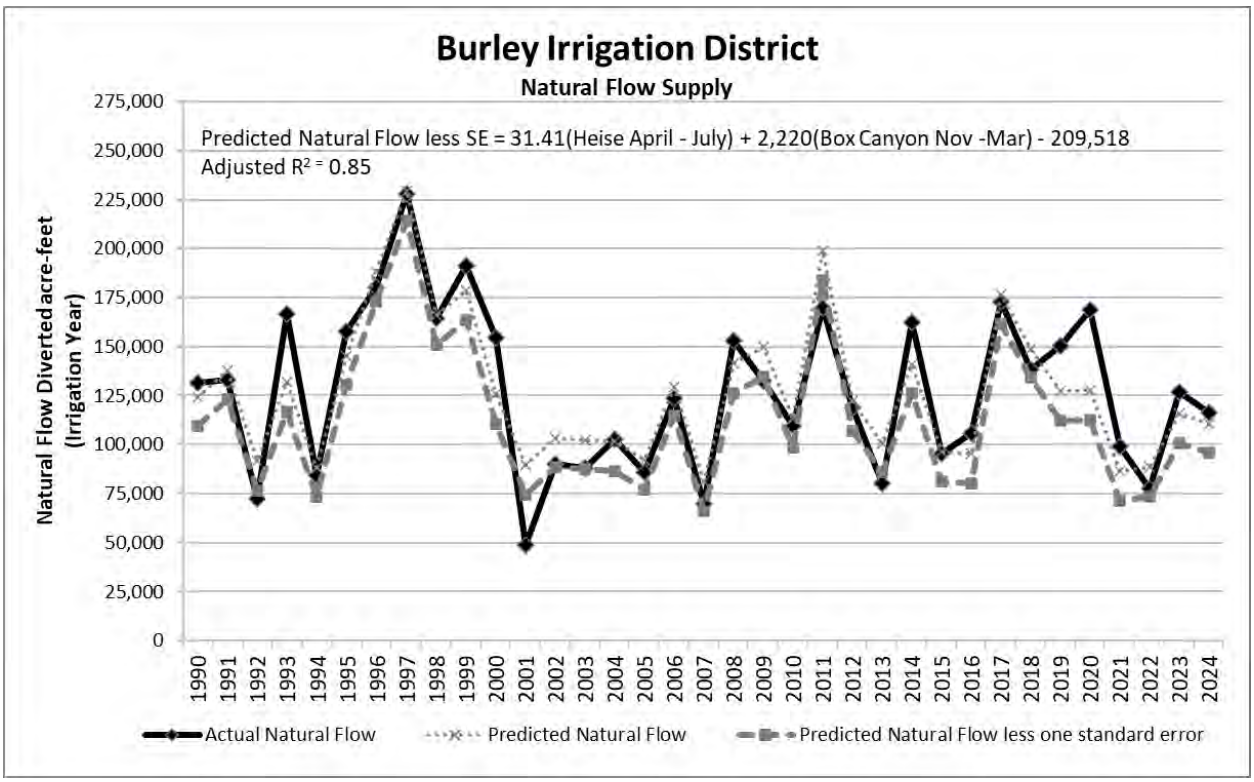
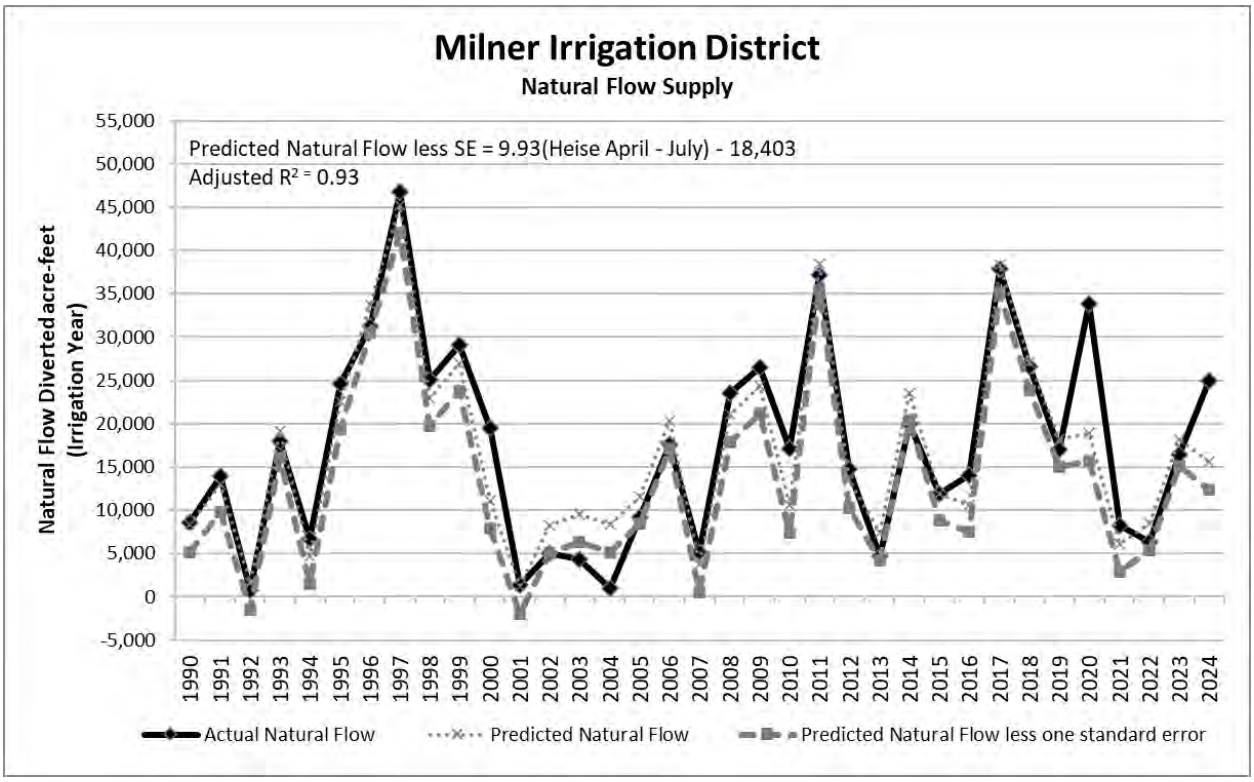
Sarah Tschohl
Paralegal

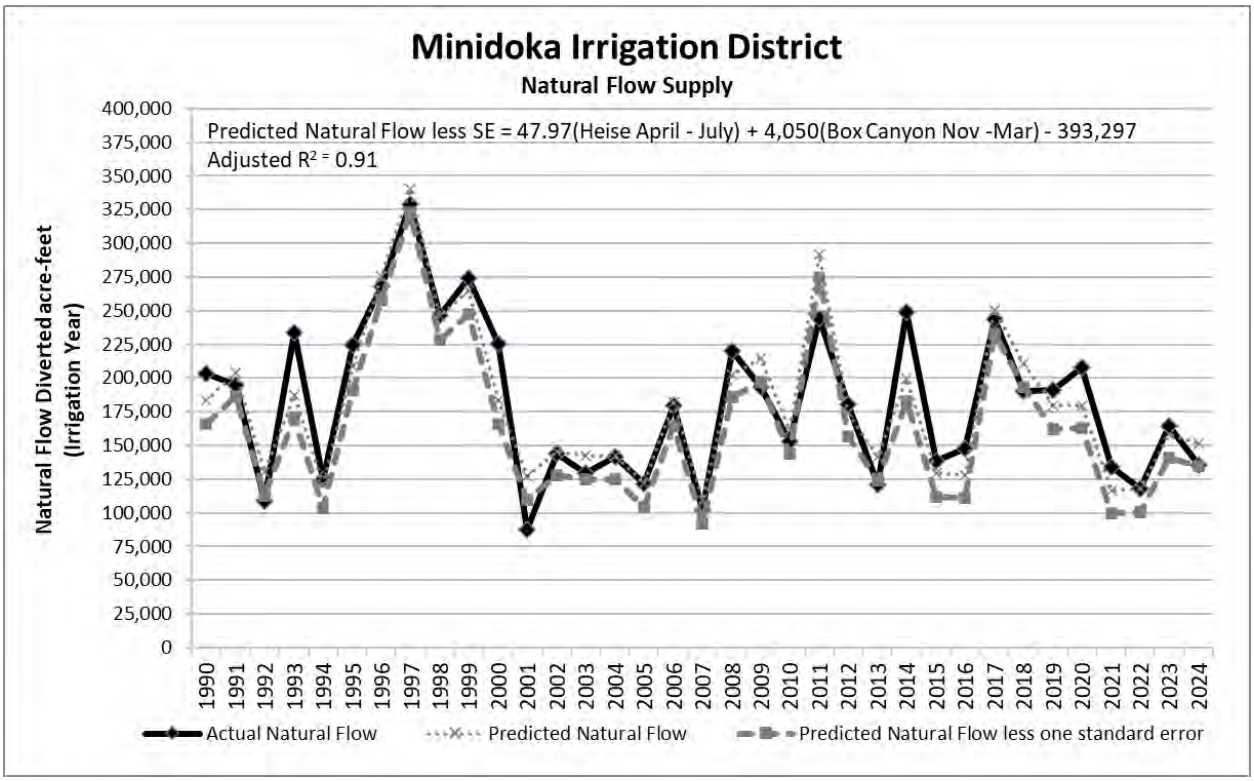
ATTACHMENT A

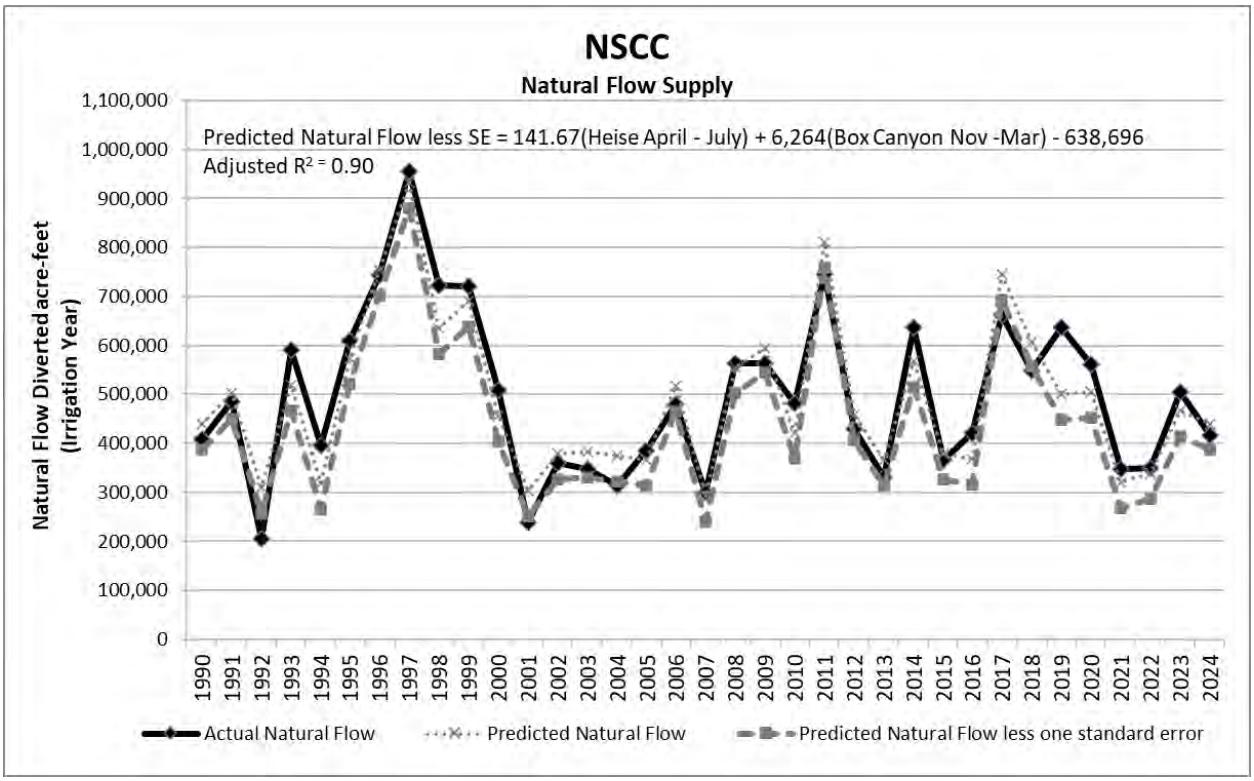


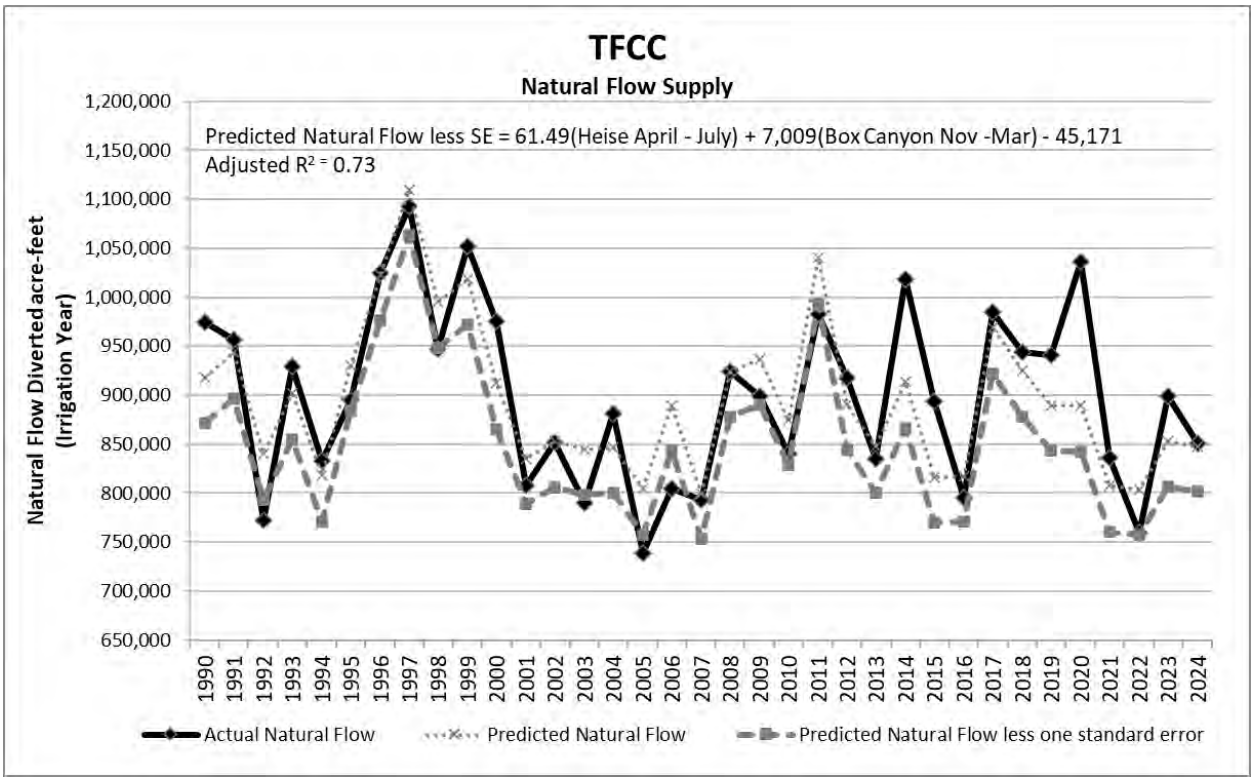



Burley Irrigation District
Natural Flow Supply
Predicted Natural Flow less SE = 31.41(Heise April - July) + 2,220(Box Canyon Nov -Mar) - 209,518
Adjusted R² = 0.85
Natural Flow Diverted acre-feet (Irrigation Year)
275,000
250,000
225,000
200,000
175,000
150,000
125,000
100,000
75,000
50,000
25,000
0
1990 1991 1992 1993 1994 1995 1996 1997 1998 1999 2000 2001 2002 2003 2004 2005 2006 2007 2008 2009 2010 2011 2012 2013 2014 2015 2016 2017 2018 2019 2020 2021 2022 2023 2024
Actual Natural Flow
Predicted Natural Flow
Predicted Natural Flow less one standard error


Milner Irrigation District
Natural Flow Supply
Predicted Natural Flow less SE = 9.93(Heise April - July) - 18,403
Adjusted R² = 0.93
Natural Flow Diverted acre-feet (Irrigation Year)
55,000
50,000
45,000
40,000
35,000
30,000
25,000
20,000
15,000
10,000
5,000
0
-5,000
1990 1991 1992 1993 1994 1995 1996 1997 1998 1999 2000 2001 2002 2003 2004 2005 2006 2007 2008 2009 2010 2011 2012 2013 2014 2015 2016 2017 2018 2019 2020 2021 2022 2023 2024
Actual Natural Flow
Predicted Natural Flow
Predicted Natural Flow less one standard error


Minidoka Irrigation District
Natural Flow Supply
Predicted Natural Flow less SE = 47.97(Heise April - July) + 4,050(Box Canyon Nov -Mar) - 393,297
Adjusted R² = 0.91
Natural Flow Diverted acre-feet (Irrigation Year)
400,000
375,000
350,000
325,000
300,000
275,000
250,000
225,000
200,000
175,000
150,000
125,000
100,000
75,000
50,000
25,000
0
1990 1991 1992 1993 1994 1995 1996 1997 1998 1999 2000 2001 2002 2003 2004 2005 2006 2007 2008 2009 2010 2011 2012 2013 2014 2015 2016 2017 2018 2019 2020 2021 2022 2023 2024
Actual Natural Flow
Predicted Natural Flow
Predicted Natural Flow less one standard error


NSCC
Natural Flow Supply
Predicted Natural Flow less SE = 141.67(Heise April - July) + 6,264(Box Canyon Nov -Mar) - 638,696
Adjusted R² = 0.90
Natural Flow Diverted acre-feet (Irrigation Year)
1,100,000
1,000,000
900,000
800,000
700,000
600,000
500,000
400,000
300,000
200,000
100,000
0
1990 1991 1992 1993 1994 1995 1996 1997 1998 1999 2000 2001 2002 2003 2004 2005 2006 2007 2008 2009 2010 2011 2012 2013 2014 2015 2016 2017 2018 2019 2020 2021 2022 2023 2024
Actual Natural Flow
Predicted Natural Flow
Predicted Natural Flow less one standard error


TFCC
Natural Flow Supply
Predicted Natural Flow less SE = 61.49(Heise April - July) + 7,009(Box Canyon Nov -Mar) - 45,171
Adjusted R² = 0.73
Natural Flow Diverted acre-feet (Irrigation Year)
1,200,000
1,150,000
1,100,000
1,050,000
1,000,000
950,000
900,000
850,000
800,000
750,000
700,000
650,000
1990 1991 1992 1993 1994 1995 1996 1997 1998 1999 2000 2001 2002 2003 2004 2005 2006 2007 2008 2009 2010 2011 2012 2013 2014 2015 2016 2017 2018 2019 2020 2021 2022 2023 2024
Actual Natural Flow
Predicted Natural Flow
Predicted Natural Flow less one standard error

EXPLANATORY INFORMATION TO ACCOMPANY A FINAL ORDER

(To be used in connection with actions when a hearing was **not** held)

The accompanying document is a "**Final Order**" issued by the Idaho Department of Water Resources ("Department") pursuant to Idaho Code § 67-5246.

PETITION FOR RECONSIDERATION

(*See* Idaho Code § 67-5246(4))

Any party may file a petition for reconsideration of this 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 presiding officer 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.

REQUEST FOR HEARING

(*See* Idaho Code § 42-1701A(3))

Unless the right to a hearing before the Department or the Water Resource Board is otherwise provided by statute, any person aggrieved by any final decision, determination, order or action of the Director, and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to Idaho Code § 42-1701A(3). A written petition to the Director contesting this final order and requesting a hearing must be filed with the Department by any aggrieved person **within fifteen (15) days after service of this final order**.

CERTIFICATE OF SERVICE

(*See* IDAPA 37.01.01.053, 37.01.01.202)

All documents filed with the Department in connection with a petition for reconsideration or a request for hearing of this final order shall be served on all other parties to the proceedings in accordance with Rules of Procedure 53 and 202.

Travis L. Thompson, ISB #6168
Abby R. Bitzenburg, ISB #12198
MARTEN LAW LLP
163 Second Ave. West
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Twin Falls, Idaho 83303-0063
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Email: tthompson@martenlaw.com
abitzenburg@martenlaw.com

Attorneys for A&B Irrigation District

RECEIVED
Apr 29, 2025
DEPARTMENT OF
WATER RESOURCES

BEFORE THE DEPARTMENT OF WATER RESOUCES

OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY OR FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY	Docket No. CM-DC-2010-001 **A&B IRRIGATION DISTRICT'S REQUEST FOR HEARING**

COMES NOW, A&B IRRIGATION DISTRICT ("A&B" or "District"), by and through counsel of record, and hereby requests a hearing in the above-referenced matter pursuant to I.C. § 42-1701A(3) and submits the following list of initial issues regarding the Director's *Final Order Regarding April 2025 Forecast Supply* issued on April 16, 2025. A&B reserves the right to supplement this request as necessary.

1) Whether the order's identified proportionate share (384 acre-feet) of the predicted injury (63,000 acre-feet) to TFCC is calculated correctly based upon A&B's actual diversion

and use of water rights that are subject to the identified curtailment date (junior to August 28, 1955).

2) Whether A&B should be allowed to mitigate for a portion of groundwater right 36-15127A (approximately 508.3 acres) that will be diverted used during the 2025 irrigation season, as opposed to mitigating for all 1,886.4 acres authorized by the water right.
3) Whether the steady-state use of the ESPAM 2.2 in identifying A&B's proportionate share is consistent with the transient use of the model in identifying ground water rights subject to curtailment as outlined in the *Sixth Methodology Order*.
4) For other issues and matters that may discovered in this proceeding.

DATED this 29th day of April, 2025.

MARTEN LAW LLP

Travis L. Thompson

Attorneys for A&B Irrigation District

CERTIFICATE OF SERVICE

I hereby certify that on this 29th day of April, 2025, I served a true and correct copy of the foregoing on the following by the method indicated:

Director Mat Weaver Garrick Baxter Sarah Tschohl State of Idaho Dept. of Water Resources 322 E Front St. Boise, ID 83720-0098 *** service by electronic mail file@idwr.idaho.gov	Matt Howard U.S. Bureau of Reclamation 1150 N. Curtis Rd. Boise, ID 83706-1234 *** service by electronic mail only mhoward@usbr.gov	Craig Chandler IDWR – Eastern Region 900 N. Skyline Dr., Ste. A Idaho Falls, ID 83402-1718 *** service by electronic mail only craig.chandler@idwr.idaho.gov
T.J. Budge Elisheva Patterson Racine Olson P.O. Box 1391 Pocatello, ID 83204-1391 *** service by electronic mail only tj@racineolson.com elisheva@racineolson.com	Sarah A. Klahn Max Bricker Somach Simmons & Dunn 2033 11th St., Ste. 5 Boulder, CO 80302 *** service by electronic mail only sklahn@somachlaw.com mbricker@somachlaw.com	David Gehlert ENRD – DOJ 999 18th St. South Terrace, Ste. 370 Denver, CO 80202 *** service by electronic mail only david.gehlert@usdoj.gov
Rich Diehl City of Pocatello P.O. Box 4169 Pocatello, ID 83201 *** service by electronic mail only rdiehl@pocatello.us.	William A. Parsons Parsons, Smith & Stone LLP P.O. Box 910 Burley, ID 83318 *** service by electronic mail only wparsons@pmt.org	Corey Skinner IDWR – Southern Region 650 Addison Ave W, Ste. 500 Twin Falls, ID 83301-5858 *** service by electronic mail only corey.skinner@idwr.idaho.gov
Norman M. Semanko Garrett M. Kitamura Parsons Behle & Latimer 800 W. Main St., Suite 1300 Boise, Idaho 83702 *** service by electronic mail only nsemanko@parsonsbehle.com gkitamura@parsonsbehle.com	Kathleen Carr U.S. Dept. Interior, Office of Solicitor Pacific Northwest Region, Boise 960 Broadway, Ste. 400 Boise, ID 83706 *** service by electronic mail only kathleenmarion.carr@sol.doi.gov	Candice McHugh Chris M. Bromley McHugh Bromley, PLLC 380 South 4th Street, Ste. 103 Boise, ID 83702 *** service by electronic mail only cbromley@mchughbromley.com cmchugh@mchughbromley.com
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Andrew J. Waldera Sawtooh Law Offices, PLLC 1101 W. River St., Suite 110 Boise, ID 83702 *** service by electronic mail only andy@sawtoothlaw.com		

Travis L. Thompson

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY OR FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY	Docket No. CM-DC-2010-001 **FINAL ORDER CURTAILING GROUND WATER RIGHTS JUNIOR TO AUGUST 28, 1955**

The Director of the Idaho Department of Water Resources ("Department") finds, concludes, and orders as follows:

FINDINGS OF FACT

1. On July 19, 2023, the Director issued the *Sixth Final Order Regarding Methodology for Determining Material Injury to Reasonable In-Season Demand and Reasonable Carryover* ("*Methodology Order*").[1] The *Methodology Order* established nine steps for determining material injury to members of the Surface Water Coalition ("SWC").[2]

2. On April 16, 2025, the Director issued the *Final Order Regarding April 2025 Forecast Supply (Methodology Steps 1–3)* ("*As-Applied Order*"), which applied steps 1, 2, and 3 of the *Methodology Order*. The Director predicted an April in-season demand shortfall ("IDS") of 63,000 acre-feet. *As-Applied Order*, at 3. The Director ordered that, by May 1, 2025, ground water users with consumptive water rights "bearing priority dates junior to August 28, 1955, within the Eastern Snake Plain Aquifer area of common ground water supply [("ESPA ACGWS")] shall establish, to the satisfaction of the Director, that they can mitigate for their proportionate share of the predicted April IDS of 63,000 acre-feet in accordance with an approved mitigation plan." *Id.* at 6. The Director also ordered that, if such a junior ground water user cannot establish that they can mitigate for their proportionate share of the predicted IDS "in accordance with an approved mitigation plan, the Director will issue an order curtailing the junior-priority ground water user." *Id.*

[1] Shortly after the *Methodology Order* was issued, the Idaho Ground Water Appropriators, Inc. ("IGWA") and certain Idaho cities filed petitions for judicial review in Ada County (Nos. CV01-23-13173 and CV01-23-13238). IGWA's petition for judicial review is stayed until December 31, 2027. The cities' petition for judicial review is pending before the Idaho Supreme Court. The filing of a petition for judicial review does not stay the effectiveness of an order. I.C. § 67-5274. No party to the judicial review proceedings has requested a stay of the *Methodology Order*.

[2] The SWC is comprised of A&B Irrigation District, American Falls Reservoir District #2, Burley Irrigation District, Milner Irrigation District, Minidoka Irrigation District, North Side Canal Company, and Twin Falls Canal Company.

3. There are currently five approved mitigation plans in place responding to the SWC delivery call:

(1) Docket No. CM-MP-2010-001 for the benefit of the Southwest Irrigation District and Goose Creek Irrigation District (collectively, "SWID");

(2) Docket No. CM-MP-2019-001 for the benefit of certain cities commonly referred to as the "Coalition of Cities";

(3) Docket No. CM-MP-2015-003 for the benefit of the A&B Irrigation District ("A&B");

(4) Docket No. CM-MP-2007-001 for the benefit of certain entities commonly referred to as the "Water Mitigation Coalition"; and

(5) Docket No. CM-MP-2024-003 for the benefit of certain ground water districts commonly referred to as the "Ground Water Districts."

4. In the 2025 *As-Applied Order*, the Director found that due to the nature of the approved mitigation plans for SWID, the Coalition of Cities, the Water Mitigation Coalition and the Ground Water Districts, these entities do not need to establish they can mitigate for their proportionate share of the predicted April IDS. *As-Applied Order*, at 5 n.8. However, the Director found that A&B must mitigate for its proportionate share of the predicted IDS of 63,000 acre-feet and determined that A&B's proportionate share is 384 acre-feet. *Id*.

5. In response to the 2025 *As-Applied Order*'s requirement for junior ground water right holders to establish how they will mitigate their proportionate share of the predicted demand shortfall, A&B sent a letter to the Director stating:

> [I]t is the District's intent to continue to curtail the enlargement water rights (2,063 acres) for the 2025 irrigation season. The District will also deliver surface water to an additional 1,510.6 acres that could have been irrigated with some of the District's ground water rights with an April 1, 1962 priority (water right nos. 36-15127A et al.). The District intends to continue to deliver surface water to lands formerly irrigated with groundwater, approximately 3,573.6 in total, with groundwater supplied to certain areas as needed for pipeline operations.

Letter from Travis Thompson, attorney for A&B, to Mat Weaver, Department Director (April 29, 2025). In the letter, A&B also stated:

> [T]o the extent that A&B needs to also show that it has 384 acre-feet of storage to delivery to [Twin Falls Canal Company], that water is expected to be available in its final storage allocation for the 2025 irrigation [sic] (American Falls and Palisades storage space). If necessary, that amount of storage will be available for formal assignment from A&B to [Twin Falls Canal Company] through the Water District 01 rental pool.

Id. A&B requested the Department's input on how best to address questions regarding assignment of storage. *Id*. Separately, A&B also submitted *A&B Irrigation District's Request for Hearing*, seeking a hearing on the Department's calculation of its proportional share.

CONCLUSIONS OF LAW

1. Idaho Code § 42-602 authorizes the Director to supervise water distribution within water districts:

> The director of the department of water resources shall have direction and control of the distribution of water from all natural water sources within a water district to the canals, ditches, pumps and other facilities diverting therefrom. Distribution of water within water districts created pursuant to section 42-604, Idaho Code, shall be accomplished by watermasters as provided in this chapter and supervised by the director. The director of the department of water resources shall distribute water in water districts in accordance with the prior appropriation doctrine. The provisions of chapter 6, title 42, Idaho Code, shall apply only to distribution of water within a water district.

2. As explained above, by May 1, 2025, ground water users with consumptive water rights "junior to August 28, 1955, within the [ESPA ACGWS]" had to "establish, to the satisfaction of the Director, that they can mitigate for their proportionate share of the predicted April IDS of 63,000 acre-feet in accordance with an approved mitigation plan." *As-Applied Order*, at 6. If a junior ground water user does not establish that they can mitigate for their proportionate share of the predicted April IDS "in accordance with an approved mitigation plan" the ground water user will be subject to this "order curtailing the junior-priority ground water user." *Id.*

3. Due to the nature of the approved mitigation plans for SWID, the Coalition of Cities, the Water Mitigation Coalition, and the Ground Water Districts, these entities do not need to establish that they can mitigate for their proportionate share of the predicted April IDS. Junior ground water users entitled to the protection of SWID, the Coalition of Cities, the Water Mitigation Coalition, and the Ground Water Districts mitigation plans will not be subject to curtailment during the 2025 irrigation season.

4. In its April 29, 2025 letter to the Director, A&B stated that it would continue to curtail its enlargement water rights for the 2025 irrigation season. To ensure that A&B's enlargement water rights are curtailed for the 2025 irrigation season, the Director will include the enlargement water rights on the list of water rights subject to curtailment. This list is attached as Attachment A to this order. In the letter, A&B also stated that it would continue to provide surface water to certain acres within the A&B project. This would result in only 534.3 acres being irrigated with water rights with a priority date junior to August 28, 1955. As of the date of this order, A&B has not provided documentation that it has secured the storage water necessary to mitigate for its obligation under its approved mitigation plan. With the understanding that A&B possesses over 137,000 acre-feet of storage space and is in the process of securing a lease within Water District 01 for the required mitigation amount, water right no. 36-15127B will not be placed on the

curtailment list. If A&B has not secured the lease by June 6, 2025, water right no. 36-15127B will be added to the curtailment list.

5. Consistent with the *As-Applied Orde*r, Idaho Code § 42-602, and decisions of the courts, the Director must order curtailment of junior-priority ground water users that have not established they can mitigate in accordance with an approved mitigation plan. Junior-priority ground water users subject to curtailment are listed in Attachments A to this order.

ORDER

Based upon and consistent with the foregoing, IT IS HEREBY ORDERED that effective May 31, 2025, ground water users holding water rights bearing priority dates junior to August 28, 1955, within the ESPA ACGWS, and listed in Attachment A to this order, shall curtail/refrain from diversion and use of ground water pursuant to those water rights unless notified by the Department that the order of curtailment has been modified or rescinded as to their water rights.

IT IS FURTHER ORDERED that holders of ground water rights listed in Attachment A to this order may seek to participate in an approved mitigation plan through a ground water district and shall have fifteen days from the date of this order to join, solely for mitigation purposes, the ground water district situated nearest the lands to which the water rights are appurtenant. *See* H.B. 737a, 58th Leg., 2d Reg. Sess. (Idaho 2006) (*Act Relating to the Administration of Ground Water Rights Within the Eastern Snake River Plain*); *see also* I.C. § 42-5259.

IT IS FURTHER ORDERED that on or before June 6, 2025, A&B shall provide documentation, to the satisfaction of the Director, that it has secured a lease for the amount of storage water necessary to mitigate for its obligation under its approved mitigation plan. If A&B cannot establish, to the satisfaction of the Director, that it has secured such a lease, the Director will issue an order adding water right no. 36-15127B on the list of water rights subject to curtailment.

IT IS FURTHER ORDERED that watermasters for the water districts within the ESPA ACGWS who regulate ground water are directed to review the water rights listed in Attachment A to this order and begin the curtailment process.

IT IS FURTHER ORDERED that this order shall apply to consumptive ground water rights, including but not limited to, agricultural, commercial, industrial, and municipal uses. This order excludes ground water rights used for *de minimis* domestic purposes where such domestic use is within the limits of the definition set forth in Idaho Code § 42-111 and ground water rights used for *de minimis* stock watering where such stock watering use is within the limits of the definitions set forth in Idaho Code § 42-1401A(11), pursuant to IDAPA 37.03.11.020.11.

Dated this 16th day of May 2025.

MATHEW WEAVER
Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 16th day of May 2025, the above and foregoing, was served by the method indicated below, and addressed to the following:

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Sarah Tschohl
Paralegal

Attachment A
List of Ground Water Rights Junior to August 28, 1955
Sorted by Owner

Owner	Water Right No.	Basis	Priority Date	Water Use List	Diversion Rate (cfs)	Total Acres	Enlargement
1523 LLC	35-14566	Decreed	11/3/1972	IRRIGATION	0.05	2.6	
2 K FARMS	35-8766	License	6/1/1989	COMMERCIAL, DOMESTIC	0.02	0.0	
288S 500W LLC	36-17158	Decreed	2/1/1961	DOMESTIC, IRRIGATION, STOCKWATER	0.03	1.0	
2B LEGACY LLC	31-7043A	Decreed	11/12/1970	COMMERCIAL, STOCKWATER	0.28	0.0	
2-K FARMS	35-8767	License	6/9/1989	COMMERCIAL	0.01	0.0	
3 STRING CATTLE OF IDAHO LLC	37-23203	Decreed	7/24/1973	COMMERCIAL, STOCKWATER	0.16	0.0	
4 BROS DAIRY INC	37-2622	Decreed	10/6/1959	IRRIGATION	1.39	80.0	
A & B IRRIGATION DISTRICT	36-16749	Decreed	4/1/1956	IRRIGATION	0.45	26.0	
A & B IRRIGATION DISTRICT / US BUREAU OF RECLAMATION	36-15127A	Decreed	4/1/1962	IRRIGATION	31.12	0.0	
A & B IRRIGATION DISTRICT / US BUREAU OF RECLAMATION	36-15192	Decreed	4/1/1962	IRRIGATION	0.60	0.0	
A & B IRRIGATION DISTRICT / US BUREAU OF RECLAMATION	36-15193A	Decreed	4/1/1962	IRRIGATION	0.21	0.0	
A & B IRRIGATION DISTRICT / US BUREAU OF RECLAMATION	36-15194A	Decreed	4/1/1962	IRRIGATION	0.23	0.0	
A & B IRRIGATION DISTRICT / US BUREAU OF RECLAMATION	36-15195A	Decreed	4/1/1962	IRRIGATION	0.87	0.0	
A & B IRRIGATION DISTRICT / US BUREAU OF RECLAMATION	36-15196A	Decreed	4/1/1962	IRRIGATION	0.29	0.0	
A & B IRRIGATION DISTRICT / US BUREAU OF RECLAMATION	36-15193B	Decreed	4/1/1965	IRRIGATION	0.31	0.0	Yes
A & B IRRIGATION DISTRICT / US BUREAU OF RECLAMATION	36-15194B	Decreed	4/1/1968	IRRIGATION	2.51	0.0	Yes
A & B IRRIGATION DISTRICT / US BUREAU OF RECLAMATION	36-15195B	Decreed	4/1/1978	IRRIGATION	2.24	0.0	Yes
A & B IRRIGATION DISTRICT / US BUREAU OF RECLAMATION	36-15196B	Decreed	4/1/1981	IRRIGATION	0.08	0.0	Yes
ADAMS, CHERYL L; ADAMS, H LYLE; ADAMS, RODDY L	37-7078	Decreed	10/12/1970	COMMERCIAL, STOCKWATER	0.06	0.0	
AEI CORP	29-8037	License	11/13/1990	DOMESTIC, INDUSTRIAL	0.06	0.0	
AGRICULTURAL SERVICES INC	35-8857	License	9/6/1989	COMMERCIAL	0.04	0.0	
AKL PROPERTIES LLC	36-8416	License	3/30/1989	COMMERCIAL	0.04	0.0	
ALLEN, CECIL; ALLEN, FLORENCE I	31-7398	Decreed	6/16/1983	COMMERCIAL, DOMESTIC	0.06	0.0	
AMERICAN FALLS RESERVOIR DISTRICT #2	36-11120	Decreed	11/27/1962	DOMESTIC, IRRIGATION	0.07	1.5	
ANDERSON, CHAD ALLEN; ANDERSON, JASHELLE HEATHER	45-7650	License	6/21/1989	DOMESTIC, IRRIGATION	0.06	1.0	
ANDERSON, SAM; ANDERSON, STACIE	25-7490	License	3/15/1989	COMMERCIAL	0.04	0.0	
ARD, CHARLES BRUCE	22-7555	License	8/24/1988	COMMERCIAL, DOMESTIC	0.04	0.0	
ARLENCO INC	22-7423	Decreed	2/24/1983	COMMERCIAL	0.01	0.0	
ARTCO INC	22-7473	License	12/23/1983	INDUSTRIAL, IRRIGATION	0.84	17.0	
ATKINSON, ANDREW ; ATKINSON, MARY	29-13736	License	2/21/2006	DOMESTIC	0.08	0.0	
B & B FARMS	22-14632	Decreed	1/25/1965	MUNICIPAL	0.61	0.0	
B & B FARMS	22-14630	Decreed	3/4/1974	MUNICIPAL	0.28	0.0	
B & F DISTRIBUTING CO	25-7555	License	10/12/1989	COMMERCIAL	0.04	0.0	
BABEL, PAUL; HAMPTON, WALLACE; PARKS, FRED A	25-7083	License	1/28/1976	DOMESTIC	0.06	0.0	
BAH REXBURG AC PROPERTY LLC	22-11451	Decreed	8/31/1960	IRRIGATION	0.04	2.0	
BAILEY OIL CO INC	36-13218	Decreed	1/1/1960	COMMERCIAL	0.05	0.0	
BAISCH, ROBERT L	35-7481	License	2/21/1975	DOMESTIC	0.08	0.0	
BARBEN, GORDON E; SAMPSON, KEN	27-7025	License	4/2/1973	DOMESTIC	0.08	0.0	
BARRUS, KEITH; MINKS, ROY; PLOCK, STEPHEN R; SCHNEIDER, SCOT L	25-7080	Decreed	1/28/1976	DOMESTIC	0.11	0.0	
BARTLETT, ERWIN; BARTLETT, JANICE	45-7653	License	6/6/1989	COMMERCIAL	0.04	0.0	
BASIC AMERICAN POTATO CO INC	35-12062	Decreed	12/31/1957	COMMERCIAL	1.00	0.0	
BATES, ROBERT W; BATES, SHARON H; WILKINS, ELMA; WILKINS, LLOYD	25-7357	Decreed	6/16/1983	DOMESTIC	0.06	0.0	
BEAR CREST LTD LLC	22-14440		12/6/2021	COMMERCIAL	1.22	0.0	
BEAR ISLAND WATER ASSN INC	35-8672	License	9/6/1988	DOMESTIC	0.20	0.0	
BENNETT, UDO	29-13940	Decreed	10/3/1977	IRRIGATION	0.13	7.5	
BENSON, CLIFFORD; BENSON, LADAWN C	35-8124		3/25/1983	IRRIGATION	6.40	320.0	
BEORCHIA, MICHAEL; BEORCHIA, REVA	35-14830	Decreed	1/26/1962	IRRIGATION	0.02	2.3	

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BEVAN, DONNA; BEVAN, THOMAS	35-14773	Decreed	4/27/1964	IRRIGATION	0.08	2.0	
BEYER, PATRICK	25-7313	Decreed	4/11/1983	DOMESTIC, IRRIGATION	0.05	0.7	
BIG FIVE WATER ASSN	25-7199	Decreed	7/24/1980	DOMESTIC	0.11	0.0	
BIG SKY DAIRY	37-20858	Decreed	1/1/1971	STOCKWATER	0.04	0.0	
BIG SKY DAIRY	37-20859	Decreed	1/1/1974	STOCKWATER	0.04	0.0	
BIG SKY DAIRY	37-20860	Decreed	1/1/1975	STOCKWATER	0.04	0.0	
BIG SKY DAIRY	37-12833	Decreed	1/1/1977	DOMESTIC, STOCKWATER	0.17	0.0	
BIGGS, DONALD; BIGGS, HELEN ; BUSH, ROBERT; OCKERMAN, JOY ; WINGERT, JEAN M	25-7082	Decreed	1/28/1976	DOMESTIC	0.16	0.0	
BINGHAM COUNTY	35-14757	License	9/21/1989	COMMERCIAL	0.13	0.0	
BINGHAM, BOYD A; BINGHAM, SHERRY R	36-8425	License	6/23/1989	IRRIGATION	0.88	105.0	
BINGHAM, JENNIFER; BINGHAM, JOSEPH	37-23385	Decreed	11/30/1965	IRRIGATION	0.31	30.0	
BINGHAM, JENNIFER; BINGHAM, JOSEPH	37-23384	Decreed	2/4/1976	IRRIGATION	0.24	30.0	
BINGHAM, JERRY D; BINGHAM, VALERIE H	35-12226	Decreed	4/1/1987	IRRIGATION	0.59	285.0	Yes
BIRD, WARREN A; FARNES, LYLE R; RICKS, RICHARD; TOMCHAK, TYE	25-7375	Decreed	6/29/1983	DOMESTIC	0.10	0.0	
BLACK, KENNETH S; BLACK, NINA E	45-12776	Decreed	10/30/1960	DOMESTIC, STOCKWATER	0.23	0.0	
BLAINE COUNTY SCHOOL DISTRICT #61	37-22205	Decreed	7/21/1961	MITIGATION	0.30	0.0	
BLAINE COUNTY SCHOOL DISTRICT #61	37-22931	Decreed	11/25/1962	IRRIGATION	0.05	2.3	
BLEDSOE, HELEN M; HACKMAN, ERNEST A	35-7916	License	9/16/1980	DOMESTIC	0.08	0.0	
BLUE SAGE PROPERTIES LLC	36-17171	Decreed	8/10/1973	IRRIGATION	0.07	5.3	
BOISE PACKAGING & NEWSPRINT LLC	45-2568	Decreed	4/1/1958	DOMESTIC, FIRE PROTECTION FROM STORAGE, FIRE PROTECTION STORAGE, FIRE PROTECTION	0.09	0.0	
BOLINDER, CATHERINE L	27-7322	License	6/8/1982	DOMESTIC	0.06	0.0	
BONNEVILLE ACRES WATER USERS ASSN INC	25-2135	Decreed	7/28/1961	COMMERCIAL, DOMESTIC	0.81	0.0	
BONNEVILLE ACRES WATER USERS ASSN INC	25-2150	Decreed	12/24/1965	COMMERCIAL, DOMESTIC	0.28	0.0	
BONNIE BARTON BANDY IRREVOCABLE TRUST	36-17287	Decreed	5/14/1974	IRRIGATION	0.08	4.0	
BORAN , MICHAEL J	35-8635B	Decreed	12/17/1986	FISH PROPAGATION	0.72	0.0	
BORAN , MICHAEL J	35-8782	License	5/23/1989	FISH PROPAGATION	4.64	0.0	
BORDEAUX, DARREN	35-14702	Decreed	1/26/1962	IRRIGATION	0.03	2.5	
BOWDEN, CHEREE; BOWDEN, GUY	31-12542	Decreed	6/9/1977	IRRIGATION	0.03	7.2	
BOWEN PETROLEUM	22-7464	License	6/29/1983	COMMERCIAL	0.04	0.0	
BRADY, LANCE; BRADY, SHANNON; HAGAN, DANNY D; HAGAN, MARILYNN J ; HOLMES, BILL; HOLMES, LINDA	25-7330	Decreed	6/14/1983	DOMESTIC, IRRIGATION	0.08	0.4	
BRAGA, BRYAN	34-14685	Decreed	12/31/1955	DOMESTIC, IRRIGATION	0.04	2.0	
BRAY VALLEY RANCH LLC	37-7942	Decreed	9/22/1981	DOMESTIC, IRRIGATION, STOCKWATER	1.11	141.0	
BRIGGS, DAVID L; BRIGGS, JEANIE K	25-7466	License	11/17/1988	COMMERCIAL	0.04	0.0	
BRINKMANN, GEORGE	35-8893	License	3/29/1990	COMMERCIAL	0.01	0.0	
BROADHEAD, LYNN	35-8765	License	5/23/1989	COMMERCIAL	0.05	0.0	
BROWN, HAROLD	31-7513	License	11/23/1988	COMMERCIAL, DOMESTIC	0.07	0.0	
BROWN, HEATHER; BROWN, WAYNE W	36-14878	Decreed	12/31/1956	DOMESTIC, STOCKWATER	0.06	0.0	
BROWN, JAN A; BROWN, SID E; MOMBERGER, JESSE C	31-7510	License	11/14/1988	DOMESTIC, IRRIGATION, STOCKWATER	0.11	2.0	
BRP INC	25-7622	License	9/23/1998	DOMESTIC	0.23	0.0	
BRP INC	25-14504		10/12/2021	DOMESTIC	0.26	0.0	
BURDETTE INC	25-7532	License	9/20/1989	COMMERCIAL	0.04	0.0	
BURGESS SUBDIVISION WATER ASSN INC	25-7457	License	10/27/1988	DOMESTIC	0.11	0.0	
BURNS CONCRETE INC	25-13982	License	12/18/2002	COMMERCIAL	3.53	0.0	
BURNS, KIRK E; SZIMHARDT, LINDA J	25-7426	License	6/6/1988	IRRIGATION	0.08	5.6	

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BURRELL, GEORGE W; BURRELL, LURANA J; KEETCH, SHYANN; KEETCH, STETSON	29-13900	License	4/3/2009	DOMESTIC	0.08	0.0	
BURRUP, JOHN R; BURRUP, JON R	25-13085	Decreed	7/6/1958	COMMERCIAL, STOCKWATER	0.12	0.0	
BURT, DEBRA L; LIVERMORE, SEAN	25-14531	Decreed	8/1/1975	IRRIGATION	0.10	5.0	
CANNERS SEED CORP	25-7449	License	10/13/1988	COMMERCIAL, DOMESTIC	0.04	0.0	
CARPENTER, BARBARA; CARPENTER, MAURICE	25-7193B	Decreed	4/30/1980	DOMESTIC, IRRIGATION, STOCKWATER	0.02	2.5	
CARRENO, OSCAR	36-15669	Decreed	2/18/1971	COMMERCIAL, STOCKWATER	0.02	0.0	
CARRENO, OSCAR	36-16240	Decreed	1/7/1974	COMMERCIAL, STOCKWATER	0.01	0.0	
CARSTENS, JULIUS M J	25-7481	License	12/22/1988	IRRIGATION	0.04	1.4	
CASA DEL NORTE LP	37-7081	Decreed	12/8/1970	IRRIGATION	1.67	840.0	
CASSIDY, FRANCIS J; HOFFMAN, RICHARD P; MEYER, DAVID DANIEL; MEYER, JENNY CLUFF; TANNER, TOMMY C	25-7638	License	4/25/1995	DOMESTIC	0.10	0.0	
CASTRO JR, VICENTE; CASTRO, PATRICIA	36-17297	Decreed	2/4/1976	IRRIGATION	0.06	3.1	
CEYNAR, MARCENE; FANN, LAVEDA A; FANN, R E; FARNSWORTH, BETH; FARNSWORTH, JAY; PICKERING, CRAIG; PICKERING, VICKY	25-7272	Decreed	2/4/1982	DOMESTIC	0.10	0.0	
CHALLENGER PALLET & SUPPLY	25-7451	License	12/1/1988	COMMERCIAL	0.04	0.0	
CHAMBERS, BOYD; HARRIS, JAMES; HARRIS, MARI; LOREN, RICHAN; STUEVE, KENNETH; SWEARINGER, ALDON; WADE, BILL	25-4210	Decreed	3/21/1960	DOMESTIC, IRRIGATION	0.19	2.4	
CHAMBERS, RALEIGH R	25-7343	License	6/27/1983	DOMESTIC	0.06	0.0	
CHAPMAN, GARY RAY; CHAPMAN, REBECCA LYNN	22-14405	Decreed	4/22/1979	IRRIGATION	0.04	2.0	
CHERRY, MARY ANN; CHERRY, ROBERT	25-14402	Decreed	7/19/1973	IRRIGATION	0.02	1.2	
CHRISTENSEN, ADAM W; NELSON, DIANE K	37-23133	Decreed	9/20/1974	IRRIGATION	0.02	0.8	
CITY OF BUTTE CITY	34-4027	Decreed	6/20/1960	FIRE PROTECTION, MUNICIPAL	0.23	0.0	
CITY OF DUBOIS	31-7011	Decreed	5/29/1968	MUNICIPAL	1.35	0.0	
CITY OF MUD LAKE	31-10379	Decreed	2/7/1956	MUNICIPAL	1.00	0.0	
CITY OF MUD LAKE	31-7146	Decreed	11/15/1974	FIRE PROTECTION, MUNICIPAL	2.23	0.0	
CLARK, COLE	35-14758	Decreed	7/2/1965	IRRIGATION	3.03	192.0	
CLAYSON, CASEY; CLAYSON, SHANE	45-7496	Decreed	1/27/1982	DOMESTIC, IRRIGATION	0.06	0.7	
CLOSE, ROBERT; CLOSE, SALLY	25-11547	Decreed	1/31/1959	DOMESTIC, IRRIGATION	0.07	1.0	
COMMUNITY WELL PROJECT; VAUGHN, BILL	25-4103	Decreed	12/31/1958	DOMESTIC	0.11	0.0	
COOK, DANNY; COOK, DARRELL L	35-7979	License	5/5/1981	DOMESTIC	0.06	0.0	
COOK, DONALD J	35-7362	License	12/27/1973	DOMESTIC, STOCKWATER	0.05	0.0	
CORDES, RONALD A	25-7488	License	2/14/1989	DOMESTIC, IRRIGATION	0.10	3.0	
CORDON TRAILER COURT	25-10195	Decreed	3/11/1960	COMMERCIAL	0.13	0.0	
COUNTRY CLUB ESTATES WATER ASSN INC	36-8607	License	11/18/1991	DOMESTIC, FIRE PROTECTION, STOCKWATER	0.50	0.0	
COUNTRY CLUB WATER	25-14447	Decreed	1/27/1976	IRRIGATION	0.03	18.7	
COUNTRY CLUB WATER	25-14448	Decreed	10/31/1986	IRRIGATION	0.01	18.7	Yes
COUNTRY LIFE ESTATES WATER USERS ASSN	25-7033	Decreed	3/27/1973	DOMESTIC	0.20	0.0	
COUNTRY LIFE ESTATES WATER USERS ASSN	25-7046	Decreed	3/8/1974	DOMESTIC	0.73	0.0	
COUNTY OF JEFFERSON	25-13985	License	5/13/2003	RECREATION STORAGE	0.00	0.0	
COUNTY OF MINIDOKA	36-13721	Decreed	10/2/1962	COMMERCIAL, DOMESTIC	0.12	0.0	
CRANDALL, JEFF; CRANDALL, SUSAN	35-8658	License	11/2/1985	DOMESTIC	0.06	0.0	
CRANE, CALVIN C	45-7303	Decreed	5/10/1977	IRRIGATION, STOCKWATER	1.28	62.0	
CRANE, KARI L; CRANE, TROY W	45-4067B	Decreed	8/1/1962	IRRIGATION	1.46	73.0	
CRANER, DAVID A; CRANER, HELEN B	45-7442	Decreed	4/4/1980	IRRIGATION	0.12	4.0	
CRARY INDUSTRIES INC	36-11369	Decreed	8/20/1959	COMMERCIAL	0.03	0.0	
CRESPO TRUCKING INC	37-8355	License	8/9/1988	COMMERCIAL, DOMESTIC	0.04	0.0	
CRESTVIEW CALVES LLC	36-17207	License	12/11/1973	COMMERCIAL, STOCKWATER	0.12	0.0	

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CRM CO	25-7554	License	9/8/1989	COMMERCIAL	0.04	0.0	
CROMWELL, VERNAL D	25-7446	License	10/21/1988	DOMESTIC	0.06	0.0	
CRONQUIST, CAMERON; CRONQUIST, LORI	35-14895	Decreed	8/19/1977	IRRIGATION	0.09	5.0	
CROP PRODUCTION SERVICES	25-4250	Decreed	3/8/1963	COMMERCIAL	0.10	0.0	
CROP PRODUCTION SERVICES	27-7371	Decreed	6/29/1983	COMMERCIAL	0.04	0.0	
CROP PRODUCTION SERVICES	35-8627	Decreed	4/4/1989	COMMERCIAL	0.16	0.0	
CROTTS, RICHARD S; MC CONNELL, FRANCES L	37-23627	Decreed	9/20/1974	IRRIGATION	0.08	6.4	
CROWN OF LIFE LUTHERAN CHURCH	25-7434	License	8/30/1988	COMMERCIAL	0.04	0.0	
CRUMRINE, ERIC R; CRUMRINE, SAMANTHA MARIE	36-11149	Decreed	5/20/1965	DOMESTIC, STOCKWATER	0.04	0.0	
CRYSTAL POND ANGLERS ASSN INC	22-7577	License	8/24/1988	RECREATION STORAGE	0.00	0.0	
CS PROPERTY DEVELOPMENT LLC	36-16189	Decreed	8/10/1973	IRRIGATION	0.04	3.0	
CURT & SUSAN DANIGER FAMILY REVOCABLE TRUST	25-14339	Decreed	2/18/1958	IRRIGATION	0.27	9.5	
D & M WATER ASSN	29-7281	Decreed	8/4/1975	DOMESTIC	0.26	0.0	
D & M WATER ASSN	29-7367	Decreed	2/7/1977	DOMESTIC	0.40	0.0	
DALTON, DOUG	29-7858	License	2/22/1989	COMMERCIAL	0.08	0.0	
DANCE, DAVID P; DANCE, KARAN D	35-8822	License	7/3/1989	COMMERCIAL	0.01	0.0	
DANCING DRAGONFLY LLC	25-4165	Decreed	6/19/1959	DOMESTIC, IRRIGATION	0.16	2.0	
DANIEL, BRENDA	25-7447	License	10/25/1988	IRRIGATION	0.02	1.0	
DANIEL, BRENDA; DANIEL, DAVID S	25-7261	Decreed	10/8/1981	DOMESTIC, IRRIGATION, STOCKWATER	0.04	2.0	
DANIEL, MELVIN R JR	25-7538	License	9/19/1989	COMMERCIAL	0.07	0.0	
DASCANIO, ELIZABETH; DASCANIO, JUSTIN	35-14589	Decreed	9/28/1981	IRRIGATION	0.01	15.0	
DAVIS, ERNIE; DAVIS, RHONDA	35-8814	License	9/5/1989	COMMERCIAL	0.04	0.0	
DAVISON, NANCY; DAVISON, RANDY LEE	25-7017A	Decreed	3/20/1972	IRRIGATION	0.42	21.0	
DE MOSS, GARY A; DE MOSS, HELEN	37-22168	Decreed	9/20/1974	IRRIGATION, STOCKWATER	1.61	802.0	
DE MOTT, WILLIAM J; GROVER, LA VAR; RIGBY, WILLIAM F	25-7537	License	9/20/1989	COMMERCIAL	0.08	0.0	
DE VRIES, KRISTY; DE VRIES, WIETZE	45-14556	Decreed	3/10/1960	COMMERCIAL	0.10	0.0	
DE VRIES, KRISTY; DE VRIES, WIETZE	45-14557	Decreed	12/8/1981	COMMERCIAL	0.06	0.0	
DEES, ELDON G; DEES, KATHALINE; DEES, RONALD K; DEES, SHIRLEY	25-7351	Decreed	6/24/1983	DOMESTIC, STOCKWATER	0.06	0.0	
DERBYHAWK LLC	25-7553	License	9/27/1989	DOMESTIC	0.11	0.0	
DIAMOND A LIVESTOCK INC	37-21492	Decreed	6/1/1971	COMMERCIAL	0.04	0.0	
DIXON, ANNIE; JAHN, ROBERT	35-7823	License	11/22/1978	DOMESTIC, STOCKWATER	0.05	0.0	
DOMINICK, TERESA	25-7073F	Decreed	8/1/1975	IRRIGATION	0.10	5.0	
DOT ELEVEN FARMS LLC	45-2662	Decreed	7/18/1961	IRRIGATION	1.74	86.8	
DOUGLASS, RAND; KILLIAN, TERRIE	25-4124	Decreed	7/3/1959	COMMERCIAL	0.04	0.0	
DREW, STAN	29-8237	License	4/17/2000	DOMESTIC	0.11	0.0	
DUFFY & CONNIE ENTERPRISES LLC	22-7605	License	10/19/1988	COMMERCIAL	0.02	0.0	
E Z LIVIN TRAILER COURT	45-10479	Decreed	12/31/1958	COMMERCIAL	0.20	0.0	
EAMES, LINDA J	25-7643	License	12/4/1995	DOMESTIC	0.18	0.0	
EAST FAIRVIEW WATER WELL CO	25-12791	Decreed	4/1/1961	DOMESTIC	0.11	0.0	
EAST RIVER COMMONS HOME OWNER ASSN	25-7143	Decreed	3/12/1978	DOMESTIC	0.16	0.0	
EDSTROM CONSTRUCTION PROPERTIES LLP	22-14542		3/27/2023	INDUSTRIAL STORAGE, INDUSTRIAL, RECREATION STORAGE	4.00	0.0	
EGANS GREEN HOUSE	25-7433	License	7/25/1988	COMMERCIAL	0.04	0.0	
ELK RIDGE RV LLC	36-17283	Decreed	3/1/1975	COMMERCIAL	0.03	0.0	Yes
ESKELSON, BRANDON	35-14508	Decreed	5/1/1959	DOMESTIC, IRRIGATION	0.05	2.0	
EVANS GRAIN & ELEVATOR CO	35-8848	License	11/6/1989	COMMERCIAL	0.04	0.0	
FALL RIVER TRADING POST	21-7412	License	3/1/1989	COMMERCIAL, DOMESTIC	0.04	0.0	
FARMERS MERCHANT INC	35-7723	Decreed	7/4/1977	DOMESTIC, INDUSTRIAL	0.04	0.0	

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FARMS LLC	35-14712	Decreed	3/13/1957	IRRIGATION	0.06	68.0	
FARMS LLC	35-14713	Decreed	3/31/1960	IRRIGATION	0.04	68.0	
FARMS LLC	35-14708	Decreed	6/22/1961	IRRIGATION	0.05	68.0	
FARMS LLC	35-14714	Decreed	7/18/1964	IRRIGATION	0.08	68.0	
FARMS LLC	35-14718	Decreed	3/11/1966	IRRIGATION	0.08	68.0	
FARMS LLC	35-14764	Decreed	3/11/1966	IRRIGATION	0.10	428.0	
FARMS LLC	35-14709	Decreed	5/15/1967	IRRIGATION	0.14	68.0	
FARMS LLC	35-14715	Decreed	6/4/1969	IRRIGATION	0.07	68.0	
FARMS LLC	35-14761	Decreed	6/4/1969	IRRIGATION	0.01	428.0	
FEHRINGER, MARTIN	29-14051	Decreed	2/23/1966	IRRIGATION	0.02	1.5	
FELD, TODD	35-13284	Decreed	2/23/1972	COMMERCIAL, STOCKWATER	0.30	0.0	
FERGUSON, ROGER N	21-7385	License	9/30/1988	COMMERCIAL	0.04	0.0	
FIELDS, KAREN C; FIELDS, VIRGIL	37-7699	Decreed	2/23/1978	DOMESTIC, STOCKWATER	0.20	0.0	
FOSTER FAMILY FARMS INC	35-8773	License	6/7/1989	COMMERCIAL, DOMESTIC	0.04	0.0	
FOSTER FAMILY FARMS INC	35-8774	License	6/20/1989	COMMERCIAL	0.04	0.0	
FOUR SEASONS WATER CO	27-7351	License	4/20/1983	DOMESTIC	0.29	0.0	
FOUR SQUARE WATER WELL CORP	25-7327	Decreed	2/4/1985	DOMESTIC, IRRIGATION	0.16	3.0	
FOWLER, GARY L; SOMSEN, KRISTINE P; SOMSEN-FOWLER, SARA D	45-2743	Decreed	4/14/1966	IRRIGATION	0.78	39.0	
FREMONT COUNTY	22-4015	Decreed	4/1/1962	INDUSTRIAL	0.33	0.0	
FULLMER, APRIL; FULLMER, NICHOLAS	25-4106	Decreed	4/1/1959	IRRIGATION	0.05	1.7	
FUNK, LEROY; FUNK, RONDA	45-2672	Decreed	10/26/1961	IRRIGATION	1.00	71.0	
GARY & PAMELA ROGERS FAMILY TRUST	34-7118B	Decreed	11/24/1975	IRRIGATION	8.81	440.0	
GENERAL MILLS OPERATIONS INC	35-2857B	Decreed	1/16/1967	INDUSTRIAL	0.23	0.0	
GERRATT, LARRY; GERRATT, REX	45-11441	Decreed	4/1/1960	COMMERCIAL, DOMESTIC, STOCKWATER	0.07	0.0	
GILLEN, NORMAN	27-7585	License	4/20/1999	DOMESTIC	0.14	0.0	
GLASER, KRISTIN A; GLASER, MICHAEL E	35-14604	Decreed	3/20/1959	IRRIGATION	0.01	1.0	
GLEN CAPPS INC	36-8176	Decreed	3/31/1983	COMMERCIAL, DOMESTIC	0.04	0.0	
GOLDEN VALLEY MEAT LLC	35-7642	Decreed	10/1/1976	COMMERCIAL	0.05	0.0	
GOLDEN VALLEY MEAT LLC	35-8710	License	3/8/1989	COMMERCIAL	0.94	0.0	
GONZALES, FERNANDO B; GONZALES, IRENE H	29-7238	Decreed	10/31/1974	DOMESTIC, IRRIGATION	0.11	8.0	
GONZALES, FERNANDO B; GONZALES, IRENE H	29-7984	Decreed	4/23/1990	IRRIGATION	0.03	8.0	
GONZALEZ, LAURA; ORTIZ, JULIO	29-14346	Decreed	12/16/1963	IRRIGATION	0.03	2.0	
GOOCH, BEATRICE; GOOCH, ELLIS	37-21156	Decreed	2/18/1971	COMMERCIAL, STOCKWATER	0.02	0.0	
GOODWIN EXCAVATING LLC; POCATELLO READY MIX	35-14326	Decreed	5/2/1977	INDUSTRIAL	0.10	0.0	
GOUGH, SHAUN	37-23373	License	8/22/1988	IRRIGATION	0.03	1.5	
GRAVES, FRANCES M; GRAVES, RICHARD L	37-7371		7/31/1974	DOMESTIC, IRRIGATION, STOCKWATER	6.49	320.0	
GRAYBEAL, EMILY; GRAYBEAL, JASON	37-4052	Decreed	4/1/1962	DOMESTIC, IRRIGATION	0.08	1.4	
GRISENTI, CHEYANNA; GRISENTI, TYSON	36-17209	Decreed	6/21/1960	IRRIGATION	0.08	4.0	
GROVER, ALICE MAE; GROVER, MELVIN G	25-7480	License	1/9/1989	DOMESTIC, IRRIGATION, STOCKWATER	0.07	3.0	
GUNDERSON, ADEN	35-14178	Decreed	9/28/1981	IRRIGATION	0.01	20.0	
H & T PROPERTIES LLC	36-8312	License	8/15/1986	STOCKWATER	0.05	0.0	
HAMMOND, LORNA O; THE SHELTERED TRUST	35-8016	License	1/18/1982	DOMESTIC, STOCKWATER	0.06	0.0	
HANCOCK, DEAN	25-14496	Decreed	4/22/1979	IRRIGATION	0.02	1.0	
HANEY SEED CO	45-7639	License	3/30/1989	COMMERCIAL	0.04	0.0	
HANSEN, VIRGINIA E	45-4125	Decreed	3/20/1962	DOMESTIC, IRRIGATION	0.04	0.7	
HANSEN, WILLIAM KORBY	25-7458	License	11/8/1988	DOMESTIC, IRRIGATION	0.09	1.7	
HANSENS QUALITY JERSEYS LLC	36-12974	Decreed	6/1/1959	DOMESTIC	0.04	0.0	

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HANSENS QUALITY JERSEYS LLC	36-17212	Decreed	11/11/1959	COMMERCIAL, STOCKWATER	0.04	0.0	
HANSENS QUALITY JERSEYS LLC	36-17216	Decreed	11/11/1959	COMMERCIAL, STOCKWATER	0.03	0.0	
HANSENS QUALITY JERSEYS LLC	36-17210	Decreed	9/30/1965	COMMERCIAL, STOCKWATER	0.24	0.0	
HARDY, ANITA KAY	36-17152	Decreed	11/7/1974	IRRIGATION	0.63	31.5	
HAROLDSEN, G ERIC; HAROLDSEN, GRANT O	25-7300	Decreed	1/5/1983	DOMESTIC, STOCKWATER	0.06	0.0	
HARPER, DAVID; HARPER, HEATHER	35-14728	Decreed	9/28/1981	IRRIGATION	0.01	17.2	
HARRIS, BILL B	25-7489	License	2/23/1989	DOMESTIC, STOCKWATER	0.06	0.0	
HART, BOB; HART, MELANIE	25-7520	License	10/16/1989	COMMERCIAL	0.04	0.0	
HART, BOB; HART, NORMA; JOHNSTON, JACOB; JONES, ROBERT I; STIBAL, JOHN	25-7081	Decreed	1/28/1976	DOMESTIC	0.19	0.0	
HASLAM, LAVORE	35-8629	License	4/8/1986	DOMESTIC, STOCKWATER	0.06	0.0	
HAYES, AMY; HAYES, DESTRY	35-14639	Decreed	9/28/1981	IRRIGATION	0.02	3.3	
HEATH, AFTON M; HEATH, CLEM J	35-8617	Decreed	8/18/1985	COMMERCIAL	0.04	0.0	
HELENA CHEMICAL CO	22-7520	Decreed	11/7/1985	COMMERCIAL	0.02	0.0	
HELSLEY HENDRIX, JEANINE P; HELSLEY, BRIAN T	36-16561	Decreed	2/8/1971	IRRIGATION	0.03	3.0	
HENRIE, JAREM	25-7302	Decreed	1/25/1983	DOMESTIC, IRRIGATION, STOCKWATER	0.05	2.0	
HENSLEY, FLOYD W; LOCKES, DAROLD; REYNOLDS, LYNN; WESSEL, TERESA	25-7084	Decreed	1/28/1976	DOMESTIC	0.06	0.0	
HERITAGE DEVELOPMENT	29-8173	License	7/19/1996	DOMESTIC	0.27	0.0	
HIGHWAY ESTATES WATER USERS INC	25-7038	Decreed	9/20/1973	DOMESTIC	0.20	0.0	
HINCKLEY, LA PREAL	25-14005	License	10/12/2003	IRRIGATION	0.06	3.0	
HK CONTRACTORS INC	25-14462	License	3/2/2018	INDUSTRIAL	1.05	0.0	
HOBBS, LAURA LEE	25-7540	License	8/18/1989	DOMESTIC	0.10	0.0	
HOLDAWAY, CHAD	31-4069	Decreed	12/31/1961	DOMESTIC, STOCKWATER	0.16	0.0	
HONDO, AKIYE I; HONDO, DANIEL A	45-2664	Decreed	8/30/1961	IRRIGATION	2.00	157.0	
HOOPER, LLOYD C	25-7531	License	10/22/1989	COMMERCIAL	0.04	0.0	
HUFF CREEK LLC	37-2676	Decreed	12/11/1961	IRRIGATION	1.85	450.4	
HULTS , JOSEPH; HULTS, KAY A	36-17221	Decreed	1/5/1966	IRRIGATION	1.41	100.4	
HULTZ, JEAN ISLAY	35-4187	Decreed	7/1/1962	COMMERCIAL, DOMESTIC	0.06	0.0	
HUNSTMANS PROPERTIES	27-7511	License	4/20/1990	COMMERCIAL	0.33	0.0	
HUNTING, AUDREY	25-7453	License	10/28/1988	IRRIGATION	0.03	1.0	
HURTADO FARMS LLC	36-17180	License	12/11/1973	COMMERCIAL, STOCKWATER	0.66	0.0	
HUTCHISON, JA NEAL; HUTCHISON, WINSTON	45-4218	Decreed	7/1/1958	IRRIGATION	0.05	1.5	
ID DEPARTMENT OF LANDS	37-12535	Decreed	1/1/1962	COMMERCIAL	0.04	0.0	
ID DEPARTMENT OF LANDS	37-7372	License	6/30/1999	IRRIGATION, STOCKWATER	6.40	287.0	
ID DEPARTMENT OF PARKS AND RECREATION	29-7357	Decreed	12/24/1969	DOMESTIC, IRRIGATION	0.13	3.0	
ID DEPARTMENT OF PARKS AND RECREATION	36-17147	Decreed	8/7/1973	IRRIGATION	0.06	5.0	
ID DEPARTMENT OF TRANSPORTATION	36-15466	Decreed	10/1/1955	COMMERCIAL	0.04	0.0	
ID DEPARTMENT OF TRANSPORTATION	22-7317	Decreed	1/31/1980	COMMERCIAL, DOMESTIC	0.04	0.0	
ID DEPARTMENT OF TRANSPORTATION	31-7372	Decreed	1/28/1982	INDUSTRIAL	0.05	0.0	
ID DEPARTMENT OF TRANSPORTATION	35-8625	License	1/13/1986	DOMESTIC	0.06	0.0	
IDAHO AGRI INVESTMENTS LLC	45-14533	Decreed	9/6/1967	COMMERCIAL, STOCKWATER	3.01	0.0	
IDAHO DEPARTMENT OF PARKS AND RECREATION	41-7006	Decreed	5/20/1971	IRRIGATION	0.18	3.0	
IDAHO DEPT OF JUVENILE CORRECTIONS	21-11971	Decreed	1/1/1956	COMMERCIAL	0.68	0.0	
IDAHO FALLS COUNTRY CLUB INC	25-13372	Decreed	12/31/1961	COMMERCIAL, IRRIGATION	0.67	132.0	
IDAHO POTATO PACKERS CORP	35-8909	License	8/3/1990	COMMERCIAL	0.01	0.0	
IDAHO POWER COMPANY	29-8126	Decreed	1/26/1959	INDUSTRIAL	2.68	0.0	
IDAHO POWER COMPANY	37-8484	License	1/17/1989	COMMERCIAL	0.02	0.0	
IDAHO POWER COMPANY	45-7669	License	1/9/1990	DOMESTIC	0.06	0.0	

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INTERSTATE MFG	36-8454	License	9/14/1989	COMMERCIAL	0.04	0.0	
IRELAND ACRES #2	25-7273	Decreed	2/1/1982	DOMESTIC	0.05	0.0	
IRELAND ACRES MOBILE HOME PARK	25-7195	Decreed	6/4/1980	DOMESTIC	0.54	0.0	
ISAEFF, PATRICIA	25-10094	Decreed	10/31/1958	DOMESTIC, IRRIGATION, STOCKWATER	0.06	2.0	
J & D PROPERTIES LLC	31-7511	License	11/30/1988	COMMERCIAL	0.03	0.0	
J & L HOLDINGS LLC	25-14481	Decreed	3/20/1959	IRRIGATION	0.03	2.5	
J & L HOLDINGS LLC	25-14509	Decreed	4/22/1979	IRRIGATION	0.04	2.0	
J D HEISKELL HOLDINGS LLC	37-22665	Decreed	9/12/1973	COMMERCIAL	0.02	0.0	
J R SIMPLOT CO	29-7036	Decreed	9/10/1969	DOMESTIC, INDUSTRIAL	0.03	0.0	
J T LAND LLC	36-17123	Decreed	1/1/1958	COMMERCIAL, STOCKWATER	0.02	0.0	
J T LAND LLC	36-17163	Decreed	1/2/1958	COMMERCIAL, STOCKWATER	0.02	0.0	
J T LAND LLC	36-17114	Decreed	4/1/1960	COMMERCIAL, STOCKWATER	0.06	0.0	
J T LAND LLC	36-17151	Decreed	4/1/1960	COMMERCIAL, STOCKWATER	0.04	0.0	
J T LAND LLC	36-11081	Decreed	10/1/1984	DOMESTIC, STOCKWATER	0.04	0.0	
JACOBS, GEORGE J	25-7321	License	5/9/1983	DOMESTIC, STOCKWATER	0.08	0.0	
JANSS FARMS	37-7351	Decreed	4/12/1974	STOCKWATER	0.14	0.0	
JANSSEN, KARLEEN A	25-12143	Decreed	2/8/1985	COMMERCIAL	0.04	0.0	
JARVIS, WADE DEE	29-11410	Decreed	5/14/1960	DOMESTIC, IRRIGATION, STOCKWATER	0.08	1.2	
JB ENTERPRISE LLC	29-14209	Decreed	2/27/1967	IRRIGATION	0.94	47.0	
JEFFERSON COUNTY	25-14398	Decreed	11/29/1971	IRRIGATION	0.04	68.2	
JEFFERSON COUNTY	25-14399	Decreed	11/29/1971	IRRIGATION	0.00	68.2	
JEFFERSON COUNTY	25-14382	Decreed	7/19/1973	IRRIGATION	0.04	68.2	
JEFFERSON COUNTY	25-14281	License	9/9/2010	COMMERCIAL	0.65	0.0	
JEFFERSON SCHOOL DISTRICT #251	35-8683	License	12/2/1988	INDUSTRIAL	0.02	0.0	
JEFFERSON SCHOOL DISTRICT #251	25-7472	License	1/23/1989	DOMESTIC	0.07	0.0	
JENCO ACRES WATER BOARD ASSN	25-7454	License	11/14/1988	DOMESTIC, IRRIGATION	0.50	33.0	
JENKINS, FRANK L	22-11197	Decreed	6/6/1980	COMMERCIAL, DOMESTIC	0.04	0.0	
JENSEN, BRETT WAYNE; JENSEN, KRISTY	35-14862	Decreed	11/17/1955	IRRIGATION	1.70	90.0	
JENSON, RONALD; JENSON, SHARON	25-10156	Decreed	10/1/1959	DOMESTIC, IRRIGATION, STOCKWATER	0.09	1.5	
JENTZSCH, RODNEY A	36-13599	Decreed	4/15/1956	COMMERCIAL, DOMESTIC	0.04	0.0	
JEROME COUNTY ROD & GUN CLUB	36-8620	License	11/14/1991	COMMERCIAL, IRRIGATION	0.02	0.5	
JOHNSON, DON A; JOHNSON, LAURIE	25-7493	License	3/8/1989	DOMESTIC	0.06	0.0	
JOHNSON, MELISSA	25-7455	License	10/21/1988	DOMESTIC, IRRIGATION	0.07	1.0	
JOHNSON, RODNEY M; JOHNSON, SHERRY L	36-17277	Decreed	11/28/1977	IRRIGATION	0.04	2.0	
JOSEPHSON, JEANETTE; JOSEPHSON, JOHN	35-8719	License	4/14/1989	INDUSTRIAL	0.04	0.0	
JOURNEYS END HOMEOWNERS ASSN	35-13612	License	11/24/2003	DOMESTIC	0.40	0.0	
JOURNEYS END HOMEOWNERS ASSN	35-13611	License	1/13/2007	COMMERCIAL, DOMESTIC	0.11	0.0	
K & M LAND COMPANY LLC	36-16301	Decreed	6/11/1957	COMMERCIAL, STOCKWATER	0.02	0.0	
KAREY LANE WELL ASSN	35-7698	Decreed	8/11/1983	DOMESTIC	0.14	0.0	
KAREY LANE WELL ASSN	35-8943	License	5/3/1991	DOMESTIC	0.09	0.0	
KAY, JUSTINE; KAY, THOMAS F; LEVESQUE, GLENDA R	34-2484	Decreed	8/12/1966	IRRIGATION	0.01	2.0	
KEITH SKAAR FARMS INC	25-13312	Decreed	5/1/1962	COMMERCIAL	0.04	0.0	
KERBS OIL CO INC	45-7643	License	5/19/1989	COMMERCIAL	0.04	0.0	
KERBS OIL CO INC	45-7644	License	5/22/1989	COMMERCIAL	0.04	0.0	
KEYBANK NATIONAL ASSOC	25-7517	License	8/24/1989	COMMERCIAL	0.50	0.0	
KING, FERRIL; KING, RENE	36-8440	License	9/7/1989	COMMERCIAL	0.02	0.0	
KINGHORN, KARL	25-14338	Decreed	2/18/1958	IRRIGATION	1.37	47.9	

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KINGHORN, KAYLYNN; KINGHORN, LORAN; PARSONS, KARLA M; PARSONS, WILLIAM T	35-13441	Decreed	5/1/1960	COMMERCIAL	0.04	0.0	
KIRBY, DORIS F; KIRBY, ELWOOD	35-7860	License	6/20/1979	DOMESTIC	0.08	0.0	
KIT CIRCLE LLC	22-7296	Decreed	6/19/1979	DOMESTIC	0.16	0.0	
KITS FOUNDRY & MACHINE SHOP INC	27-7460	License	5/16/1989	DOMESTIC, INDUSTRIAL	0.05	0.0	
KLASSEN, HAROLD J	35-8724	License	4/10/1989	COMMERCIAL	0.02	0.0	
KNIFE RIVER CORPORATION MOUNTAIN WEST	25-14351	Decreed	7/19/1973	MITIGATION	0.05	0.0	
KNIFE RIVER CORPORATION MOUNTAIN WEST	25-14498	Decreed	4/22/1979	INDUSTRIAL	0.08	0.0	
KNIFE RIVER CORPORATION MOUNTAIN WEST	25-14499	License	1/14/1983	INDUSTRIAL	0.07	0.0	
KNIFE RIVER CORPORATION MOUNTAIN WEST	25-14552		7/8/2024	DIVERSION TO STORAGE, INDUSTRIAL FROM STORAGE, INDUSTRIAL STORAGE, INDUSTRIAL	0.78	0.0	
KOCH MATERIALS CO	35-12087	Decreed	5/1/1962	COMMERCIAL, FIRE PROTECTION, INDUSTRIAL	0.11	0.0	
KOON, JACK E	22-7751	License	9/18/1992	DOMESTIC	0.06	0.0	
KOYLE, JOHN DENNIS; KOYLE, SHANNA	37-2663	Decreed	5/31/1961	IRRIGATION	2.12	156.0	
KRUCKEBERG, ALEISHA; KRUCKEBERG, MATTHEW	35-14730	Decreed	9/28/1981	IRRIGATION	0.01	2.4	
KUGLER, DIANE K; KUGLER, JOHN B	35-8359		11/28/1984	IRRIGATION	6.00	313.0	
L & S LAND HOLDINGS LLC	36-17189	Decreed	11/26/1956	COMMERCIAL, STOCKWATER	0.13	0.0	
L & S LAND HOLDINGS LLC	36-14863	Decreed	3/1/1960	DOMESTIC, STOCKWATER	0.11	0.0	
L & S LAND HOLDINGS LLC	36-15653	Decreed	12/3/1966	COMMERCIAL, STOCKWATER	0.04	0.0	
L & S LAND HOLDINGS LLC	36-15651	Decreed	10/18/1968	COMMERCIAL, STOCKWATER	0.05	0.0	
L & S LAND HOLDINGS LLC	36-15655	Decreed	2/18/1971	COMMERCIAL, STOCKWATER	0.02	0.0	
L & S LAND HOLDINGS LLC	36-17188	Decreed	1/23/1973	COMMERCIAL, STOCKWATER	0.09	0.0	
L & S LAND HOLDINGS LLC	36-17242	Decreed	1/23/1973	COMMERCIAL, STOCKWATER	0.08	0.0	
L & S LAND HOLDINGS LLC	36-17190	Decreed	10/27/1973	COMMERCIAL, STOCKWATER	0.08	0.0	
L & S LAND HOLDINGS LLC	36-17187	License	9/24/1979	COMMERCIAL, STOCKWATER	0.20	0.0	
LAMBERT, LYLE; LAMBERT, NADINE	29-7640	Decreed	5/17/1982	DOMESTIC, IRRIGATION, STOCKWATER	0.04	1.0	
LAMBERT, R J	35-8670	License	9/14/1988	COMMERCIAL	0.04	0.0	
LAND VIEW FERTILIZER INC	36-15347	Decreed	1/1/1961	COMMERCIAL	0.08	0.0	
LARSEN, HELEN	35-8127	License	4/28/1983	DOMESTIC, STOCKWATER	0.08	0.0	
LARSEN, PEGGY A; LARSEN, RICHARD J	31-7129	License	7/30/1974	DOMESTIC, STOCKWATER	0.08	0.0	
LARSON, BECKY J; LARSON, CHARLES W	45-4160	Decreed	3/15/1962	IRRIGATION	1.70	173.0	
LAZY EIGHT ESTATES DIVISION 2 HOMEOWNERS ASSN INC	25-14189	License	10/26/2006	DOMESTIC	0.50	0.0	
LEE, CAROLYN C; LEE, LARRY O	31-7166A		6/27/1975	IRRIGATION	3.20	160.0	
LEE, MARTIN R	36-8410	License	2/10/1989	COMMERCIAL	0.03	0.0	
LEISHMAN ELECTRIC	22-7558	License	8/30/1988	COMMERCIAL	0.02	0.0	
LES SCHWAB TIRE CENTERS OF IDAHO	36-11803	Decreed	11/15/1958	COMMERCIAL	0.38	0.0	
LEZAMIZ, SID	37-10363	Decreed	9/1/1959	COMMERCIAL	0.11	0.0	
LIMA, GUADALUPE	36-17128	Decreed	9/20/1973	IRRIGATION	0.02	1.2	
LOJA LLC	25-7424	License	4/1/1988	IRRIGATION	0.09	3.0	
LORDS, DARRELL M	35-8778	License	5/31/1989	IRRIGATION	0.10	4.5	
LOST RIVER FARMS	34-14346	Decreed	8/12/1966	IRRIGATION	0.38	177.0	
LOVELAND, ANN; LOVELAND, KEVIN	29-2372	Decreed	1/5/1956	IRRIGATION	1.10	55.0	
LOVELL, HOPE; LOVELL, JAMES R	25-7598	License	9/25/1991	IRRIGATION	0.03	1.9	
LYLE, BLAKE; OHARO, VICKIE	35-13701	License	1/14/2008	MUNICIPAL	0.26	0.0	
LYNCH, LESLIE R	36-7154	Decreed	1/25/1971	INDUSTRIAL	0.02	0.0	
M & B INVESTMENTS LLC	25-14163	License	12/9/2004	DOMESTIC	0.30	0.0	
M & B INVESTMENTS LLC	25-14379	License	8/13/2012	DOMESTIC	0.39	0.0	

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MAD MOOSE PIZZA IDAHO LLC	22-7633	License	3/2/1989	COMMERCIAL	0.04	0.0	
MADISON SCHOOL DISTRICT #321	22-14474		5/13/2022	DOMESTIC	0.26	0.0	
MAGIC VALLEY GROWERS LTD	37-20612	Decreed	6/1/1956	INDUSTRIAL	0.10	0.0	
MAGIC VALLEY PRODUCE INC	36-13763	Decreed	10/1/1955	COMMERCIAL	0.04	0.0	
MAGNIFY LAND CONSULTING LLC	36-17208	Decreed	4/13/1976	IRRIGATION	0.20	10.0	
MARSHALL, DON W	25-7462	License	11/10/1988	DOMESTIC, IRRIGATION	0.07	1.0	
MARTIAN, ERICA; MARTIAN, PETER	35-7855	Decreed	5/1/1979	COMMERCIAL, HEATING	0.04	0.0	
MASON, JOHN D; MASON, VALERIE	29-7294	Decreed	11/4/1975	DOMESTIC, IRRIGATION	0.12	8.0	
MASONER, MRS MERLE	36-11978	Decreed	1/1/1963	COMMERCIAL	0.02	0.0	
MASONS	35-8828	License	7/28/1989	COMMERCIAL	0.04	0.0	
MAUPIN, JESSICA; MAUPIN, JUSTIN DEELANE	22-7656	License	11/21/1989	COMMERCIAL	0.04	0.0	
MC CAIN FOODS USA INC	45-2749	Decreed	8/13/1965	INDUSTRIAL	2.85	0.0	
MC CALL OIL & CHEMICAL	25-7045	Decreed	2/25/1974	DOMESTIC, INDUSTRIAL	0.08	0.0	
MC COWIN, BRENDA	25-7544	License	8/16/1989	DOMESTIC	0.07	0.0	
MC COY, VALERIE	34-10329	Decreed	12/31/1955	IRRIGATION	0.02	1.0	
MC GARRY, BRANDON; MC GARRY, BRITTNI	35-14687	Decreed	1/10/1957	IRRIGATION	0.90	65.0	
MC GARRY, BRANDON; MC GARRY, BRITTNI	35-14689	Decreed	4/7/1958	IRRIGATION	0.40	65.0	
MC GARRY, KATHLEEN; MC GARRY, TIM R	35-14686	Decreed	1/10/1957	IRRIGATION	1.72	124.0	
MC GARRY, KATHLEEN; MC GARRY, TIM R	35-14688	Decreed	4/7/1958	IRRIGATION	0.77	124.0	
MC GARRY, LOGAN PHILLIPS; MC GARRY, WHITNEY DAWN	21-13309	Decreed	6/25/1960	IRRIGATION	0.03	1.5	
MEADOW LARK COURT LLC	22-10170	Decreed	6/15/1960	COMMERCIAL, STOCKWATER	0.20	0.0	
MERRILL, CHRISTOPHER; MERRILL, CINDY	25-13580	Decreed	1/1/1963	DOMESTIC, IRRIGATION	0.14	5.0	
MERRILL, KENT	25-14364	License	2/28/1992	IRRIGATION	0.19	12.2	
MEYERS, M JAY	29-2407	Decreed	3/6/1959	IRRIGATION	2.54	127.0	
MICHAUD CREEK RANCHES INC	29-2515	Decreed	1/5/1966	IRRIGATION	2.00	196.0	
MICHAUD CREEK RANCHES INC	29-7089	Decreed	6/9/1972	IRRIGATION	1.08	196.0	
MICKELSEN PROPERTIES LLC	31-12553	Decreed	6/20/1969	IRRIGATION	0.11	8.5	
MICKELSEN PROPERTIES LLC	31-12554	Decreed	6/20/1969	IRRIGATION	1.61	121.3	
MICKELSEN, LINDON A; MICKELSEN, LOREEN A	27-10416	Decreed	6/1/1962	COMMERCIAL, DOMESTIC, STOCKWATER	0.09	0.0	
MIDNIGHT SUN INC	35-8722	License	4/21/1989	INDUSTRIAL	0.01	0.0	
MIKESELL, ELEANOR	31-10268	Decreed	5/1/1957	COMMERCIAL, DOMESTIC	0.04	0.0	
MIKKOLA, ARTHUR; MIKKOLA, MARK	25-7389	Decreed	11/2/1983	DOMESTIC, STOCKWATER	0.06	0.0	
MILES, BETTY; MILES, KENNETH RICK	25-14502	Decreed	4/22/1979	IRRIGATION	0.03	1.5	
MILES, BETTY; MILES, KENNETH RICK	25-14524	Decreed	4/22/1979	IRRIGATION	0.02	1.0	
MILLER, CHARLES; MILLER, RACHEL	25-7442	License	9/8/1988	DOMESTIC, IRRIGATION	0.05	1.0	
MILLER, LYNETTE R; MILLER, MARVIN G	25-4194	Decreed	11/1/1960	IRRIGATION	0.13	7.0	
MILLER, PAMELLA K	36-16655	Decreed	4/1/1961	STOCKWATER	0.03	0.0	
MINIDOKA IRRIGATION DISTRICT	36-13480	Decreed	5/31/1962	COMMERCIAL	0.04	0.0	
MISTY VALLEY LLC	22-14350	Decreed	3/20/1959	AESTHETIC STORAGE, DIVERSION TO STORAGE, FIRE PROTECTION STORAGE	0.01	0.0	
MITCHELL, RALPH M	45-7640	License	5/23/1989	DOMESTIC, IRRIGATION	0.07	1.5	
MODEL WATER USERS ASSN INC	35-7986	Decreed	6/1/1981	DOMESTIC	0.10	0.0	
MODERN MILLS ROCKFORD INC	35-13014	Decreed	4/1/1960	COMMERCIAL	0.05	0.0	
MONK, AUBRIE; MONK, STEVEN	35-14754	Decreed	4/23/1961	IRRIGATION	0.04	6.0	
MORGAN, CODY G; MORGAN, KATHY	36-17091	Decreed	2/6/1961	COMMERCIAL, STOCKWATER	0.02	0.0	
MORRISS, JUDITH L; MORRISS, VIRGIL R	25-7483	License	12/22/1988	DOMESTIC, IRRIGATION, STOCKWATER	0.04	3.0	
MOUNTAIN RIVER SPORTSMANS RV PARK & CAMP	25-14229	License	9/2/2008	COMMERCIAL	0.20	0.0	

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MOUNTAIN VIEW COURT LLC	21-7428	License	3/23/1989	COMMERCIAL	0.09	0.0	
MOUNTAIN VIEW LAND LLC	36-17192	Decreed	9/24/1976	COMMERCIAL, STOCKWATER	0.20	0.0	
MOUNTAIN WEST BARK PRODUCTS INC	22-7573	License	8/8/1988	COMMERCIAL	0.08	0.0	
MOYLE, KEVIN A; MOYLE, TAYLOR N	36-17240	License	3/16/1989	COMMERCIAL, DOMESTIC, STOCKWATER	0.33	0.0	
MURDOCK, JODDI E; MURDOCK, O BRIAN	35-14811	Decreed	5/9/1956	IRRIGATION	0.06	62.0	
MURDOCK, JODDI E; MURDOCK, O BRIAN	35-14812	Decreed	4/18/1958	IRRIGATION	0.10	62.0	
MURDOCK, JODDI E; MURDOCK, O BRIAN	35-14806	Decreed	9/23/1968	IRRIGATION	0.20	62.0	
MURDOCK, JODDI E; MURDOCK, O BRIAN; MURDOCK, ROBERT A; MURDOCK, TERESA	35-14810	Decreed	6/17/1957	IRRIGATION	0.04	62.0	
MURDOCK, ROBERT A; MURDOCK, TERESA	35-14797	Decreed	12/9/1955	IRRIGATION	0.26	62.0	
MURDOCK, ROBERT A; MURDOCK, TERESA	35-14807	Decreed	9/16/1960	IRRIGATION	0.16	62.0	
NAPOLI, MARIA; ULIAN, PETER	34-7211	Decreed	1/6/1978	DOMESTIC, IRRIGATION	0.10	4.0	
NEIBAUR, RYAN	25-7561	License	3/2/1990	IRRIGATION	4.00	360.5	
NELSEN DAIRY	36-8745	License	11/7/1995	COMMERCIAL, STOCKWATER	0.11	0.0	
NEST EGG INVESTMENTS LLC	25-14419	License	12/27/2014	COMMERCIAL	0.07	0.0	
NEW PHASE INVESTMENTS LLC	25-14186	License	9/18/2006	COMMERCIAL	0.05	0.0	
NICKELSON, DALENE C	25-7193A	Decreed	4/30/1980	DOMESTIC, IRRIGATION, STOCKWATER	0.02	2.9	
NORTH HIGHLANDER FARMS INC	25-7438	License	8/8/1988	COMMERCIAL	0.04	0.0	
NORTHLAND TERRACE WATER USERS ASSN INC	27-7138	License	5/18/1979	DOMESTIC	0.68	0.0	
NORTHSIDE RANCH CO LLC	36-2318B	Decreed	2/28/1957	STOCKWATER	0.05	0.0	
NORTHWEST PIPELINE CORP	45-2531	Decreed	7/6/1956	DOMESTIC, INDUSTRIAL	0.04	0.0	
NULPH BROTHERS INC	27-7466	License	5/3/1989	COMMERCIAL	0.04	0.0	
NUR WATER CORP INC	25-7035	Decreed	6/13/1973	DOMESTIC	0.62	0.0	
NUTTALL, ALIESHA DAWN; NUTTALL, JEFFREY DOUGLAS	25-7275	Decreed	2/8/1982	DOMESTIC, IRRIGATION, STOCKWATER	0.03	1.0	
OLSEN, JOHN W	27-7016	Decreed	4/22/1971	IRRIGATION	1.48	74.0	
OLSEN, JOHN W	27-7039	Decreed	4/23/1974	IRRIGATION	0.38	19.0	
ON TIME FINANCIAL LLC	22-14478		7/14/2022	COMMERCIAL, DOMESTIC	0.21	0.0	
OSTERHOUT, DANA; OSTERHOUT, GAYLEN; OSTERHOUT, LORRIE; OSTERHOUT, VIRGINIA M	45-10587	Decreed	6/30/1958	COMMERCIAL, DOMESTIC, IRRIGATION	0.08	0.5	
OVERLOOK MHP LLC	45-10950	Decreed	1/30/1961	DOMESTIC, IRRIGATION	0.15	2.0	
PACIFIC CONTAINER INC	25-7420	License	11/8/1987	COMMERCIAL	0.04	0.0	
PACIFICORP	35-2830	Decreed	5/27/1966	COMMERCIAL	0.02	0.0	
PACIFICORP	25-7403	License	6/14/1985	WATER QUALITY IMPROVEMENT	0.45	0.0	
PACIFICORP	25-14431	License	2/19/2016	WATER QUALITY IMPROVEMENT	0.47	0.0	
PARKER, BRENT E; PARKER, KRISTINE	25-7073E	Decreed	8/1/1975	IRRIGATION	0.20	10.0	
PARKINSON FARMS	34-2497	Decreed	9/27/1966	IRRIGATION	0.57	480.0	
PARKINSON FARMS	34-2490	Decreed	10/25/1966	IRRIGATION	2.09	306.0	
PARKINSON FARMS	34-2506	Decreed	3/2/1967	IRRIGATION	1.17	480.0	
PARKINSON FARMS	34-2505	Decreed	3/3/1967	IRRIGATION	1.06	480.0	
PARKINSON FARMS	34-4008	Decreed	4/1/1967	IRRIGATION	2.60	480.0	
PARKINSON FARMS	34-10393	Decreed	5/1/1976	IRRIGATION	0.26	306.0	Yes
PARKWOOD ACRES WATER CO INC	25-7175	Decreed	7/3/1979	DOMESTIC	0.50	0.0	
PARNELL, KEVIN	37-21266	Decreed	2/27/1979	IRRIGATION, MITIGATION	0.07	3.6	
PATTON & LINTON INC	29-10994	Decreed	3/1/1956	INDUSTRIAL	0.13	0.0	
PERFORMIX NUTRITION SYSTEMS LLC	36-17196	Decreed	5/27/1974	COMMERCIAL	0.06	0.0	
PETERSEN, KIMBERLY ANN; PETERSEN, RYAN CLAIR	34-7219	Decreed	7/4/1978	COMMERCIAL, HEATING, IRRIGATION, MITIGATION	0.92	69.8	
PHILLIPS, ELIZABETH H; PHILLIPS, JOSEPH	35-14742	Decreed	6/11/1958	IRRIGATION	0.05	25.0	

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PHINNEY, DAVID; RICHARDS, DEBORA	35-14870	Decreed	6/27/1983	DOMESTIC, IRRIGATION	0.02	0.5	
PILKINTON, C R; PILKINTON, THOMAS R	36-7650B	Decreed	7/30/1976	IRRIGATION	0.08	4.0	
PINGREE CELLARS LLC	35-14841	Decreed	1/16/1968	COMMERCIAL	0.02	0.0	
PINGREE LAND CO LLC	29-7806	Decreed	12/10/1985	COMMERCIAL	0.01	0.0	
PIONEER WATER USERS ASSN INC	35-7671	Decreed	2/7/1977	DOMESTIC	0.11	0.0	
POLATIS BROTHERS	35-14735	Decreed	6/16/1961	IRRIGATION	0.09	351.0	
PONY ACRES WATER ASSN	29-7625	Decreed	12/15/1981	DOMESTIC, IRRIGATION	0.16	2.0	
POPE, CAROL C	34-4133	Decreed	5/1/1960	DOMESTIC, IRRIGATION	0.12	6.2	
PORT OF ENTRY TRAVEL CENTER LLC	31-11787	Decreed	9/7/1971	COMMERCIAL	0.12	0.0	
PRICE, MARJORIE	22-14447		2/16/2022	COMMERCIAL	0.02	0.0	
PRINCE, CARI L; PRINCE, JAMES J	36-17191	Decreed	2/20/1964	IRRIGATION	1.94	97.0	
PROW, REBECCA; PROW, SCOTT E	45-13972	Decreed	11/12/1957	IRRIGATION	0.04	2.8	
QUALITY INSULATION & CONSTRUCTION INC	25-7539	License	8/18/1989	COMMERCIAL	0.04	0.0	
QUINTON, BERNADENE L; QUINTON, RAY E	25-7536	License	9/18/1989	COMMERCIAL	0.02	0.0	
R C WILLEY HOME FURNISHINGS	35-14596		5/25/2018	COMMERCIAL	0.78	0.0	
RABURN, JAYNEE N; RABURN, LENARD H	29-7143B	Decreed	7/2/1973	DOMESTIC, IRRIGATION	0.03	1.0	
RANDALL, GLADYS	22-7594	License	8/25/1988	COMMERCIAL	0.04	0.0	
REES, CARL C; REES, PATRICIA	29-7240	Decreed	11/29/1974	DOMESTIC, IRRIGATION, STOCKWATER	0.09	1.3	
RHODEHOUSE, KEVIN	35-2924	Decreed	7/21/1965	INDUSTRIAL, STOCKWATER	1.11	0.0	
RHODEHOUSE, KEVIN	35-8659	License	10/15/1987	COMMERCIAL, STOCKWATER	0.15	0.0	
RICE, JOHN; RICE, KATIE	35-14684	Decreed	9/8/1961	IRRIGATION	0.11	2.7	
RICHAN, CLYDE L; RICHAN, ELVERA L	36-8486	License	9/19/1989	COMMERCIAL, DOMESTIC	0.03	0.0	
RICHARDS, DENICE	27-7343	Decreed	3/2/1983	DOMESTIC, IRRIGATION	0.08	5.0	
RICHARDSON, BRIAN	35-8769	License	5/31/1989	COMMERCIAL, DOMESTIC	0.07	0.0	
RICKS, CONNIE	25-7183	Decreed	1/14/1980	DOMESTIC, STOCKWATER	0.06	0.0	
RIGBY AIR VILLAGE LLC	25-14182	License	3/24/2006	COMMERCIAL	0.20	0.0	
RIM ROCK LEASING LLC	36-8512	License	2/27/1990	COMMERCIAL	0.02	0.0	
RINDFLEISCH, JAMES A	34-7511		6/12/1989	IRRIGATION	1.85	92.4	
RINGEL, LORI; RINGEL, MERLYN R	35-14630	Decreed	9/28/1981	IRRIGATION	0.01	4.7	
RIVERBEND ESTATES	29-8015	License	6/22/1990	DOMESTIC	0.25	0.0	
RIVERVIEW ACRES #2 WATER CORP	35-11348	Decreed	6/1/1960	DOMESTIC	0.16	0.0	
RIVERVIEW TWO LLC	35-8632	Decreed	1/19/1981	COMMERCIAL, INDUSTRIAL	0.04	0.0	
ROBINSON, TIMOTHY L	36-17115	Decreed	3/15/1963	IRRIGATION	0.02	1.0	
ROCKY MOUNTAIN UTILITY CO	25-14510	Decreed	8/26/1957	MITIGATION BY NON-USE	0.25	0.0	
ROCKY MOUNTAIN UTILITY CO	25-14511	Decreed	4/22/1979	MITIGATION BY NON-USE	0.10	0.0	
ROCKY MOUNTAIN UTILITY CO	25-14497		2/24/2021	DOMESTIC	0.51	0.0	
ROCKY MOUNTAIN UTILITY CO	25-14512		1/24/2022	IRRIGATION	0.50	25.0	
ROEDER, JAMES L; ROEDER, JOHN	29-7177	License	3/4/1974	DOMESTIC, STOCKWATER	0.08	0.0	
ROKER, ELAINE; ROKER, JIM	25-7132	Decreed	8/25/1977	IRRIGATION	1.22	61.0	
RUDY, THOMAS A	45-7278	Decreed	12/6/1976	DOMESTIC	0.24	0.0	
RUNHARD LLC	22-7293	Decreed	5/24/1979	COOLING, HEATING	0.15	0.0	
RURAL ELECTRIC CO	36-8435	License	8/11/1989	COMMERCIAL	0.04	0.0	
SAND BOX RV LLC	21-13335	Decreed	6/7/1957	COMMERCIAL	0.02	0.0	
SAND BOX RV LLC	21-13333	Decreed	8/4/1979	COMMERCIAL	0.03	0.0	
SCC PROPERTIES LLC	37-23469	Decreed	11/25/1962	IRRIGATION	0.38	19.0	
SCHAEFFER, DIANNE RAE	36-17234	Decreed	1/22/1958	STOCKWATER	0.18	0.0	
SCHREINER FARMS IDAHO LLC	35-2488	Decreed	1/10/1957	IRRIGATION	0.02	2.0	

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SCHREINER FARMS IDAHO LLC	35-2922	Decreed	4/7/1958	IRRIGATION	0.01	2.0	
SCHREINER FARMS IDAHO LLC	35-8951	License	7/29/1991	IRRIGATION	0.88	44.0	
SCHWANS SALES ENTERPRISES INC	27-7439	License	8/14/1987	COMMERCIAL	0.04	0.0	
SCOTT, STANLEY K	31-7512	License	11/30/1988	DOMESTIC, STOCKWATER	0.19	0.0	
SEARLE BROTHERS LAND & LIVESTOCK LLC	45-13986	Decreed	11/11/1959	COMMERCIAL, STOCKWATER	0.08	0.0	
SELENSKY, CATHY; SELENSKY, CLARENCE J	25-7392B	License	12/16/1983	IRRIGATION	0.15	5.0	
SHOSHONE BANNOCK TRIBES	27-7000	Decreed	7/27/1967	MUNICIPAL	0.50	0.0	
SHOSHONE BANNOCK TRIBES	29-7326	Decreed	4/28/1976	IRRIGATION	2.53	160.0	
SHOSHONE BANNOCK TRIBES	29-13941	Decreed	10/3/1977	IRRIGATION	0.18	10.5	
SHURTLIFF, ALICE R; SHURTLIFF, REX S	25-13026	Decreed	12/31/1957	COMMERCIAL	0.04	0.0	
SHURTLIFF, MERLENE; SHURTLIFF, RODNEY	35-8855	License	9/7/1989	DOMESTIC, STOCKWATER	0.08	0.0	
SILVER CREEK DISTILLERS INC	25-7194	License	12/1/1988	INDUSTRIAL	0.11	0.0	
SIMPER, HAIZER ONEAL; SIMPER, JENSEN BRYN	35-14901	Decreed	8/19/1977	IRRIGATION	0.11	6.0	
SIMPSON, DANNY V; SIMPSON, JULIE M	37-22930	Decreed	11/25/1962	IRRIGATION	0.05	2.3	
SIX S RANCH LLC	45-14472	Decreed	12/1/1967	IRRIGATION	0.04	263.3	
SIX S RANCH LLC	45-14471	Decreed	8/25/1969	IRRIGATION	0.96	263.3	
SJC PROPERTIES LLC	35-14873	Decreed	7/20/1976	STOCKWATER	2.70	0.0	
SMITH CATTLE COMPANY LLC	25-13990	Decreed	9/25/1973	COMMERCIAL	0.39	0.0	
SMITH CATTLE COMPANY LLC	25-13991	Decreed	9/25/1973	COMMERCIAL	0.39	0.0	
SMITH CATTLE COMPANY LLC	25-13992	Decreed	4/18/1974	COMMERCIAL	0.05	0.0	
SMITH CATTLE COMPANY LLC	25-13993	Decreed	4/8/1975	COMMERCIAL	0.39	0.0	
SMITH CATTLE COMPANY LLC	25-13994	Decreed	5/23/1975	COMMERCIAL	0.20	0.0	
SMITH, ANTON	29-7403	Decreed	5/23/1977	IRRIGATION	0.32	16.0	
SMITH, BLAINE; SMITH, GARRY	22-7554	License	8/8/1988	COMMERCIAL	0.02	0.0	
SMITH, EDWARD A	29-2551	Decreed	2/27/1967	IRRIGATION	3.00	149.7	
SMITH, JOAN; SMITH, SCOTT	34-14313	License	7/8/1992	IRRIGATION	0.01	1.0	
SMITH, K DARBY; SMITH, RACHELLE	25-14533	Decreed	1/25/1965	IRRIGATION	0.05	5.5	
SMITH, K DARBY; SMITH, RACHELLE	25-14532	Decreed	3/4/1974	IRRIGATION	0.03	5.5	
SMITH, NORBERT DARRELL	29-7171	Decreed	2/4/1974	DOMESTIC	0.16	0.0	
SMITH, RICHARD F	22-14612	Decreed	7/5/1973	MUNICIPAL	0.25	0.0	
SNAKE RIVER BUSINESS PARK BLDG #1 LLC	35-14787		8/19/2022	COMMERCIAL	0.20	0.0	
SNELL, MARK	29-7696	License	3/16/1983	DOMESTIC, IRRIGATION	0.08	2.0	
SOHN, EDNA G; SOHN, HERBERT F; SOHNS INC	35-8333	Decreed	12/12/1983	COMMERCIAL, DOMESTIC	0.08	0.0	
SOMSEN, DIANNE L; SOMSEN, G FRANK	45-4242	Decreed	6/1/1956	IRRIGATION	1.84	432.0	
SOUTH INTERCHANGE PROPERTIES LLC	35-14701	Decreed	5/27/1974	IRRIGATION	0.07	23.8	
SOUTH LANDS LLC C/O BARRY SOUTH	25-14390	License	10/15/2013	COMMERCIAL	0.50	0.0	
SOUTH PARK ESTATES WATER & SEWER INC	27-7052	Decreed	3/12/1975	DOMESTIC, FIRE PROTECTION	0.33	0.0	
SOUTH PARK ESTATES WATER & SEWER INC	27-7581	License	10/21/1997	DOMESTIC, FIRE PROTECTION	0.69	0.0	
SOUTH, BARRY; SOUTH, ELINOR	35-14618	Decreed	9/28/1981	IRRIGATION	0.01	3.3	
SPAHR, ARIANNE; SPAHR, JASON	35-14585	Decreed	9/28/1981	IRRIGATION	0.01	3.2	
SPENCER, DAVID R; SPENCER, MICHELLE	31-11944	Decreed	7/26/1961	COMMERCIAL, STOCKWATER	0.02	0.0	
STANGER, KARA; STANGER, SPENCER	35-14729	Decreed	9/28/1981	IRRIGATION	0.01	5.2	
STANGER, MARILYN	25-7541	License	7/12/1989	COMMERCIAL	0.02	0.0	
STARMARC LLC	36-12462	Decreed	12/31/1958	COMMERCIAL	0.07	0.0	
STEEL, KEVIN J	35-8756	License	5/11/1989	COMMERCIAL, DOMESTIC	0.02	0.0	
STOKES, ELIZABETH DORTHEA; STOKES, JOSHUA WYNNDALE	37-8112	Decreed	6/2/1983	COMMERCIAL, COOLING	0.02	0.0	
STORER, BETTY; STORER, GALE	25-7530	License	8/28/1989	COMMERCIAL	0.04	0.0	

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STROMBERG REPAIR INC	25-7445	License	10/18/1988	COMMERCIAL	0.04	0.0	
STUBBS, AVIS B; STUBBS, ROSS A	35-8210	License	6/16/1983	DOMESTIC	0.06	0.0	
SULLIVAN HOLDINGS LLC	35-8775	License	5/26/1989	COMMERCIAL	0.01	0.0	
SUMMERS, RICHARD K; SUMMERS, STELLA F	25-7518	License	8/24/1989	COMMERCIAL, DOMESTIC	0.08	0.0	
SUNROC CORPORATION	25-14563	Decreed	6/7/1957	INDUSTRIAL	0.03	0.0	
SUNROC CORPORATION	25-14561	Decreed	8/4/1979	DIVERSION TO STORAGE, INDUSTRIAL STORAGE, INDUSTRIAL	0.08	0.0	
SUNROC CORPORATION	29-7754	License	6/17/1983	COMMERCIAL	0.81	0.0	
SUNROC CORPORATION	25-14559		10/24/2024	DIVERSION TO STORAGE, INDUSTRIAL FROM STORAGE, INDUSTRIAL STORAGE, INDUSTRIAL	0.82	0.0	
SUNSET FARM & RANCH LLC	34-2480B	Decreed	9/11/1966	IRRIGATION	2.00	728.4	
SUNSET FARM & RANCH LLC	34-14772	Decreed	8/18/1974	IRRIGATION	6.86	728.4	
SUNSET SUBDIVISION WATER USERS ASSN	35-10715	Decreed	9/21/1959	DOMESTIC	0.15	0.0	
SWENDSEN, BRENT; SWENDSEN, NANCY	25-7464	License	11/30/1988	COMMERCIAL	0.04	0.0	
SWENSON, HANS	37-23303	Decreed	9/20/1974	IRRIGATION	0.12	6.0	
T VILLE AG	29-12898	Decreed	2/23/1957	IRRIGATION	1.58	79.0	
T VILLE AG	29-7050	Decreed	3/24/1970	IRRIGATION	0.70	35.0	
T VILLE AG	29-7613	Decreed	8/19/1981	IRRIGATION	1.30	79.0	
TABLE ROCK HOLDINGS	35-13320	License	8/7/2001	DOMESTIC	0.10	0.0	
TANNER JR, WILLIAM L; TANNER, KIMBERLY	22-14634	Decreed	4/26/1961	IRRIGATION	0.03	2.0	
TANNER JR, WILLIAM L; TANNER, KIMBERLY	22-14636	Decreed	5/1/1968	IRRIGATION	0.01	2.0	Yes
TANNER, BLAINE; TANNER, TORI	25-10634	Decreed	4/1/1958	DOMESTIC, IRRIGATION, STOCKWATER	0.10	2.0	
TANNER, JESSICA	22-14635	Decreed	4/26/1961	IRRIGATION	0.03	2.0	
TANNER, JESSICA	22-14637	Decreed	5/1/1968	IRRIGATION	0.01	2.0	Yes
TANNER, KATHY; TANNER, REYNOLD	25-2139	Decreed	10/30/1961	IRRIGATION	1.54	38.0	
TAYLOR, CHRISTY; TAYLOR, MICHAEL	29-14369	Decreed	5/27/1974	IRRIGATION	0.03	6.0	
TAYLOR, LOIS; TAYLOR, LYLE D	25-7110	Decreed	5/9/1977	IRRIGATION	1.30	65.0	
TAYLORS QUIK STOP INC	25-7450	License	10/25/1988	COMMERCIAL	0.04	0.0	
TED BAAR HOLDINGS LLC	36-17236	Decreed	1/28/1972	DOMESTIC, STOCKWATER	0.05	0.0	
TED BAAR HOLDINGS LLC	36-17235	License	11/7/1989	DOMESTIC, STOCKWATER	0.05	0.0	
TELFORD, MICHAEL S; TELFORD, ROBERT	37-8212	Decreed	5/11/1983	COMMERCIAL, STOCKWATER	0.01	0.0	
TELFORD, MICHAEL S; TELFORD, SHANNON J	34-2401A	Decreed	9/1/1961	IRRIGATION	3.70	2223.8	
TELFORD, MICHAEL S; TELFORD, SHANNON J	34-4015	Decreed	9/1/1961	IRRIGATION	1.64	2223.8	
TERRETON PUMP NO 2	31-7515	License	1/7/1989	COMMERCIAL, DOMESTIC	0.10	0.0	
TERRETON TRACTOR INC	31-7346	Decreed	12/2/1980	COMMERCIAL, DOMESTIC	0.04	0.0	
TESORO LOGISTICS OPERATIONS LLC	29-2488	Decreed	1/28/1964	DOMESTIC, FIRE PROTECTION	1.00	0.0	
TETON WATER WORKS LLC	27-7359C	License	6/3/1983	COMMERCIAL, DOMESTIC	0.03	0.0	
TFT LLC	21-7419	License	3/9/1989	COMMERCIAL, DOMESTIC	0.02	0.0	
THATCHER SUMMIT INC	22-7626	License	4/8/1989	COMMERCIAL	0.04	0.0	
THE ADVOCATE COMMUNITY	29-2486B	Decreed	12/16/1963	IRRIGATION	0.64	40.0	
THE DAVID JAY BROWN & DEBRA L BROWN LTD PARTNERSHIP	37-2670	Decreed	7/24/1961	IRRIGATION	3.00	155.0	
THE LOVELAND FAMILY TRUST	27-7069	Decreed	12/3/1976	IRRIGATION	3.42	171.0	
THOMPSON, BETTY L; THOMPSON, LYNN	29-7075A	Decreed	2/4/1972	IRRIGATION	0.10	5.6	
THOMPSON, HOWARD M	25-7508	License	6/19/1989	DOMESTIC, STOCKWATER	0.11	0.0	
THOMPSON, KURT; THOMPSON, LINDA B	36-15254	Decreed	10/20/1967	DOMESTIC, STOCKWATER	0.04	0.0	
TOMLIN, STEPHEN	29-13730	License	6/7/1983	IRRIGATION	0.01	0.5	
TOWN & COUNTRY MOBILE HOME PARK LLC	35-4258	Decreed	6/1/1962	DOMESTIC	0.22	0.0	
TRAINOR, LISA; TRAINOR, MARK	25-7392A	License	12/16/1983	IRRIGATION	0.14	7.0	

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TYLER, ALDON	25-7542	License	7/14/1989	DOMESTIC	0.06	0.0	
UNION PACIFIC RAILROAD CO	36-4203	Decreed	9/13/1957	COMMERCIAL, DOMESTIC, MUNICIPAL	0.22	0.0	
UNITED ALLIANCE & FIDELITY CORP	25-7387	Decreed	12/4/1983	IRRIGATION	0.10	5.0	
US BUREAU OF LAND MANAGEMENT	35-4073A	Decreed	6/25/1960	IRRIGATION	3.25	169.0	
US BUREAU OF LAND MANAGEMENT	35-7031	Decreed	7/22/1968	IRRIGATION	1.66	83.0	
US BUREAU OF LAND MANAGEMENT	37-20839	Decreed	2/6/1974	IRRIGATION	0.19	64.0	
US BUREAU OF LAND MANAGEMENT	36-7466	Decreed	4/10/1974	STOCKWATER, WILDLIFE	0.10	0.0	
US BUREAU OF LAND MANAGEMENT	36-7497	Decreed	8/21/1974	STOCKWATER, WILDLIFE	0.05	0.0	
US BUREAU OF LAND MANAGEMENT	35-7685	Decreed	3/22/1977	IRRIGATION	2.48	124.0	
US BUREAU OF LAND MANAGEMENT	35-7750	Decreed	10/20/1977	IRRIGATION	1.32	66.0	
US BUREAU OF LAND MANAGEMENT	35-14179	Decreed	9/28/1981	IRRIGATION	0.03	44.0	
US BUREAU OF LAND MANAGEMENT	21-7517	License	2/27/1992	STOCKWATER, WILDLIFE	0.07	0.0	
US BUREAU OF LAND MANAGEMENT	36-8726		4/28/1994	STOCKWATER, WILDLIFE	0.12	0.0	
US BUREAU OF LAND MANAGEMENT	21-13032	License	2/24/2006	STOCKWATER, WILDLIFE	0.02	0.0	
US BUREAU OF LAND MANAGEMENT	34-14459		8/26/2014	STOCKWATER, WILDLIFE	0.15	0.0	
US DEPT OF ENERGY	35-7098	Decreed	8/2/1969	FISH PROPAGATION	20.00	0.0	
US DEPT OF ENERGY	35-7097	Decreed	9/30/1969	DOMESTIC, FISH PROPAGATION	4.00	0.0	
US FISH & WILDLIFE SERVICE	31-2350	Decreed	10/20/1955	WILDLIFE	11.06	0.0	
US FISH & WILDLIFE SERVICE	31-2362	Decreed	5/13/1957	WILDLIFE	10.60	0.0	
US FISH & WILDLIFE SERVICE	31-2363	Decreed	5/13/1957	WILDLIFE	39.00	0.0	
US FISH & WILDLIFE SERVICE	31-11229	Decreed	11/5/1957	WILDLIFE	7.12	0.0	
US FISH & WILDLIFE SERVICE	31-11230	Decreed	3/20/1962	WILDLIFE	11.06	0.0	
US FISH & WILDLIFE SERVICE	31-11231	Decreed	5/7/1962	WILDLIFE	15.70	0.0	
US FISH & WILDLIFE SERVICE	31-11232	Decreed	5/7/1962	WILDLIFE	43.30	0.0	
US FISH & WILDLIFE SERVICE	31-7301	Decreed	6/2/1978	WILDLIFE	8.78	0.0	
USDA ARS SHEEP EXPERIMENT STATION	34-7546	Decreed	6/29/1983	DOMESTIC, IRRIGATION, STOCKWATER	0.25	2.8	
VALLEY MOBILE HOME COURT	25-12489	Decreed	3/31/1958	DOMESTIC	0.23	0.0	
VALLEY READY MIX INC	25-7167	License	1/29/1979	INDUSTRIAL	0.36	0.0	
VALLEY SCHOOL DISTRICT #262	36-16299	License	9/22/2004	DOMESTIC, FIRE PROTECTION	1.52	0.0	
VALLEY WIDE COOP INC	22-7622	License	12/30/1988	COMMERCIAL, DOMESTIC	0.03	0.0	
VAN DYKE, VIRGINIA	37-10019	Decreed	2/1/1961	COMMERCIAL, STOCKWATER	0.06	0.0	
VAN ORDEN, JAY; VAN ORDEN, SHELLI	35-8713	License	4/1/1989	COMMERCIAL	0.02	0.0	
VEENSTRA FAMILY LIMITED PARTNERSHIP	37-4051	Decreed	9/1/1961	IRRIGATION, STOCKWATER	1.34	235.0	
VEENSTRA, FRANK W	36-17233	Decreed	1/31/1961	STOCKWATER	0.38	0.0	
VERBREE LAND HOLDINGS LLC	36-10147	Decreed	1/2/1975	DOMESTIC, STOCKWATER	0.04	0.0	
VERBREE LAND HOLDINGS LLC	36-8609	License	10/21/1991	DOMESTIC, IRRIGATION, STOCKWATER	0.02	2.5	
WADE, NANCY; WADE, RONALD	25-7425	License	6/6/1988	DOMESTIC, IRRIGATION	0.05	1.0	
WAGNER JR, EDWARD P; WAGNER, KRISTIE L	35-8856	Decreed	8/11/1989	DOMESTIC, STOCKWATER	0.10	0.0	
WALKER, ROLAND L	25-11825	Decreed	11/18/1955	COMMERCIAL	0.30	0.0	
WALKER, ROLAND L	25-11821	Decreed	6/19/1962	DOMESTIC, STOCKWATER	1.32	0.0	
WALKER, YOUNG HARVEY	34-2440	Decreed	10/10/1961	IRRIGATION, STOCKWATER	1.55	190.0	
WALKER, YOUNG HARVEY	34-10473	Decreed	8/10/1977	IRRIGATION	0.36	190.0	Yes
WALL, DIANA R; WALL, LARRY G	36-8451	License	9/28/1989	COMMERCIAL	0.02	0.0	
WALTERS, BRUCE A; WALTERS, MARCEY L	25-7596	License	6/26/1991	DOMESTIC, IRRIGATION	0.15	10.0	
WANSTROM, JOSEPH SCOTT	34-2339A	Decreed	6/3/1957	IRRIGATION	0.17	18.0	
WANSTROM, JOSEPH SCOTT	34-7172	Decreed	3/13/1977	IRRIGATION	0.94	47.0	
WARD, OPAL M; WARD, OWEN K	35-8892	License	3/28/1990	DOMESTIC	0.18	0.0	

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WELLS, DELOS H	35-8220	License	8/4/1983	DOMESTIC, IRRIGATION	0.11	9.5	
WELLS, DELOS H; WELLS, LUELLA	35-10874	Decreed	10/1/1962	DOMESTIC, IRRIGATION	0.20	8.0	
WESTERN SLOPE LLC	35-14617	Decreed	9/28/1981	IRRIGATION	0.05	83.0	
WESTOVER RANCH CORP	22-7543	License	12/14/1988	DOMESTIC	0.10	0.0	
WHEELER, DEE RAY; WHEELER, LINDA	36-8488	License	10/10/1989	COMMERCIAL	0.03	0.0	
WHITWORTH, BOYD	45-7638	License	3/10/1989	INDUSTRIAL	0.06	0.0	
WILLMORE, JUDY	31-7551	License	8/26/1991	COMMERCIAL	0.04	0.0	
WILSON, JOHN CHARLES	29-7916	License	3/20/1990	IRRIGATION	0.09	4.5	
WOOD, HOWARD; WOOD, SHEILA	34-2478	Decreed	6/16/1966	IRRIGATION	0.76	38.0	
WOODLAND HEIGHTS WATER USERS ASSN	35-7576	Decreed	1/28/1976	DOMESTIC	0.38	0.0	
WRIDE FARMS	35-8949		8/26/1991	IRRIGATION	3.00	150.0	
WRIGHT, DEE; WRIGHT, RUBY	25-7256	Decreed	5/12/1981	IRRIGATION	0.10	1.4	
WRIGHT, LISA; WRIGHT, SCOTT	25-7461	License	1/21/1989	IRRIGATION	0.09	3.0	
WRIGHT, MARK; WRIGHT, SUSAN MARIE	36-17286	Decreed	6/7/1968	IRRIGATION	0.09	4.5	
YANCEY, CLEM R	35-7955	License	3/10/1981	DOMESTIC, STOCKWATER	0.06	0.0	
YANCEY, JERRY; YANCEY, NATALIE	35-14849	License	3/14/2012	DOMESTIC	0.06	0.0	
YERION, GEORGE A; YERION, SUSAN F	37-23372		1/28/2022	DOMESTIC	0.08	0.0	
YOUNG & YOUNG LIVESTOCK LLC	25-14494		8/3/2021	DOMESTIC	0.23	0.0	
YOUNG, DE VONA; YOUNG, WILLIAM N	25-7437	License	8/26/1988	DOMESTIC, STOCKWATER	0.07	0.0	
YOUNG, JUDY D; YOUNG, KENNETH A	25-7436	License	9/14/1988	IRRIGATION	0.03	1.5	
ZWEIFEL PROPERTIES LLC	32-10031	Decreed	5/1/1968	DOMESTIC, STOCKWATER	0.12	0.0	

EXPLANATORY INFORMATION TO ACCOMPANY A FINAL ORDER

(To be used in connection with actions when a hearing was **not** held)

The accompanying document is a "**Final Order**" issued by the Idaho Department of Water Resources ("Department") pursuant to Idaho Code § 67-5246.

PETITION FOR RECONSIDERATION

(*See* Idaho Code § 67-5246(4))

Any party may file a petition for reconsideration of this 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 presiding officer 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.

REQUEST FOR HEARING

(*See* Idaho Code § 42-1701A(3))

Unless the right to a hearing before the Department or the Water Resource Board is otherwise provided by statute, any person aggrieved by any final decision, determination, order or action of the Director, and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to Idaho Code § 42-1701A(3). A written petition to the Director contesting this final order and requesting a hearing must be filed with the Department by any aggrieved person **within fifteen (15) days after service of this final order**.

CERTIFICATE OF SERVICE

(*See* IDAPA 37.01.01.053, 37.01.01.202)

All documents filed with the Department in connection with a petition for reconsideration or a request for hearing of this final order shall be served on all other parties to the proceedings in accordance with Rules of Procedure 53 and 202.

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY OR FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY	Docket No. CM-DC-2010-001 **ORDER REVISING APRIL 2025 FORECAST SUPPLY AND CONTINUING MAY 16, 2025 CURTAILMENT ORDER** ***(METHODOLOGY STEPS 5 & 6)***

The Director of the Idaho Department of Water Resources ("Department") finds, concludes, and orders as follows:

FINDINGS OF FACT

A. Background

1. On July 19, 2023, the Department issued its *Sixth Final Order Regarding Methodology for Determining Material Injury to Reasonable In-Season Demand and Reasonable Carryover* ("*Methodology Order*"). The *Methodology Order* established nine steps for determining material injury to members of the Surface Water Coalition ("SWC"). This order applies Steps 5 and 6 of the *Methodology Order*.

2. Step 5 of the *Methodology Order* addresses the final injury determination to reasonable carryover for members of the SWC. Step 5 states:

> If the storage allocations held by members of the SWC fill, there is no reasonable carryover shortfall. If the storage allocations held by members of the SWC do not fill, within fourteen (14) days following the publication of Water District 01's initial storage report . . . the volume of water secured by junior ground water users to fulfill the reasonable carryover shortfall shall be made available to injured members of the SWC.

Methodology Order, at 43. On November 29, 2024, the Director issued the *Final Order Establishing 2024 Reasonable Carryover* (*Methodology Step 9*) ("*2024 Step 9 Order*") establishing a reasonable carryover shortfall of 44,900 acre-feet. Junior ground water users were given 14 days to provide a volume of water to fulfill the carryover shortfall. No water users secured water. While the SWC's storage allocation did not fill this year, because no water users secured water in 2024 to fulfill the carryover shortfall, there is no volume of water to be made available to the SWC under Step 5.

3. Step 6 of the *Methodology Order* states:

> Approximately halfway through the irrigation season, but following the events described in Step 5, the Director will, for each member of the SWC: (1) recalculate RISD [Reasonable In-Season Demand]; (2) issue a revised FS [Forecast Supply]; and (3) estimate the Time of Need date.

Methodology Order, at 43 (footnote omitted).

4. On April 16, 2025, the Director issued his *Final Order Regarding April 2025 Forecast Supply (Methodology Steps 1 – 3)* ("*April Forecast Supply Order*"). The *April Forecast Supply Order* predicted a demand shortfall to the SWC of 63,000 acre-feet for the 2025 irrigation season. *April Forecast Supply Order*, at 3. At that time, the only member of the SWC predicted to experience material injury during the 2025 irrigation season was Twin Falls Canal Company ("TFCC"). *Id.* The Director ordered that, on or before May 1, 2025, ground water users with consumptive water rights "junior to August 28, 1955, within the Eastern Snake Plain Aquifer area of common ground water supply shall establish, to the satisfaction of the Director, that they can mitigate for their proportionate share of the predicted April IDS [in-season demand shortfall] of 63,000 acre-feet in accordance with an approved mitigation plan." *Id.* at 6. The Director also ordered that, "[i]f a junior ground water user cannot establish . . . that they can mitigate for their proportionate share of the predicted April IDS in accordance with an approved mitigation plan, the Director will issue an order curtailing the junior-priority ground water user." *Id.*

5. On May 16, 2025, the Director issued a *Final Order Curtailing Ground Water Rights Junior to August 28, 1955* ("*Curtailment Order*"). The Director ordered that:

> [E]ffective May 31, 2025, ground water users holding water rights bearing priority dates junior to August 28, 1955, within the ESPA ACGWS [Eastern Snake Plain Aquifer area of common ground water supply], and listed in Attachment A to this order, shall curtail/refrain from diversion and use of ground water pursuant to those water rights unless notified by the Department that the order of curtailment has been modified or rescinded as to their water rights.

Curtailment Order, at 4.

B. April through June Changing Water Supply Conditions and Climate

6. The April 2025 Joint Forecast prepared by the United States Army Corps of Engineers ("USACE") and the United States Bureau of Reclamation ("BOR") predicted 3,380,000 acre-feet of unregulated inflow at the Snake River near Heise gage for the period April–July 2025, which equates to 102% of the 1991–2020 average. *April Forecast Supply Order*, at 2. The Joint Forecast "is generally as accurate a forecast as is possible using current data gathering and forecasting techniques." *Methodology Order*, at 19.

7. The June 2025 Joint Forecast prepared by the USACE and the BOR predicted 1,350,000 acre-feet of unregulated inflow at the Snake River near Heise gage for the period June–July 2025, which equates to 75% of the 1991–2020 average. The June forecast represents a decrease in the forecast runoff compared to the 1991–2020 average.

8. The April through June precipitation was below average, while the April through June temperature was above average. According to data measured at the Natural Resources Conservation Service's SNOTEL sites in the Upper Snake River Basin, the basin received 73%, 75%, and 18% of average precipitation in April, May, and June, respectively. The National Weather Service's Twin Falls weather station reported 9%, 38%, and 0% of normal precipitation in April, May, and June, respectively. Twin Falls temperatures were 2.5, 3.8, and 3.4 degrees above normal for April, May, and June, respectively.[1]

C. Reasonable In-Season Demand

9. RISD "is the projected annual diversion volume for each SWC entity during the year of evaluation that is attributable to the projected beneficial use of growing crops within the service area of the entity." *Methodology Order*, at 13. In April, the demand from the 2018 baseline year ("BLY") defines the RISD. *Id.* at 17. During the irrigation season, the RISD for the completed portion of the irrigation season is recalculated by dividing the actual crop water need ("CWN") for each entity by the project efficiency for that entity. *Id.* at 17, 43. For the remainder of the irrigation season, the RISD is the demand defined by the July–October 2018 BLY. RISD is calculated on a monthly time step.

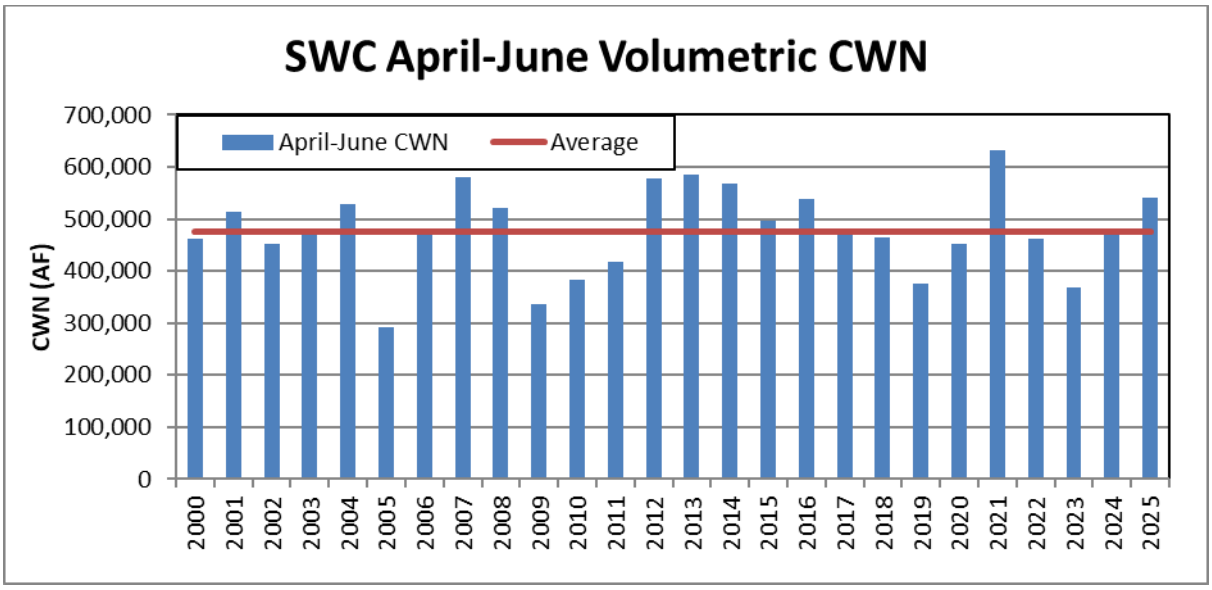
i. Crop Water Need

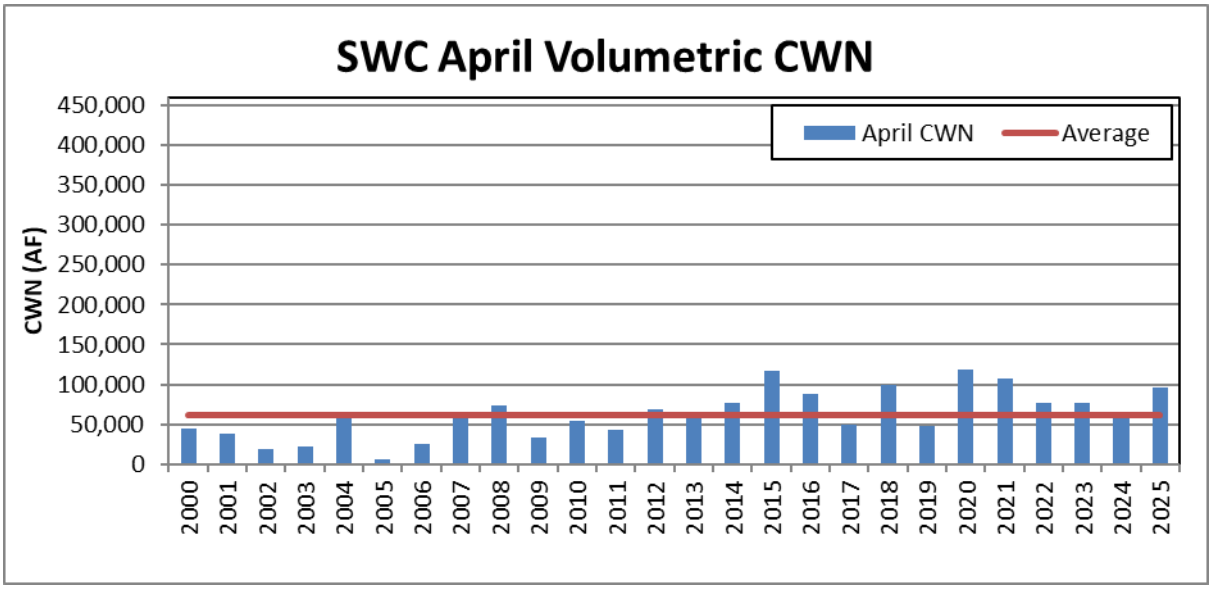
10. "CWN is the volume of irrigation water required for crop growth within a SWC entity boundary, such that crop growth is not limited by water availability." *Methodology Order*, at 15. "CWN is the difference between the fully realizable consumptive use associated with crop growth, or ET [evapotranspiration], and effective precipitation . . . ." *Id.*

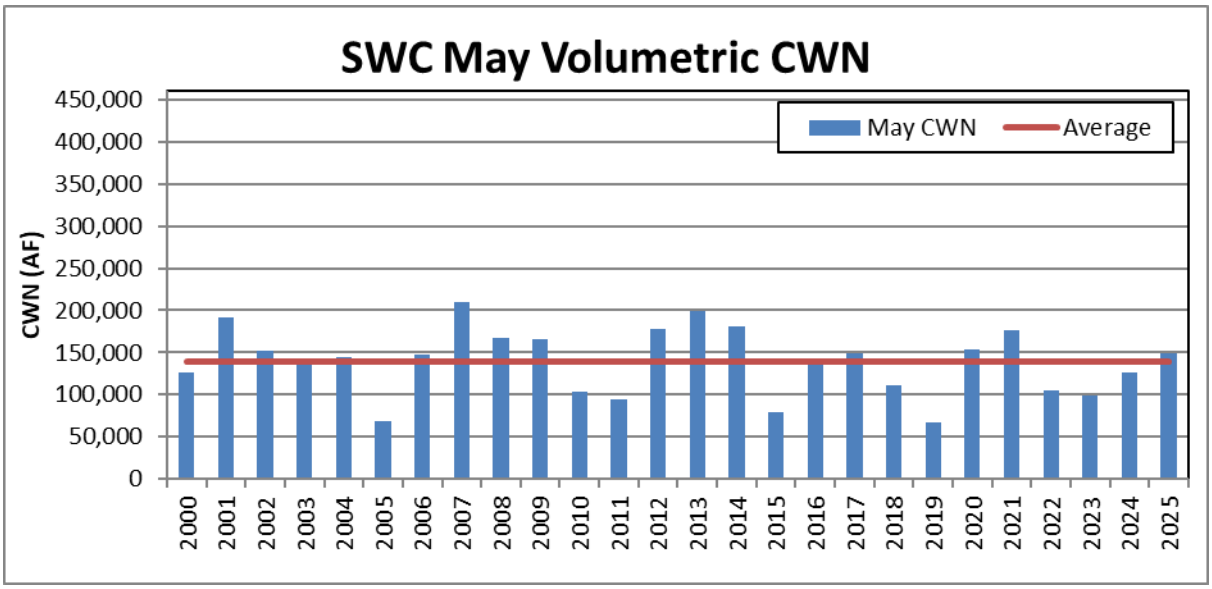
11. CWN is an input variable for calculating RISD for the completed portion of the irrigation season. *Id.* at 17. Actual RISD for the completed portion of the irrigation season is combined with monthly predicted baseline demands for the remaining months of the irrigation season to calculate a season-total RISD volume. *Id.* at 17–18. In-season demand shortfall is then calculated as the difference between the adjusted FS and the RISD. *Id.* at 23.

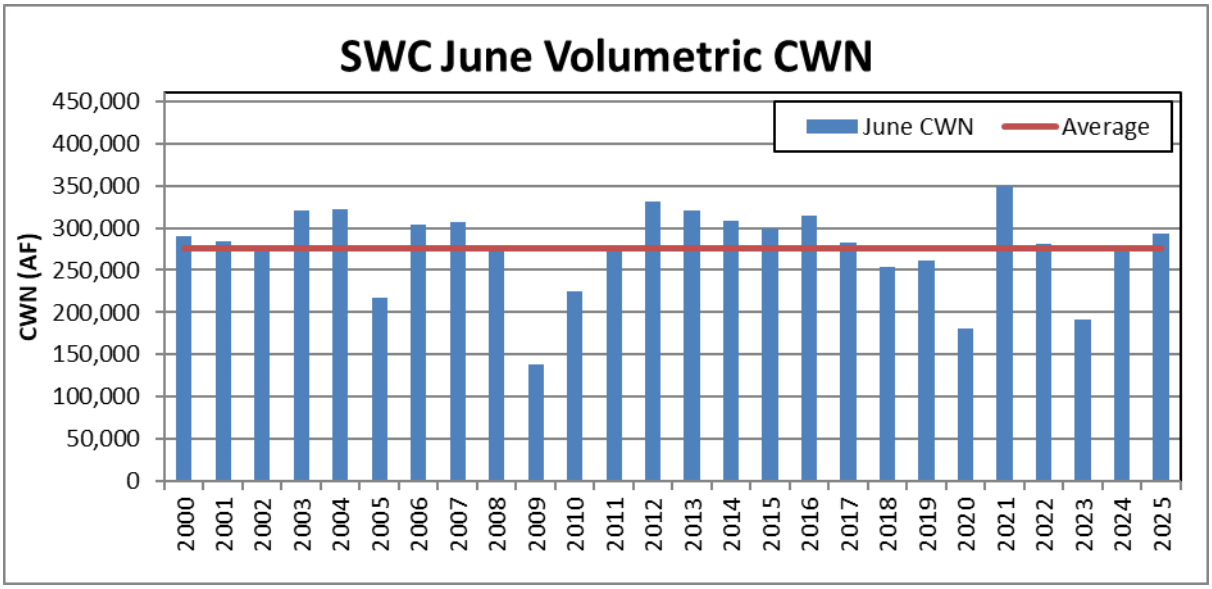
[1] Precipitation and temperature data obtained from the NOAA National Weather Service Preliminary Monthly Climate Data for the Twin Falls 3SE weather station (Twin Falls Airport).

12. As calculated from the beginning of the irrigation season (April 1), the SWC's volumetric CWN for the current water year through June 30, 2025, is 540,010 acre-feet. This volume is 113% of the 2000–2024 average CWN for April 1–June 30 and 116% of the CWN for the 2018 BLY. The following graphs summarize monthly volumetric CWN values:









ii. Extension of BLY

13. The RISD for the remaining portion of the irrigation season (July–October) is the July–October demand for the 2018 BLY. The numeric July–October demand values are shown in the table in Finding of Fact 14 below.

iii. Calculation of RISD

14. As calculated from the beginning of the irrigation season (April 1), the SWC's volumetric RISD for 2025 through June is 1,482,623 acre-feet. This volume is 113% of the 2000–2024 average demand from April 1–June 30 and 105% of the demand for the 2018 BLY. The recalculated RISD at this point of the 2025 irrigation season by entity is:

	April–June CWN (AF)	E_p (April–June)	April–June RISD (AF)	July–October Demand for 2018 BLY (AF)	Recalculated RISD (AF)
A&B	14,705	0.41-0.92	26,308	38,528	64,836[2]
AFRD2	59,878	0.20-0.37	196,184	274,485	470,669
BID	46,315	0.30-0.47	117,704	145,546	263,250
Milner	12,908	0.36-0.68	24,864	36,432	61,296
Minidoka	86,474	0.36-0.54	190,333	196,968	387,301
NSCC	127,790	0.21-0.40	421,800	594,099	1,015,899
TFCC	191,940	0.27-0.51	505,430	653,473	1,158,903

D. Forecast Supply

15. When calculated during the irrigation season, the FS is the sum of the year-to-date actual natural flow diversions, the forecasted natural flow supply for the remainder of the season, and the storage allocation for each member of the SWC. *Methodology Order*, at 43. For this order, the FS is the sum of the actual natural flow supply from April through June, the predicted natural flow supply from July through October, and the actual storage allocations. Actual natural flow diversions for the completed portion of the irrigation season are extracted from the Department's water rights accounting program. The natural flow diversions for the remainder of the irrigation season are estimated by regression analysis. *Id.* at 20–21, 43. Storage allocations are determined by Water District 01 after the Day of Allocation. *Id.* at 43.

i. Sum of Actual Natural Flow Diverted

16. Actual natural flow diverted for the period April through June for each SWC member are summarized in the table contained within the Summary of Forecast Supply section in Finding of Fact 23.

ii. Regression Models to Predict Natural Flow (July–October)

17. Natural flow diversions were predicted for the remainder of the irrigation season by regression analysis. The *Methodology Order* established the following predictor variables for the regression models: natural flow in the Snake River near Heise as reported by the BOR, snow water equivalent ("SWE") data from the Two Ocean Plateau SNOTEL site, Spring Creek discharge, and ground water levels near American Falls Reservoir. *Methodology Order*, at 20.

[2] The Department has modified the total A&B irrigated acreage count to 14,749 acres. Based on the decision in CV01-23-13238, the new acreage count removes A&B Irrigation District's enlargement acres.

Unique regression models with unique predictor variable groups are established in the *Methodology Order* for each SWC member. *Id.* at 20–21.

18. Either June 15 or July 1 SWE values for the Two Ocean Plateau SNOTEL site are used as input variables in each of the regression models developed in the *Methodology Order*. *Id.* Two Ocean Plateau SWE data was selected as a predictor variable in the *Methodology Order* based upon stepwise statistical analysis carried out in the development of each regression model. *Id.* The Two Ocean Plateau SWE data is an optimum predictor variable for several reasons, including: its elevation (the site is located above 9,000 ft and typically still has snow late in the runoff season (June 15 and July 1); its location (the site is in the headwaters of the Snake River above Jackson Reservoir); and its period of record, which is sufficiently long enough to support model development.

19. On July 1, 2025, the Two Ocean Plateau SNOTEL station reported 0.0 inches of SWE. When the snow water equivalent is zero on July 1, the predicted natural flow supplies for the period July 1–October 31 for A&B, AFRD2, and Milner are zero acre-feet. *Methodology Order*, at 20.

20. The input variables used to predict July–October natural flow volumes for BID, Minidoka, and NSCC in 2025 include: (1) 0.0 inches of SWE reported by the Two Ocean Plateau SNOTEL site on June 15, 2025; (2) 2,198,456 acre-feet of natural flow runoff at the Snake River near Heise (April–June) as reported by the BOR; and (3) 26.64 feet depth to water at well 05S 31E 27ABA1 as measured by the Department on March 23, 2025.

21. The variables used to predict the July–October natural flow volume for TFCC in 2025 include: (1) 6.3 inches of the SWE reported by the Two Ocean Plateau SNOTEL Site on June 15; (2) 2,198,456 acre-feet of natural flow runoff at the Snake River near Heise (April–June) as reported by the BOR; and (3) 76,458 acre-feet of discharge (January–May) as measured and reported by the United States Geologic Survey for its Spring Creek at Sheepskin Rd Nr Fort Hall ID Gage (Gage No. 13075983).

iii. Storage Allocations

22. Storage allocation values for each member of the SWC were established by Water District 01 on June 27, 2025, and are summarized in the table in Finding of Fact 24 below.

iv. Adjustments to Total Supply

23. Natural flow and storage water supplies were both adjusted, as shown in the table in Finding of Fact 24 below. Adjustments to natural flow include wheeled water to the Southwest Irrigation District through BID and Milner, 637 acre-feet and 516 acre-feet, respectively. Adjustments to natural flow also include wheeled water as a part of the Idaho Water Resource Board's water right to AFRD2, and BID, 1,441 acre-feet and 400 acre-feet, respectively. The only adjustments made to the stored water supply in the table below were for the Minidoka Credit. Adjustments for wheeled storage water published in WD1's weekly reports were not included as an adjustment because wheeled water does not actually increase the amount of water

available for use by the SWC. Water supplied to or from the rental pool was not included in the adjustments.

v. Summary of Forecast Supply

24. The following table summarizes the calculated FS and its individual components for each of the SWC members.

	Natural Flow Diverted through 6/30 (AF)	Predicted Natural Flow 7/1 to 10/31 (AF)	Natural Flow Adjustment (AF)	Preliminary Storage Allocation (AF)	Minidoka Credit Adjustment (AF)	Forecast Supply (AF)
A&B	10,356	0	0	120,473	0	130,829
AFRD2	90,653	0	(1,441)	383,912	1,000	474,124
BID	104,871	5,393	(1,037)	214,990	5,130	329,347
Milner	14,082	0	(516)	80,506	0	94,072
Minidoka	132,717	7,315	0	338,930	8,370	487,332
NSCC	366,647	53,561	0	798,776	(7,750)	1,211,234
TFCC	463,935	393,524	0	232,941	(6,750)	1,083,650

E. Revised Shortfall Prediction

25. In-season demand shortfall ("IDS") is calculated as the difference between RISD and the FS.

26. Based on the above, and as summarized in the following table, the Director predicts that TFCC will be materially injured by junior ground water pumping.

	Forecast Supply (AF)	RISD (AF)	Shortfall (AF)
A&B	130,829	64,836	0
AFRD2	474,124	470,669	0
BID	329,347	263,250	0
Milner	94,072	61,296	0
Minidoka	487,332	387,301	0
NSCC	1,211,234	1,015,899	0
TFCC	1,083,650	1,158,903	75,300
		Total	75,300

27. The current predicted shortfall to the SWC's RISD is 75,300 acre-feet.

28. At approximately the halfway point of the irrigation season, the estimated Time of Need is established by predicting when the remaining storage balance equals the volume of reasonable carryover. This year, because TFCC is the only entity with a calculated injury, the Time of Need equals the predicted day when its remaining storage equals its reasonable carryover volume of 37,400 acre-feet. To calculate the Time of Need for TFCC, the Department chose 2021 as the analogous year to predict TFCC's storage use for the remainder of the 2025 irrigation season. The analogous year, 2021, was selected based on similar Blackfoot to Milner reach gains. Assuming TFCC's storage use for the remainder of the 2025 season will match its storage use in 2021, the Time of Need is predicted to occur on August 28, 2025, for TFCC.

F. Step 6

29. Step 6 requires the following:

> Upon a determination of an additional mitigation obligation, junior ground water users will be required to establish, to the satisfaction of the Director, their ability to secure a volume of storage water or to conduct other approved activities pursuant to an approved mitigation plan that will deliver the additional mitigation obligation water to the injured members of the SWC at the Time of Need. If junior ground water users fail or refuse to submit this information within fourteen (14) days from issuance of a Step 6 order, the Director will issue an order curtailing junior ground water users. A transient ESPAM simulation will be run to determine the priority date to produce the necessary additional mitigation obligation volume by September 30 of the same year. Curtailment will be simulated within the area of common ground water supply, as described by CM Rule 50.01.

Methodology Order, at 44 (footnote omitted). Effective July 1, 2024, Senate Bill 1341 added a new section to Idaho Code, Idaho Code § 42-233c, which modified the description of the ESPA area of common ground water supply.[3]

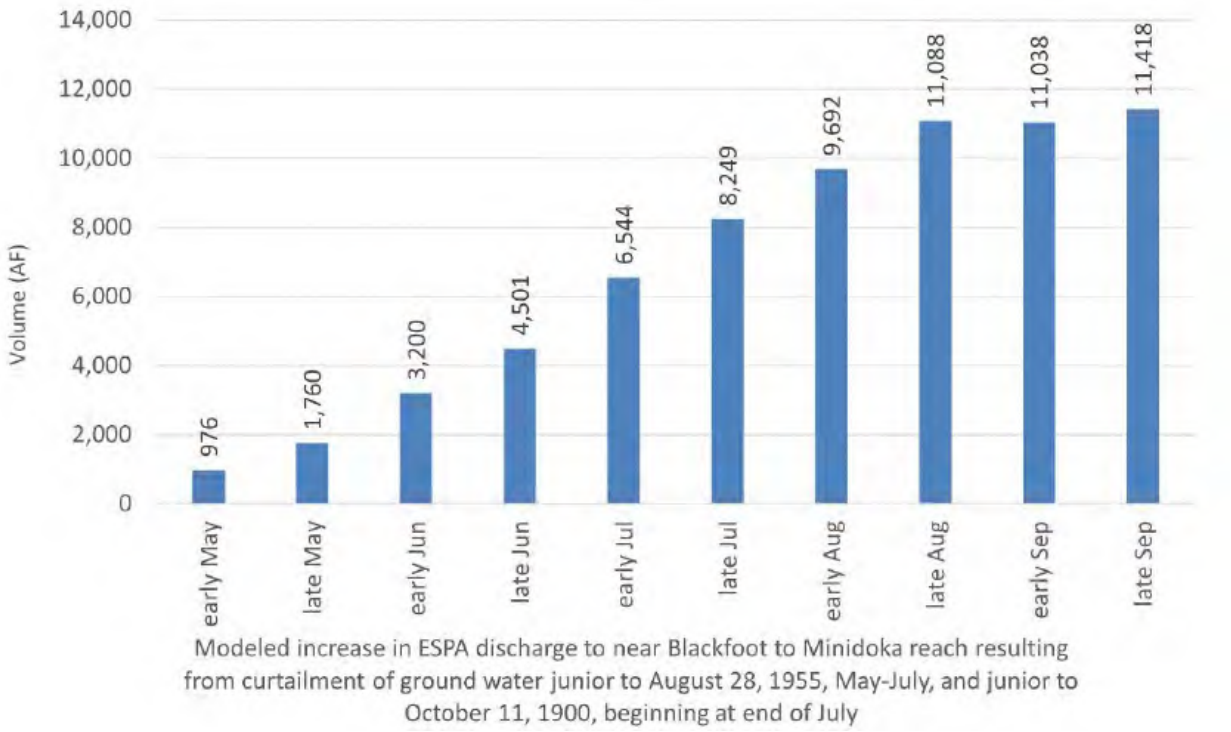
30. The predicted July IDS for TFCC is 75,300 acre-feet.

31. In April 2025, pursuant to the *Methodology Order*, the Department ran the Eastern Snake Plain Aquifer Model version 2.2 ("ESPAM2.2") to calculate the priority curtailment date, such that the curtailment of all water rights junior to the date within the area of common ground water supply, would produce a volume of water equal to the April IDS in the Snake River between May 1 and September 30. The ESPAM2.2 simulation predicted curtailment of ground water rights bearing priority dates junior to August 28, 1955, would produce the volume of water equal to the predicted April IDS of 63,000 AF in the near Blackfoot to Minidoka reach. *April Forecast Supply Order*, at 4.

32. In July 2025, the Department ran the ESPAM2.2 to simulate the effect of adjusting the curtailment priority date at the end of July. The ESPAM2.2 simulation calculated that the curtailment of ground water rights junior to August 28, 1955, through the end of July followed

[3] S.B. 1341, 67th Leg., 2d Reg. Sess. (Idaho 2024).

by curtailment of groundwater rights junior to October 11, 1900,[4] will produce a volume of water of 58,000 AF in the near Blackfoot to Minidoka reach between July 1 and September 30 of this irrigation season. The following figure summarizes the results of the ESPAM2.2 simulation:



Modeled increase in ESPA discharge to near Blackfoot to Minidoka reach resulting from curtailment of ground water junior to August 28, 1955, May-July, and junior to October 11, 1900, beginning at end of July

33. The predicted July through September benefits to the near Blackfoot to Minidoka reach from curtailment of ground water rights bearing priority dates junior to August 28, 1955, through the end of July followed by curtailment of groundwater rights junior to October 11, 1900, are less than the July IDS of 75,300 acre-feet. Increasing the curtailment to include ground water rights junior to October 11, 1900, will offset as much of the July IDS as possible.

CONCLUSIONS OF LAW

1. Idaho Code § 42-602 authorizes the Director to supervise water distribution within water districts:

> The director of the department of water resources shall have direction and control of the distribution of water from all natural water sources within a water district to the canals, ditches, pumps and other facilities diverting therefrom. Distribution of water within water districts created pursuant to section 42-604, Idaho Code, shall be accomplished by watermasters as provided in this chapter and supervised by the director. The director of the department of water resources shall distribute water in water districts in accordance with the prior appropriation doctrine. The provisions of chapter 6, title 42, Idaho Code, shall apply only to distribution of water within a water district.

[4] October 11, 1900, is the priority date equal to TFCC's Water Right No. 1-209, the most senior SWC natural flow water right predicted to be injured.

2. Idaho Code § 42-607 states the watermaster, under the direction of the Idaho Department of Water Resources, shall regulate diversions "during times of water scarcity, in order to supply the prior rights of others from such stream or water supply . . . ."

3. This year, no water is required to be allocated to the SWC pursuant to Step 5 related to a reasonable carryover shortfall because no junior water users secured water in 2024 to fulfill the carryover shortfall.

4. Based on the Findings of Fact 6 through 27 above, it is reasonably certain TFCC will be materially injured. The calculated shortfall to TFCC is 75,300 acre-feet.

5. In the *April Forecast Supply Order*, the Director predicted a demand shortfall for the SWC of 63,000 acre-feet. Because the shortfall volume calculated consistent with Step 6 of the *Methodology Order* is different than the shortfall predicted in the *April Forecast Supply Order*, the curtailment date established in the May 16, 2025 *Curtailment Order* must be adjusted.

6. Using the ESPAM2.2, the Department has determined that the curtailment of ground water rights bearing priority dates junior to August 28, 1955, through the end of July followed by curtailment of groundwater rights junior to October 11, 1900, would result in a volume of water less than the predicted July IDS of 75,300 acre-feet in the near Blackfoot to Minidoka reach between July 1 and September 30 of this irrigation season. Accordingly, increasing the curtailment to include ground water rights junior to October 11, 1900, is necessary for curtailment to offset as much of the July IDS as possible.

7. Junior ground water users holding consumptive water rights bearing priority dates junior to October 11, 1900, within the Eastern Snake Plain Aquifer area of common ground water supply[5] must mitigate for their proportionate share of the predicted July IDS in accordance with an approved mitigation plan.[6] Junior ground water users mitigating for their proportionate share of the predicted July IDS with a secured volume of water pursuant to an approved mitigation plan must, to the satisfaction of the Director, secure their proportionate share for delivery to the injured members of the SWC on or before July 24, 2025.

[5] The current area of common ground water supply for the Eastern Snake Plain Aquifer is defined in Idaho Code § 42-233c as the aquifer underlying the Eastern Snake River Plain as described in the model calibration report for ESPAM2.2 dated May 2021.

[6] There are five approved mitigation plans responding to the SWC delivery call, the SWC stipulates to each: (1) No. CM-MP-2015-003 for the benefit of A&B; (2) No. CM-MP-2010-001 for the benefit of Southwest Irrigation District and Goose Creek Irrigation District (collectively, "SWID"); (3) No. CM-MP-2024-003 for the benefit of the Ground Water Districts; (4) No. CM-MP-2019-001 for the benefit of the Coalition of Cities; and (5) No. CM-MP-2007-001 for the benefit of the Water Mitigation Coalition. Given the nature of certain plans, the Department must calculate the proportionate share of the predicted IDS. With regard to A&B's mitigation plan, A&B's proportionate share of the predicted July IDS is 5,039 acre-feet. In response to the *April Forecast Supply Order,* A&B has already secured 164 acre-feet of storage water for the 2025 irrigation season. Due to the nature of the mitigation plans for SWID, the Ground Water Districts, the Coalition of Cities, and the Water Mitigation Coalition, these entities do not need to establish that they can mitigate for their proportionate share of the predicted IDS.

8. If, on or before July 24, 2025, ground water users holding consumptive water rights bearing priority dates junior to October 11, 1900, within the Eastern Snake Plain Aquifer area of common ground water supply fail to establish, to the satisfaction of the Director, that they can mitigate for their proportionate share of the predicted July IDS of 75,300 acre-feet in accordance with an approved mitigation plan, the Director will issue an order curtailing the junior-priority ground water user. Junior ground water users who are mitigating with a secured volume of water are not required to assign the secured volume of water until after the Director issues a subsequent order requiring the assignment.

ORDER

Based upon and consistent with the foregoing, IT IS HEREBY ORDERED as follows:

The Director predicts an in-season IDS of 75,300 acre-feet. On or before July 24, 2025, ground water users holding consumptive water rights bearing priority dates junior to October 11, 1900, within the Eastern Snake Plain Aquifer area of common ground water supply shall establish, to the satisfaction of the Director, that they can mitigate for their proportionate share of the predicted IDS of 75,300 acre-feet in accordance with an approved mitigation plan. If a junior ground water user cannot establish, to the satisfaction of the Director, that they can mitigate for their proportionate share of the predicted IDS of 75,300 acre-feet in accordance with an approved mitigation plan, the Director will issue an order curtailing the junior-priority ground water user.[7]

IT IS FURTHER ORDERED that the May 16, 2025 *Curtailment Order* remains in full force and effect. All ground water users holding water rights listed in Attachment A to the May 16, 2025 *Curtailment Order* bearing priority dates junior to August 28, 1955, shall continue to be curtailed from diversion and use of ground water pursuant to those water rights unless they are mitigating in accordance with an approved mitigation plan or are notified by the Department that the order of curtailment has been modified or rescinded as to their water rights.

Dated this 10th day of July 2025.

MATHEW WEAVER
Director

[7] On June 28, 2024, the Director issued an order declaring that ground water rights that were to be newly included in the Eastern Snake Plain Aquifer area of common ground water starting July 1, 2024, due to the passage of Senate Bill 1341, would not be subject to administration until November 1, 2025. *Order Re. Mid-Season Change to Area of Common Ground Water Supply for E. Snake Plain Aquifer; 3d Order Am. Curtailment List,* at 4. Accordingly, ground water users holding consumptive water rights bearing priority dates junior to October 11, 1900, that were newly included in the Eastern Snake Plain Aquifer area of common ground water supply per the Director's June 28, 2024 order, are not subject to administration at this time and are not required to establish that they can mitigate for their proportionate share of the predicted IDS.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 10th day of July 2024, the above and foregoing, was served by the method indicated below, and addressed to the following:

John K. Simpson MARTEN LAW LLP PO Box 2139 Boise, ID 83701-2139 jsimpson@martenlaw.com	☒ U.S. Mail, postage prepaid ☒ Email
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Sarah Tschohl
Paralegal

EXPLANATORY INFORMATION TO ACCOMPANY A FINAL ORDER

(To be used in connection with actions when a hearing was **not** held)

The accompanying document is a "**Final Order**" issued by the Idaho Department of Water Resources ("Department") pursuant to Idaho Code § 67-5246.

PETITION FOR RECONSIDERATION

(*See* Idaho Code § 67-5246(4))

Any party may file a petition for reconsideration of this 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 presiding officer 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.

REQUEST FOR HEARING

(*See* Idaho Code § 42-1701A(3))

Unless the right to a hearing before the Department or the Water Resource Board is otherwise provided by statute, any person aggrieved by any final decision, determination, order or action of the Director, and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to Idaho Code § 42-1701A(3). A written petition to the Director contesting this final order and requesting a hearing must be filed with the Department by any aggrieved person **within fifteen (15) days after service of this final order**.

CERTIFICATE OF SERVICE

(*See* IDAPA 37.01.01.053, 37.01.01.202)

All documents filed with the Department in connection with a petition for reconsideration or a request for hearing of this final order shall be served on all other parties to the proceedings in accordance with Rules of Procedure 53 and 202.

RECEIVED
Jul 24, 2025
DEPARTMENT OF
WATER RESOURCES

Travis L. Thompson, ISB #6168
Abby R. Bitzenburg, ISB #12198
PARSONS BEHLE & LATIMER
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Attorneys for A&B Irrigation District

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY OR FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY	Docket No. CM-DC-2010-001 **A&B IRRIGATION DISTRICT'S REQUEST FOR HEARING**

COMES NOW, A&B IRRIGATION DISTRICT ("A&B or "District"), by and through counsel of record, and hereby requests a hearing in the above-referenced matter pursuant to I.C. § 42-1701A(3) and submits the following list of initial issues regarding the Director's *Order Revising April 2025 Forecast Supply and Continuing May 16, 2025 Curtailment Order* issued on July 10, 2025. A&B reserves the right to supplement this request as necessary.

1. Whether the order's identified proportionate share (5,039 acre-feet) of the predicted injury (75,300 acre-feet) to TFCC is calculated correctly based upon A&B's actual diversion and use of water rights that are subject to the identified curtailment date (junior to October 11, 1900).

2. Whether the steady-state use of the ESPAM 2.2 in identifying A&B's proportionate share of the estimated in-season demand shortfall is consistent with the transient use of the model in identifying ground water rights subject to curtailment as outlined in the *Sixth Methodology Order*.

3. Whether the Director's failure to implement the May 16, 2025 curtailment order in accordance with Idaho law has injured A&B by subjecting its senior water right 36-2080 to curtailment and/or mitigation requirements during the 2025 irrigation season.

4. For other and further reasons as may be discovered prior to hearing. A&B reserves the right to identify additional issues as necessary in this proceeding.

DATED this 24th day of July, 2025.

PARSONS BEHLE & LATIMER

Travis L. Thompson
Abby R. Bitzenburg

Attorneys for A&B Irrigation District

CERTIFICATE OF SERVICE

I hereby certify that on this 24th day of July, 2025, I served a true and correct copy of the foregoing *A&B Irrigation District's Request for Hearing* on the following by the method indicated:

Director Mat Weaver Garrick Baxter Sarah Tschohl State of Idaho Dept. of Water Resources 322 E Front St. Boise, ID 83720-0098 *** service by electronic mail mat.weaver@idwr.idaho.gov garrick.baxter@idwr.idaho.gov sarah.tschohl@idwr.idaho.gov file@idwr.idaho.gov	Gail McGary U.S. Bureau of Reclamation 1150 N. Curtis Rd. Boise, ID 83706-1234 *** service by electronic mail only emcgarry@usbr.gov	John K. Simpson IdaH20, PLLC 4354 N. Hackberry Way Boise, ID 83702-1667 *** service by electronic mail only jks@idahowaters.com
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_/s/ Jessica Nielsen_____
Jessica Nielsen
Assistant for Travis L. Thompson

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY OR FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY	Docket No. CM-DC-2010-001 **ORDER GRANTING A&B IRRIGATION DISTRICT'S REQUESTS FOR HEARING, CONSOLIDATING PROCEEDINGS FOR HEARING, AND APPOINTING HEARING OFFICER;** **NOTICE OF PREHEARING CONFERENCE**

The Director of the Idaho Department of Water Resources ("Department") finds, concludes, and orders as follows:

FINDINGS OF FACT

1) On July 19, 2023, the Director issued the *Sixth Final Order Regarding Methodology for Determining Material Injury to Reasonable In-Season Demand and Reasonable Carryover* ("*Methodology Order*"). The *Methodology Order* established nine steps for determining material injury to members of the Surface Water Coalition ("SWC").[1]

2) On April 16, 2025, the Director issued the *Final Order Regarding April 2025 Forecast Supply (Methodology Steps 1–3)* ("*April Forecast Supply Order*") predicting an in-season demand shortfall ("IDS") to Twin Falls Canal Company ("TFCC"), a member of the SWC, in the amount of 63,000 acre-feet. *April Forecast Supply Order*, at 3–4. The Director ordered that, by May 1, 2025, ground water users with consumptive water rights "bearing priority dates junior to August 28, 1955, within the Eastern Snake Plain Aquifer area of common ground water supply [("ESPA ACGWS")] shall establish, to the satisfaction of the Director, that they can mitigate for their proportionate share of the predicted April IDS of 63,000 acre-feet in accordance with an approved mitigation plan." *Id*. at 6. The Director also ordered that, if such a junior ground water user cannot establish that they can mitigate for their proportionate share of the predicted IDS "in accordance with an approved mitigation plan, the Director will issue an order curtailing the junior-priority ground water user." *Id*.

[1] The SWC is comprised of A&B Irrigation District ("A&B"), American Falls Reservoir District #2, Burley Irrigation District, Milner Irrigation District, Minidoka Irrigation District, North Side Canal Company, and Twin Falls Canal Company.

3) In the *April Forecast Supply Order,* the Director found that A&B Irrigation District ("A&B") must mitigate for its proportionate share of the predicted IDS and determined that A&B's proportionate share was 384 acre-feet. *Id*. at 5 n.8.[2]

4) On April 29, 2025, in response to the *April Forecast Supply Order's* requirement for junior ground water right holders to establish how they will mitigate their proportionate share of the predicted demand shortfall, A&B sent a letter to the Director stating:

> [I]t is the District's intent to continue to curtail the enlargement water rights (2,063 acres) for the 2025 irrigation season. The District will also deliver surface water to an additional 1,510.6 acres that could have been irrigated with some of the District's ground water rights with an April 1, 1962 priority (water right nos. 36-15127A et al.). The District intends to continue to deliver surface water to lands formerly irrigated with groundwater, approximately 3,573.6 in total, with groundwater supplied to certain areas as needed for pipeline operations.
> . . . .
> [T]o the extent that A&B needs to also show that it has 384 acre-feet of storage to delivery to TFCC, that water is expected to be available in its final storage allocation for the 2025 irrigation [sic] (American Falls and Palisades storage space). If necessary, that amount of storage will be available for formal assignment from A&B to TFCC through the Water District 01 rental pool.

Letter from Travis Thompson, attorney for A&B, to Mat Weaver, Department Director (April 29, 2025).

5) On the same day, A&B also filed a petition in this matter requesting a hearing to contest the *April Forecast Supply Order*. *A&B Req. for Hr'g*, at 1 (Apr. 2025). The request was made pursuant to Idaho Code § 42-1701A(3), and seeks to address:

> (1) Whether the order's identified proportionate share (384 acre-feet) of the predicted injury (63,000 acre-feet) to TFCC is calculated correctly based upon A&B's actual diversion and use of water rights that are subject to the identified curtailment date (junior to August 28, 1955).
>
> (2) Whether A&B should be allowed to mitigate for a portion of groundwater right 36-15127A (approximately 508.3 acres) that will be diverted [sic] used during the 2025 irrigation season, as opposed to mitigating for all 1,886.4 acres authorized by the water right.
>
> (3) Whether the steady-state use of the ESPAM 2.2 in identifying A&B's proportionate share is consistent with the transient use of the model in identifying ground water rights subject to curtailment as outlined in the *Sixth Methodology Order*.

[2] The Department-approved mitigation plan submitted in response to the subject delivery call for the benefit of A&B is docketed under No. CM-MP-2015-003.

(4) For other issues and matters that may [sic] discovered in this proceeding.

Id. at 1–2.

6) On May 16, 2025, the Director issued an order curtailing ground water rights junior to August 28, 1955, listing A&B's water right nos. 36-16749, 36-15127A, 36-15192, 36-15193A, 36-15194A, 36-15195A, 36-15196A, 36-15193B, 36-15194B, 36-15195B, and 36-15196B. *Final Order Curtailing Ground Water Rts. Junior to Aug. 28, 1955*, at 4, attach. A, at 1 [hereinafter *May Curtailment Order*]. The order also included the following:

> [O]n or before June 6, 2025, A&B shall provide documentation, to the satisfaction of the Director, that it has secured a lease for the amount of storage water necessary to mitigate for its obligation under its approved mitigation plan. If A&B cannot establish, to the satisfaction of the Director, that it has secured such a lease, the Director will issue an order adding water right no. 36-15127B on the list of water rights subject to curtailment.

May Curtailment Order, at 4.

7) On June 6, 2025, A&B submitted documentation for consideration by the Director to establish that A&B had secured a lease for the amount necessary to mitigate for its proportionate share in accordance with its approved mitigation plan.

8) On July 10, 2025, the Director issued an *Order Revising April 2025 Forecast Supply and Continuing May 16, 2025 Curtailment Order (Methodology Steps 5 & 6)* ("*July As-Applied Order*"). The Director predicted a revised IDS in the amount of 75,300 acre-feet. *July As-Applied Order*, at 8. The Director concluded that A&B's proportionate share of the predicted injury to TFCC is 5,039 acre-feet. *Id*. at 11 n.6. However, the order noted that in response to the *April Forecast Supply Order*, A&B previously demonstrated that it had "already secured 164 acre-feet of storage water for the 2025 irrigation season." *Id*.

9) On July 24, 2025, A&B filed another request for hearing, this time contesting the *July As-Applied Order*. *A&B Req. for Hr'g*, at 1 (July 2025). Again, the request was made pursuant to Idaho Code § 42-1701A(3), listing the following as issues for hearing:

> (1) Whether the order's identified proportionate share (5,039 acre-feet) of the predicted injury (75,300 acre-feet) to TFCC is calculated correctly based upon A&B's actual diversion and use of water rights that are subject to the identified curtailment date (junior to October 11, 1900).
>
> (2) Whether the steady-state use of the ESPAM 2.2 in identifying A&B's proportionate share of the estimated in-season demand shortfall is consistent with the transient use of the model in identifying ground water rights subject to curtailment as outlined in the *Sixth Methodology Order*.

(3) Whether the Director's failure to implement the May 16, 2025 curtailment order in accordance with Idaho law has injured A&B by subjecting its senior water right 36-2080 to curtailment and/or mitigation requirements during the 2025 irrigation season.

(4) For other and further reasons as may be discovered prior to hearing. A&B reserves the right to identify additional issues as necessary in this proceeding.

Id. at 1–2.

10) The issues identified for hearing in A&B's July hearing request relate to, and even mirror at times, the issues identified in its April request. A&B has not previously been afforded an opportunity for a hearing to contest either the *April Forecast Supply Order* or *July As-Applied Order*.

11) Also on July 24, 2025, A&B submitted a *Joint Motion for Order Approving 2025 Stipulation* ("*Joint Motion*"), together with the other members of the SWC. The *Joint Motion* explains that A&B and the other members of the SWC entered into a stipulation, referred to as the "*2025 Stipulation*," to "define A&B's mitigation obligation for the 2025 irrigation season." *Joint Motion*, at 2. The stipulation included a request for the Director to approve the *2025 Stipulation* as "stipulated compliance with [A&B's] approved mitigation plan for the 2025 irrigation season." *Id*.

12) On July 25, 2025, the Director issued an order that approved the *2025 Stipulation*, concluding that "[t]he *2025 Stipulation* between A&B and the other members of the SWC is consistent with A&B's approved *Stipulated Mitigation Plan* in Docket No. CM-MP-2015-003." *Order Approving 2025 Stip. as Compliance with Approved Mitigation Plan*, at 3. Accordingly, in the *Final Order Curtailing Ground Water Rights Junior to October 11, 1900*, also issued July 25, 2025, none of A&B's water rights were included in Attachment A—the list of water rights subject to curtailment.

CONCLUSIONS OF LAW

1) Idaho Code § 42-1701A(3) provides in relevant part:

> Unless the right to a hearing before the director . . . is otherwise provided in by statute, any person aggrieved by any action of the director, including any decision, determination, order or other action . . . who is aggrieved by the action of the director, and who has not previously been afforded an opportunity for a hearing on the matter shall be entitled to a hearing before the director to contest the action.

2) Pursuant to Idaho Code § 42-1701A(3), A&B is entitled to a hearing on the *April Forecast Supply Order* and *July As-Applied Order*, as its petitions were timely and A&B has not previously been afforded an opportunity for hearing on the issues it presented within the

requests. Therefore, the Director should grant both the request for hearing made by A&B in April, and the one filed in July.

3) Considering the long history of litigation stemming from the above-captioned matter and the temporary nature of the *2025 Stipulation*, the Director determines that informal proceedings are unlikely to resolve the issues presented in A&B's requests for hearing. Moreover, since both petitions were filed into the same docket and the issues presented in A&B's hearing requests are related, the Director concludes that it is appropriate to consolidate the proceedings for hearing, set the matter for a prehearing conference, and appoint Gerald F. Schroeder, former Idaho Supreme Court Chief Justice, to serve as the hearing officer.

ORDER

Based upon and consistent with the foregoing, IT IS HEREBY ORDERED that *A&B Irrigation District's Request for Hearing* filed April 29, 2025, and *A&B Irrigation District's Request for Hearing* filed July 24, 2025, are GRANTED. The granting of these requests for hearing does not stay the effectiveness of the *Methodology Order* or any curtailment order.

IT IS FURTHER ORDERED that the contested case proceedings initiated by granting *A&B Irrigation District's Request for Hearing* filed April 29, 2025, and *A&B Irrigation District's Request for Hearing* filed July 24, 2025, are consolidated for hearing pursuant to IDAPA 37.01.01.555.

IT IS FURTHER ORDERED that Gerald F. Schroeder is appointed to serve as hearing officer in this matter and is authorized to preside over the above-consolidated proceedings on behalf of the Department pursuant to IDAPA 37.01.01.410–414 and the provisions of chapter 52, title 67, Idaho Code. Hearing Officer Schroeder's contact information is as follows:

Gerald F. Schroeder
gerald_23107@msn.com

NOTICE OF PREHEARING CONFERENCE

NOTICE IS HEREBY GIVEN that a prehearing conference in this matter will be held on **September 18, 2025, at 1:30 p.m. (MT)**, at the Department's State Office, located at 322 E. Front Street, 6th Floor, Conference Rooms 602C–D, Boise, Idaho. All parties must be represented at the prehearing conference, whether in person or remote. Participants shall come prepared to discuss proposed issues for hearing, scheduling and procedural requests, and any other matters that could aid in the fair and efficient resolution of the contested cases.

To join the conference via computer or smartphone, please click the following Webex link and follow the prompts:
https://idahogov.webex.com/idahogov/j.php?MTID=m8bbd3c8ad9cd3835d0be487bd36d6cd0.

To join the conference via telephone, please dial 1(415) 655-0001 (US Toll) and enter the following meeting access code when prompted: 2869 589 6214.

The conference will be held in accordance with the provisions of Chapter 17, Title 42, and Chapter 52, Title 67, Idaho Code, and the Department's Rules of Procedure, IDAPA 37.01.01. A copy of the Rules of Procedure may be obtained from the Department upon request or at https://adminrules.idaho.gov/rules/current/37/370101.pdf.

The prehearing conference will be conducted in a facility that meets the accessibility requirements of the Americans with Disabilities Act. If you require reasonable accommodation to attend, participate in, or understand the conference, please advise the Department no later than five (5) days before the conference. Inquiries for reasonable accommodations should be directed to Sarah Tschohl, Idaho Department of Water Resources, PO Box 83720, Boise, Idaho 83720-0098, telephone (208) 287-4815, or email sarah.tschohl@idwr.idaho.gov.

DATED this 3rd day of September 2025.

MATHEW WEAVER
Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 3rd day of September 2025, the above and foregoing, was served by the method indicated below, and addressed to the following:

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Sarah Tschohl
Paralegal

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY OR FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY	Docket No. CM-DC-2010-001 **ORDER REVISING JULY 2025 FORECAST SUPPLY** ***(METHODOLOGY STEPS 7–8)***

The Director of the Idaho Department of Water Resources ("Department") finds, concludes, and orders as follows:

FINDINGS OF FACT

A. Background

1. On July 19, 2023, the Director issued the *Sixth Final Order Regarding Methodology for Determining Material Injury to Reasonable In-Season Demand and Reasonable Carryover* ("*Methodology Order*"). The *Methodology Order* established nine steps for determining material injury to members of the Surface Water Coalition ("SWC"). This order applies Steps 7 and 8 of the *Methodology Order*.

2. On April 16, 2025, the Director issued the *Final Order Regarding April 2025 Forecast Supply (Methodology Steps 1–3)* ("*April Forecast Supply Order*"). The *April Forecast Supply Order* predicted a demand shortfall to the SWC of 63,000 acre-feet for the 2025 irrigation season. *April Forecast Supply Order* at 3. At that time, the only member of the SWC predicted to experience material injury during the 2025 irrigation season was Twin Falls Canal Company ("TFCC"). The Director ordered that, by May 1, 2025, ground water users with consumptive water rights "junior to August 28, 1955, within the Eastern Snake Plain Aquifer area of common ground water supply shall establish, to the satisfaction of the Director, that they can mitigate for their proportionate share of the predicted April IDS [(in-season demand shortfall)] of 63,000 acre-feet in accordance with an approved mitigation plan." *Id.* at 6. The Director also ordered that, "[i]f a junior ground water user cannot establish . . . that they can mitigate for their proportionate share of the predicted April IDS in accordance with an approved mitigation plan, the Director will issue an order curtailing the junior-priority ground water user." *Id.*

3. On May 16, 2025, the Director issued a *Final Order Curtailing Ground Water Rights Junior to August 28, 1955* ("*First Curtailment Order*"). The Director ordered that:

> [E]ffective May 31, 2025, ground water users holding water rights bearing priority dates junior to August 28, 1955, within the ESPA ACGWS, and listed in Attachment A to this order, shall curtail/refrain from diversion and use of ground

> water pursuant to those water rights unless notified by the Department that the order of curtailment has been modified or rescinded as to their water rights.

First Curtailment Order at 4.

4. On July 10, 2025, the Director issued the *Order Revising April 2025 Forecast Supply and Continuing May 16, 2025 Curtailment Order (Methodology Steps 5 & 6)* ("*July Forecast Supply Order*"), revising the IDS to 75,300 acre-feet. *July Forecast Supply Order* at 8. The Director ordered that:

> On or before July 24, 2025, ground water users holding consumptive water rights bearing priority dates junior to October 11, 1900, within the Eastern Snake Plain Aquifer area of common ground water supply shall establish, to the satisfaction of the Director, that they can mitigate for their proportionate share of the predicted IDS of 75,300 acre-feet in accordance with an approved mitigation plan. If a junior ground water user cannot establish, to the satisfaction of the Director, that they can mitigate for their proportionate share of the predicted IDS of 75,300 acre-feet in accordance with an approved mitigation plan, the Director will issue an order curtailing the junior-priority ground water user.

Id. at 12 (footnote omitted).

5. Step 7 of the *Methodology Order* requires:

> Shortly before the estimated Time of Need, but following the events described in Steps 5 and 6, the Director will, for each member of the SWC: (1) recalculate RISD [(reasonable in-season demand)]; (2) issue a revised FS [(forecast supply)]; and (3) establish the Time of Need. The revised FS for each SWC entity is the sum of the year-to-date actual natural flow diversions, the forecasted natural flow supply for the remainder of the season, and the storage allocation for each member of the SWC. The forecasted natural flow supply for the remainder of the season will be based on analogous year(s) with similar Blackfoot to Milner reach gains. The storage allocation will be based on the actual preliminary storage allocations issued by the BOR [(United States Bureau of Reclamation)] and Water District 01.
>
> This information will be used to recalculate RISD and adjust the projected IDS for each member of the SWC. RISD will be calculated utilizing the project efficiency, BD [(baseline year demand)], and the cumulative actual CWN [(crop water need)] determined up to that point in the irrigation season. The Director will then issue revised RISD and IDS values.
>
> A transient ESPAM simulation will be run to determine the priority date of water rights that must be curtailed to produce the demand shortfall volume by September 30 of the same year. Curtailment will be simulated within the area of common ground water supply, as described by CM Rule 50.01.

Methodology Order at 44.

6. Effective July 1, 2024, Senate Bill 1341 added a new section to Idaho Code, Idaho Code § 42-233c, which codified the description of the ESPA area of common ground water supply. S.B. 1341, 67th Leg., 2d Reg. Sess. (Idaho 2024). The current area of common ground water supply for the Eastern Snake Plain Aquifer is defined as the aquifer underlying the Eastern Snake River Plain as described in the model calibration report for ESPAM2.2, dated May 2021. I.C. § 42-233c(1).

7. Step 8 of the *Methodology Order* requires:

> At the Time of Need, junior ground water users are required to deliver to each injured member of the SWC the Step 7 revised IDS calculated at the Time of Need. Alternatively, any additional mitigation obligation calculated in Step 6 and Step 7 can be satisfied from each SWC member's reasonable carryover if (a) the reasonable carryover exceeds the additional mitigation obligation, and (b) the junior ground water users secure sufficient water to replace the reasonable carryover pursuant to an approved mitigation plan.
>
> The Director will review, at the end of the season, the volume and efficiencies of application of surface water, the amount of mitigation water delivered by junior ground water users, and may, in the exercise of his professional judgment, readjust the reasonable carryover shortfalls to reflect these considerations.

Methodology Order at 44–45.

B. Climate

8. The April 2025 Joint Forecast prepared by the United States Army Corps of Engineers and the United States Bureau of Reclamation ("BOR") predicted 3,380,000 acre-feet of natural flow at the Heise gage for the period April–July 2025. *April Forecast Supply Order* at 2. The Joint Forecast "is generally as accurate a forecast as is possible using current data gathering and forecasting techniques." *Methodology Order* at 19.

9. The April through July precipitation was below average, while the April through July temperature was above average.[1] The National Weather Service's Twin Falls weather station reported 9%, 38%, 0%, and 68% of normal precipitation in April, May, June, and July, respectively. Twin Falls temperatures were 2.5, 3.8, 3.4, and 2.2 degrees above normal for April, May, June, and July, respectively. According to data measured at the Natural Resources Conservation Service's SNOTEL sites in the Upper Snake River Basin, the basin received 73%, 74%, 19%, and 66% of average precipitation in April, May, June, and July, respectively.[2]

[1] Precipitation and temperature data obtained from the NOAA National Weather Service Preliminary Monthly Climate Data for the Twin Falls weather station (Twin Falls Airport).

[2] Natural Resources Conservation Service's (NRCS) SNOTEL precipitation in the Upper Snake River Basin has been updated by the NRCS since the *Order Revising April 2025 Forecast Supply and Continuing May 16, 2025 Curtailment Order* was issued.

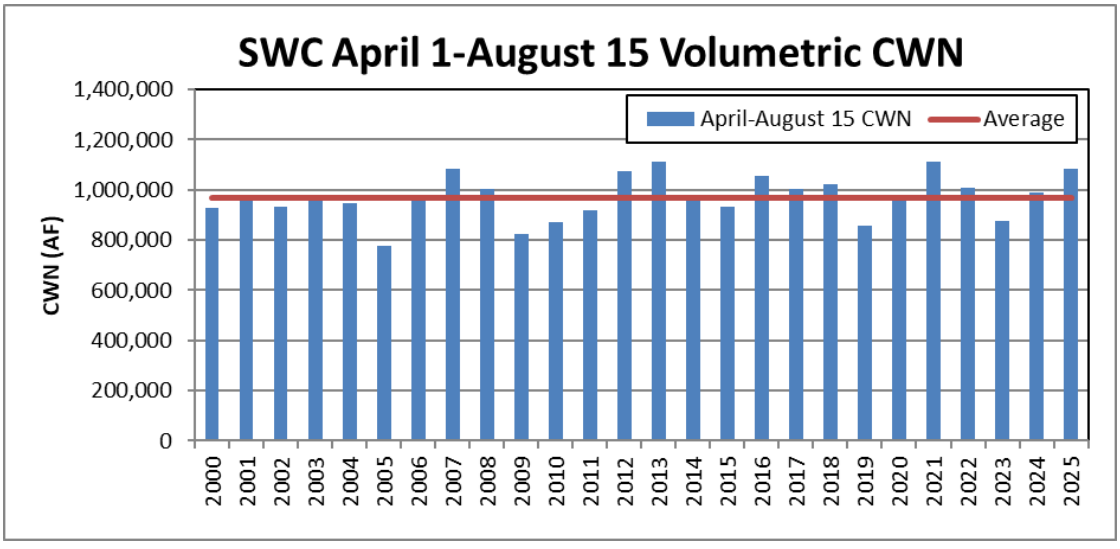
C. Reasonable In-Season Demand

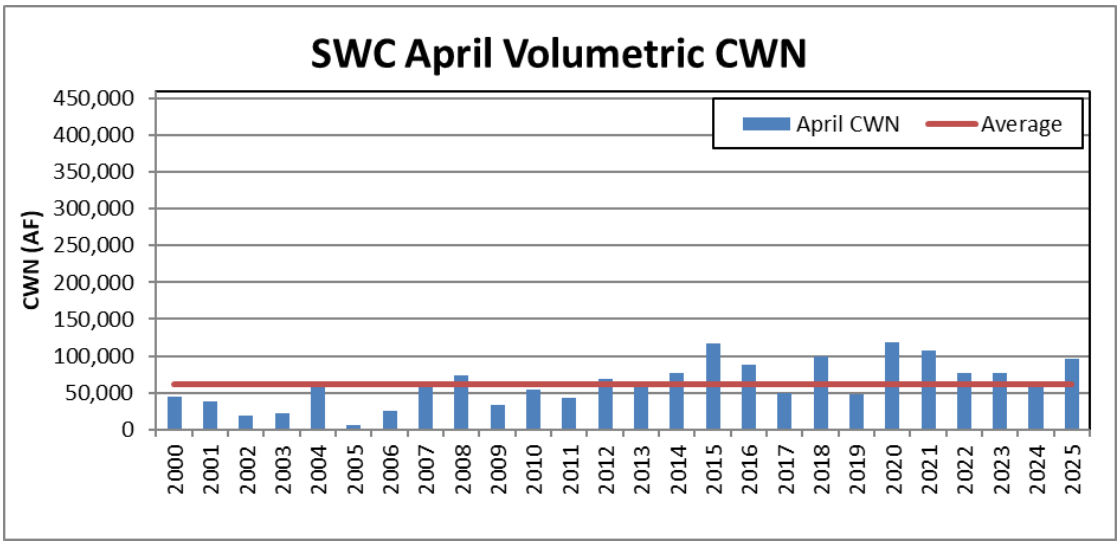
10. RISD is the volume of water that would be required to be diverted at the point of diversion during the year of evaluation to grow the specific crops within the service area of the entity. In April, the demand from the 2018 baseline year (BLY) represents the RISD. During the irrigation season, the RISD for the already expired portion of the irrigation season is recalculated by dividing the actual crop water need (CWN) for each entity by the project efficiency for that entity. For the future remainder of the irrigation season, the RISD is the demand predicted from the 2018 BLY. RISD is calculated on a monthly timestep.

i. Crop Water Need

11. CWN is the project wide volume of irrigation water required for crop growth so crop development is not limited by water availability. CWN is the difference between the fully realized consumptive use associated with crop development, or evapotranspiration, and effective precipitation. CWN is an input variable for calculating RISD for those months of the irrigation season that are complete. Actual RISD for the completed portion of the irrigation season is combined with monthly predicted baseline demands for the remaining months of the irrigation season to calculate a season-total RISD volume. Demand shortfall is then calculated as the difference between the adjusted forecast supply and the RISD. For specifics regarding determination of CWN, see page 15 of the *Methodology Order*.

12. As calculated from the beginning of the irrigation season (April 1), the SWC's volumetric CWN for the current water year through August 15 is 1,083,069 acre-feet. This volume is 110% of the April 1 through August 15 ten-year average CWN (2015-2024) and 106% of the CWN for the (2018) BLY. As calculated from April 1 through August 15, from the year 2000 to now, 2025 has the fourth largest CWN volume of any irrigation season. The following graphs summarize monthly volumetric CWN values.




SWC April Volumetric CWN
CWN (AF)
450,000
400,000
350,000
300,000
250,000
200,000
150,000
100,000
50,000
0
April CWN
Average
2000
2001
2002
2003
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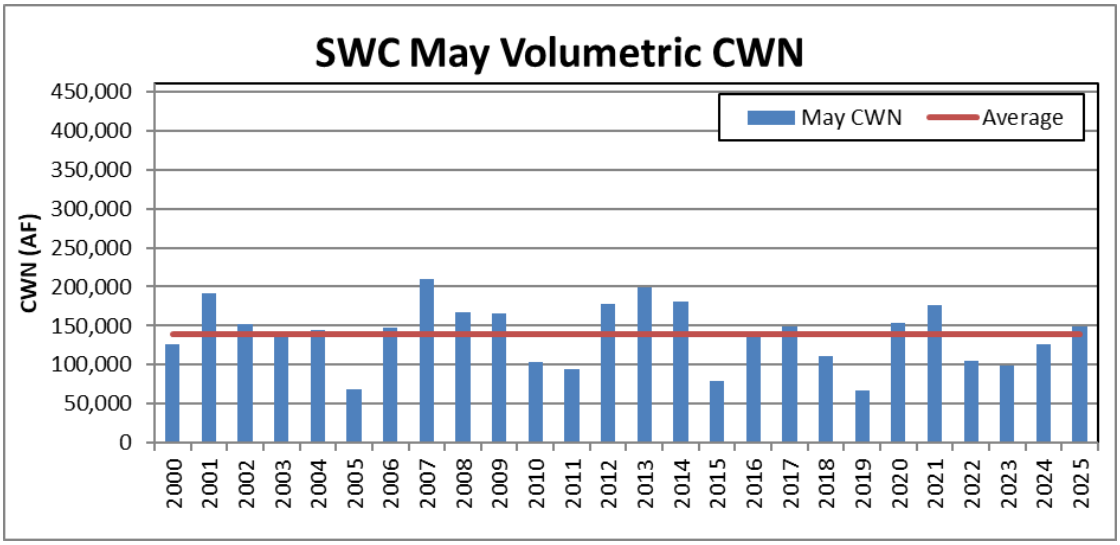
SWC May Volumetric CWN
CWN (AF)
450,000
400,000
350,000
300,000
250,000
200,000
150,000
100,000
50,000
0
May CWN
Average
2000
2001
2002
2003
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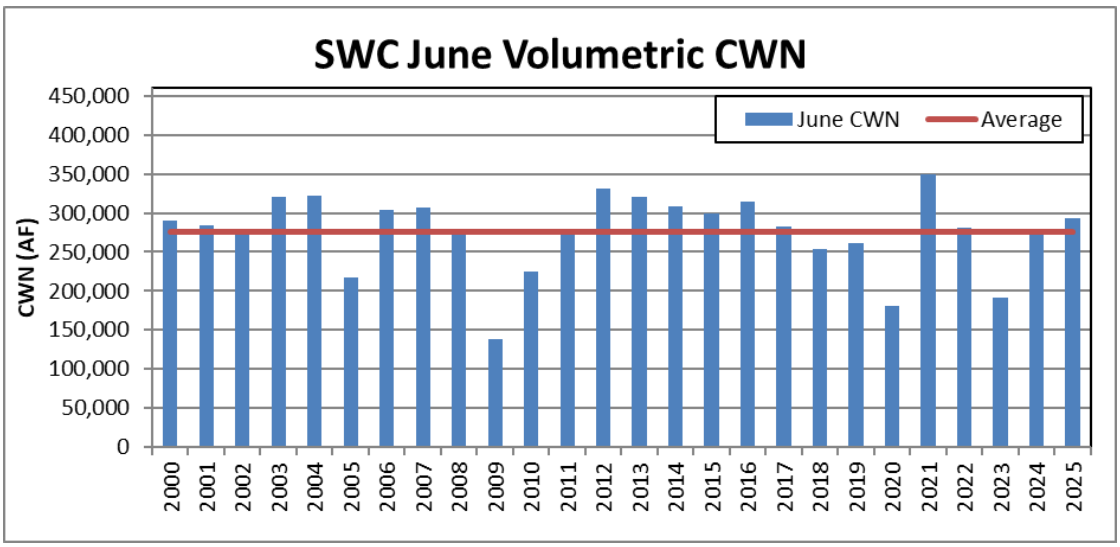
SWC June Volumetric CWN
CWN (AF)
450,000
400,000
350,000
300,000
250,000
200,000
150,000
100,000
50,000
0
June CWN
Average
2000
2001
2002
2003
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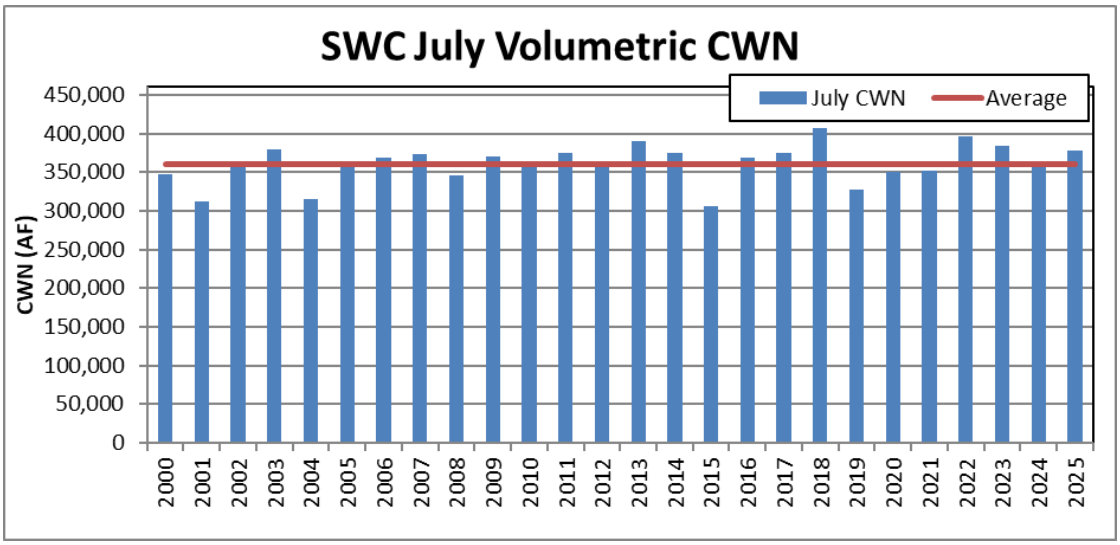
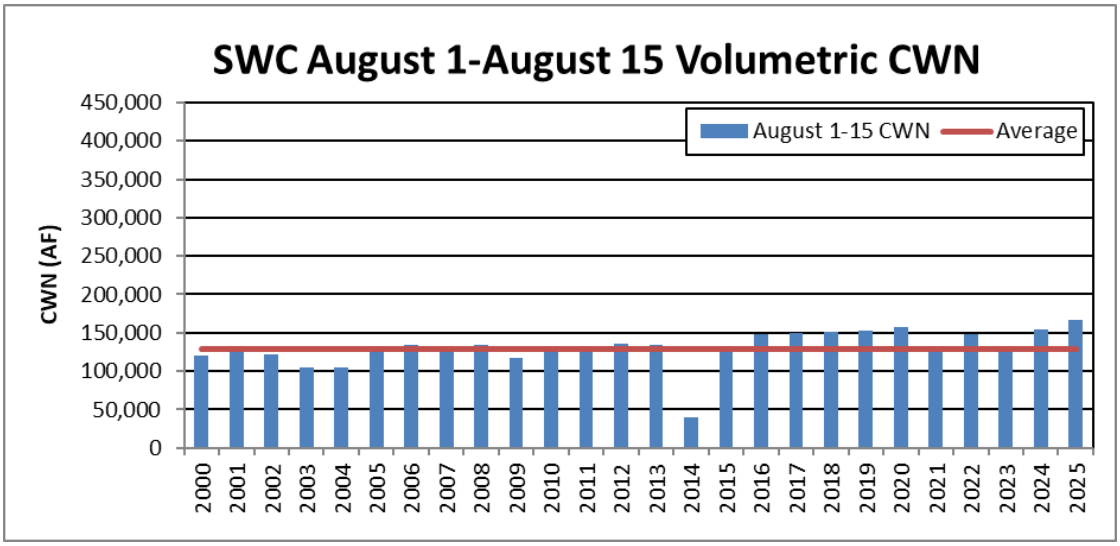




ii. Extension of BLY

13. The RISD for the future portion of the irrigation season is the August 16–October 31 demand for (2018) BLY. The numeric August 16–October 31 demand values are shown in the table in Finding of Fact 14 below.

iii. Calculation of RISD

14. As calculated from the beginning of the irrigation season (April 1), the SWC's volumetric RISD for 2025 through August 15 is 2,537,439 acre-feet. This volume is 112% of the April 1–August 15 ten-year average RISD (2015-2024) and 105% of the April 1–August 15 demand for the (2018) BLY. As calculated from April 1 to August 15, from the year 2000 until this year, 2025 has the fifth largest RISD volume of any irrigation season. The recalculated RISD on August 15 of the 2025 irrigation season by entity is summarized in column six of the following table:

	April 1–August 15 CWN (AF)	Range of April 1–August 15 Monthly Project Efficiencies	April 1–August 15 RISD (AF)	August 16–October 31 Demand for 2018 BLY (AF)	Recalculated RISD (AF)
A&B	29,276	0.41-0.92	47,932	16,216	64,148
AFRD2	121,490	0.20-0.44	339,309	138,946	478,255
BID	88,126	0.30-0.52	201,896	63,932	265,828
Milner	25,828	0.36-0.68	45,207	16,031	61,238
Minidoka	159,119	0.36-0.65	307,036	86,518	393,554
NSCC	281,341	0.21-0.48	752,214	276,703	1,028,917
TFCC	377,888	0.27-0.59	843,845	330,074	1,173,919

D. Forecast Supply

15. When determined during the irrigation season, the forecast supply (FS) is the sum of the year-to-date actual natural flow diversions, the forecasted natural flow supply for the remainder of the season, and storage allocations for each member of the SWC. *Methodology Order* at 43. Actual natural flow diversions for the already expired portion of the irrigation season are extracted from the Department's water rights accounting program. The forecasted natural flow supply for the remainder of the irrigation season is based on the selection of an analogue year with similar Blackfoot to Milner reach gains. *Id*. at 44. Storage allocations are established by the BOR and Water District 01 ("WD1") after the day of allocation. *Id*.

i. Sum of Actual Natural Flow Diverted

16. Actual natural flow diverted for the period April 1 through August 15 for each SWC member are summarized in the table contained within the Summary of Forecast Supply section in Finding of Fact 21.

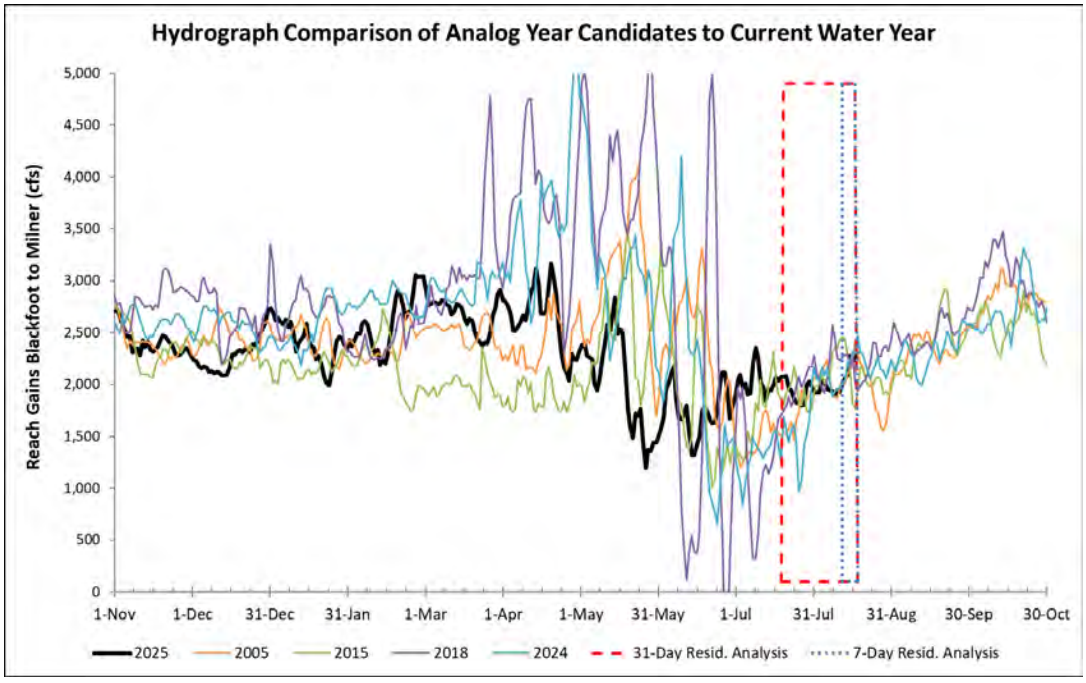
ii. Selection of an Analogous Year to Predict Remaining Natural Flow

17. Natural flow diversions for the remainder of the irrigation season were predicted by choosing an analogue year. The Department used a residual analysis[3] completed on a daily time step to compare the reach gains from July 19 to August 18 for the current water year to historical reach gains for the same period for the 1991–2024 water years. Based on its residual analysis and a qualitative review, the Department selected four candidate years: 2005, 2015, 2018, and 2024. These years represent the four years with the most similar reach gains (i.e., the lowest average residual value over a specified range) over the analysis period and the residuals are summarized in the following table:

Summary of Residual Analysis of Candidate Years

Time Period	2005	2015	2018	2024
7-Day (8/12 – 8/18)	0.2%	1.9%	-0.7%	-2.4%
31-Day (7/19 – 8/18)	3.3%	-2.3%	-4.9%	7.9%

18. The following hydrograph compares the current water year to the four candidate years with the most similar reach gains as determined by the residual analysis and qualitative review. The Department examined natural flow diversions for each of the candidate years and selected 2005 as the analogue year used to predict natural flow diversions for the remainder of the irrigation season. The Department chose 2005 because the residual analysis and qualitative review demonstrated 2005 was most like 2025 conditions when considering the reach gains for the most recent 7-day and 31-day periods.



[3] The daily residual is expressed as a percentage and defined as the difference between the current water year reach gain (CY) and the historical reach gain (HY) divided by the current water year reach gain: R = (CY – HY)/CY.

iii. Storage Allocations

19. Preliminary storage allocation values for each member of the SWC were established by the BOR and WD1 and published in WD1's preliminary Storage Report on July 15, 2025.[4] Storage allocation values for each SWC member are summarized in the table in Finding of Fact 21 below.

iv. Adjustments to Total Supply

20. The natural flow and storage water supplies were both adjusted as shown in the table in Finding of Fact 21 below. Adjustments to natural flow include water delivered to Southwest Irrigation District by BID and Milner, 691 acre-feet and 560 acre-feet, respectively . Adjustments to natural flow also include 1,441 acre-feet and 400 acre-feet of recharge water, delivered by the AFRD2 and BID, respectively, for the Idaho Water Resource Board. The only adjustments made to the stored water supply were for the Minidoka Return Flow Credit.[5] The Department did not adjust SWC water supplies for wheeled storage water published in WD1's weekly reports because wheeled water does not increase the amount of water available for use by the SWC. The Department did not adjust SWC water supplies to account for water supplied to or from the rental pool because these transactions artificially increase or decrease the shortfall obligation.

v. Summary of Forecast Supply

21. The table below contains the individual components of the FS for each of the SWC members.

	April 1–August 15 Natural Flow Diverted (AF)	August 16–October 31 Predicted Natural Diversions Flow (AF)	Natural Flow Adjustment (AF)	Preliminary Storage Allocation (AF)	Minidoka Credit Adjustment (AF)	Forecast Supply (AF)
A&B	9,547	0	0	120,473	0	130,020
AFRD2	90,640	0	(1,441)	383,912	1,000	474,111
BID	123,935	8,282	(1,091)	214,990	5,130	351,246
Milner	14,114	305	(560)	80,506	0	94,365
Minidoka	156,842	10,480	0	338,930	8,370	514,622
NSCC	385,639	54,218	0	798,776	(7,750)	1,230,883
TFCC	626,598	261,530	0	232,941	(6,750)	1,114,319

[4] The preliminary Storage Report may be viewed at: https://www.waterdistrict1.com/media/yxefjahy/2025-07-15-preliminary-storage-report.pdf.

[5] For an explanation of the Minidoka Credit, see pages 126-127 of *Concepts, Practices, and Procedures Used to Distribute Water Within Water District #1*, which can be found at: https://www.waterdistrict1.com/media/uabos05r/wd01-procedures-manual-4-12-2023.pdf

E. Revised Shortfall Prediction

22. Demand Shortfall is calculated as the difference between RISD and the FS.

23. Based on the methods described above, and as summarized in the following table, the Director predicts, at this time, that AFRD2 and TFCC will be materially injured by junior ground water pumping.

	Forecast Supply (AF)	RISD (AF)	Shortfall (AF)
A&B	130,020	64,148	0
AFRD2	474,111	478,255	4,100
BID	351,246	265,828	0
Milner	94,365	61,238	0
Minidoka	514,622	393,554	0
NSCC	1,230,883	1,028,917	0
TFCC	1,114,319	1,173,919	59,600
		Total	63,700

24. The current, predicted shortfall to the SWC's RISD is 63,700 acre-feet.

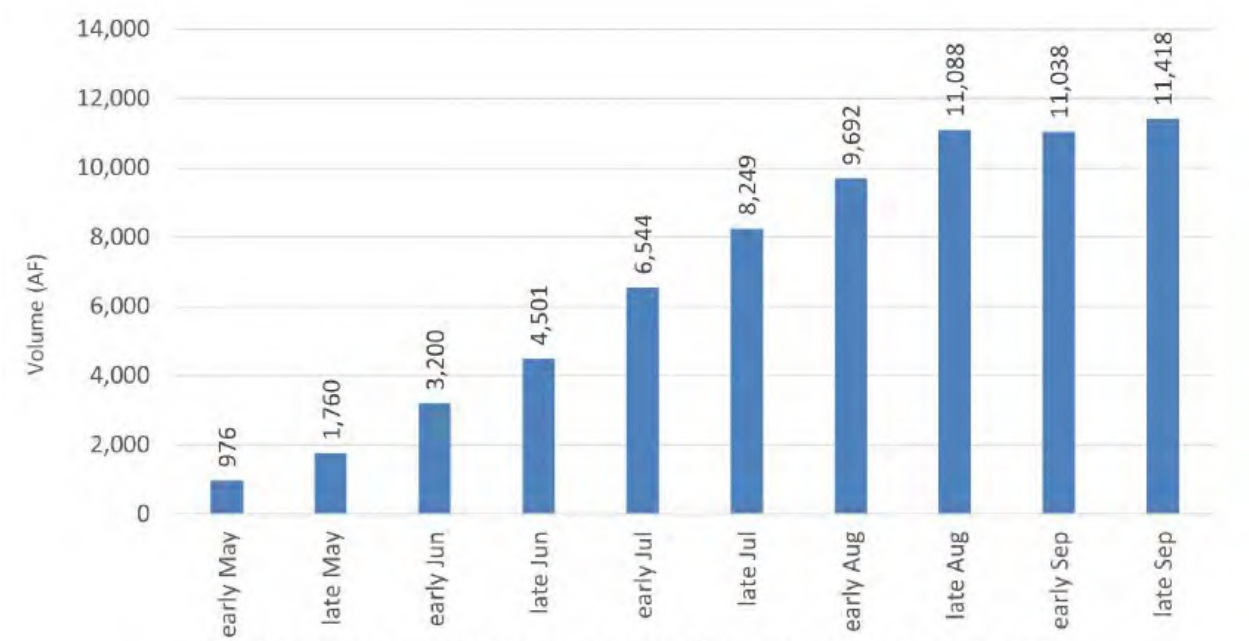
F. Time of Need

25. The Department established the Time of Need by predicting when the remaining storage balance for TFCC was equal to their reasonable carryover volume of 37,400 acre-feet and the remaining storage balance for AFRD2 was equal to their reasonable carryover volume of 16,700 acre-feet. As described above, the Department selected 2005 as the analogue year it used to predict the storage use for TFCC and AFRD2 for the remainder of this season. Anticipating that TFCC's and AFRD2's storage use for the remainder of the 2025 season will be similar to their storage use in 2005, TFCC's Time of Need occurred on August 16, 2025, and AFRD2's Time of Need will occur on September 28, 2025.

G. Priority and Curtailment

26. In April 2025, pursuant to the *Methodology Order*, the Department ran the Eastern Snake Plain Aquifer Model version 2.2 ("ESPAM2.2") to calculate the priority curtailment date, such that the curtailment of all water rights junior to the date within the area of common ground water supply, would produce a volume of water equal to the April IDS in the Snake River between May 1 and September 30. The ESPAM2.2 simulation predicted curtailment of ground water rights bearing priority dates junior to August 28, 1955, would produce the volume of water equal to the predicted April IDS of 63,000 AF in the near Blackfoot to Minidoka reach. *April Forecast Supply Order*, at 4.

27. In the *July Forecast Supply Order*, the Director predicted a demand shortfall to the SWC of 75,300 acre-feet. In July 2025, the Department ran the ESPAM2.2 to simulate the effect of adjusting the curtailment priority date at the end of July. The ESPAM2.2 simulation calculated that the curtailment of ground water rights junior to August 28, 1955, through the end of July followed by curtailment of groundwater rights junior to October 11, 1900,[6] would produce a volume of water of 58,000 AF in the near Blackfoot to Minidoka reach between July 1 and September 30 of this irrigation season. The following figure summarizes the results of the ESPAM2.2 simulation:



Modeled increase in ESPA discharge to near Blackfoot to Minidoka reach resulting from curtailment of ground water junior to August 28, 1955, May-July, and junior to October 11, 1900, beginning at end of July

28. The ESPAM2.2 simulation calculated that the curtailment of ground water rights junior to August 28, 1955, through the end of July followed by curtailment of groundwater rights junior to October 11, 1900, will produce a volume of water of 33,500 AF in the near Blackfoot to Minidoka reach between August 16 and September 30 of this irrigation season.

29. The predicted mid-August through September benefits to the near Blackfoot to Minidoka reach from curtailment of ground water rights bearing priority dates junior to August 28, 1955, through the end of July followed by curtailment of groundwater rights junior to October 11, 1900, are less than the August IDS of 63,700 acre-feet. Continuing the curtailment of ground water rights junior to October 11, 1900, will offset as much of the August IDS as possible.

[6] October 11, 1900, is the priority date equal to TFCC's Water Right No. 1-209, the most senior SWC natural flow water right predicted to be injured.

CONCLUSIONS OF LAW

1. Based on Findings of Fact 8 through 29 above, TFCC and AFRD2 are being materially injured. The updated predicted IDS is 63,700 acre-feet. The predicted shortfall to TFCC is 59,400 acre-feet. The predicted shortfall to AFRD2 is 4,100 acre-feet.

2. Based on current information, the Time of Need for TFCC occurred on August 16, 2025, and the Time of Need for AFRD2 will occur on September 28, 2025.

3. Pursuant to Step 8, at the Time of Need, junior ground water users are required to deliver to each injured member of the SWC the Step 7 revised IDS calculated at the Time of Need. Alternatively, any additional mitigation obligation calculated in Step 6 and Step 7 can be satisfied from each SWC member's reasonable carryover if (a) the reasonable carryover exceeds the additional mitigation obligation, and (b) the junior ground water users secure sufficient water to replace the reasonable carryover pursuant to an approved mitigation plan.

4. Using the ESPAM2.2, the Department has determined that the curtailment of ground water rights bearing priority dates junior to August 28, 1955, through the end of July followed by curtailment of groundwater rights junior to October 11, 1900, would result in a volume of water less than the predicted IDS of 63,700 acre-feet in the near Blackfoot to Minidoka reach between August 16 and September 30 of this irrigation season. Accordingly, continuing the curtailment to include ground water rights junior to October 11, 1900, is necessary for curtailment to offset as much of the IDS as possible.

5. Junior ground water users holding consumptive water rights bearing priority dates junior to October 11, 1900, within the Eastern Snake Plain Aquifer area of common ground water supply must mitigate for their proportionate share of the predicted July IDS in accordance with an approved mitigation plan.[7] For the 2025 irrigation season, there are no junior ground water users mitigating for their proportionate share of the predicted July IDS with a secured volume of water. Accordingly, no junior ground water users are required to deliver to each injured member of the SWC the Step 7 revised IDS calculated at the Time of Need.

[7] There are five approved mitigation plans responding to the SWC delivery call, the SWC stipulates to each: (1) No. CM-MP-2015-003 for the benefit of A&B; (2) No. CM-MP-2010-001 for the benefit of Southwest Irrigation District and Goose Creek Irrigation District (collectively, "SWID"); (3) No. CM-MP-2024-003 for the benefit of the Ground Water Districts; (4) No. CM-MP-2019-001 for the benefit of the Coalition of Cities; and (5) No. CM-MP-2007-001 for the benefit of the Water Mitigation Coalition. Given the nature of A&B's mitigation plan, the Department normally calculates A&B's proportionate share of the predicted IDS. However, A&B and the SWC entered into a stipulation to define A&B's mitigation obligation for the 2025 irrigation season. In the stipulation, A&B agreed to continue its ground water conversions projects and assign and deliver 1,252 acre-feet of storage water to TFCC. The Director has confirmed that 1,252 acre-feet of storage water has been assigned to A&B. Because the SWC agreed that the above actions satisfy A&B's obligation to the SWC for the 2025 irrigation season, A&B does not need to establish that they can mitigate for its proportionate share of the predicted IDS. Due to the nature of the mitigation plans for SWID, the Ground Water Districts, the Coalition of Cities, and the Water Mitigation Coalition, these entities do not need to establish that they can mitigate for their proportionate share of the predicted IDS.

ORDER

Based upon and consistent with the foregoing, IT IS HEREBY ORDERED the Director's revised in-season prediction is an in-season demand shortfall of 63,700 acre-feet.

IT IS FURTHER ORDERED that the July 25, 2025 *Curtailment Order* remains in full force and effect. All ground water users holding water rights listed in Attachment A to the July 25, 2025 *Curtailment Order* bearing priority dates junior to October 11, 1900, shall continue to be curtailed from diversion and use of ground water pursuant to those water rights unless they are mitigating in accordance with an approved mitigation plan or are notified by the Department that the order of curtailment has been modified or rescinded as to their water rights.

Dated this 11th day of September 2025.

MATHEW WEAVER
Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 11th day of September 2025, a true and correct copy of the foregoing was served by the method indicated below, and addressed to the following:

John K. Simpson MARTEN LAW LLP PO Box 2139 Boise, ID 83701-2139 jsimpson@martenlaw.com *jks@idahowaters.com	☒ U.S. Mail, postage prepaid ☒ Email
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EXPLANATORY INFORMATION TO ACCOMPANY A FINAL ORDER

(To be used in connection with actions when a hearing was **not** held)

The accompanying document is a "**Final Order**" issued by the Idaho Department of Water Resources ("Department") pursuant to Idaho Code § 67-5246.

PETITION FOR RECONSIDERATION

(*See* Idaho Code § 67-5246(4))

Any party may file a petition for reconsideration of this 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 presiding officer 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.

REQUEST FOR HEARING

(*See* Idaho Code § 42-1701A(3))

Unless the right to a hearing before the Department or the Water Resource Board is otherwise provided by statute, any person aggrieved by any final decision, determination, order or action of the Director, and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to Idaho Code § 42-1701A(3). A written petition to the Director contesting this final order and requesting a hearing must be filed with the Department by any aggrieved person **within fifteen (15) days after service of this final order**.

CERTIFICATE OF SERVICE

(*See* IDAPA 37.01.01.053, 37.01.01.202)

All documents filed with the Department in connection with a petition for reconsideration or a request for hearing of this final order shall be served on all other parties to the proceedings in accordance with Rules of Procedure 53 and 202.

RECEIVED
Sep 17, 2025
DEPARTMENT OF
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BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY OR FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY	Docket No. CM-DC-2010-001 **AMERICAN FALLS-ABERDEEN GROUND WATER DISTRICT'S PETITION TO INTERVENE** Exempt from filing fees under I.C. § 67-2301

COMES NOW American Falls-Aberdeen Ground Water District ("AFA"), by and through its undersigned counsel, and, pursuant to IDAPA 37.01.01.350, hereby files this *Petition to Intervene* to become a party to the contested case proceedings that were initiated when the Director of the Idaho Department of Water Resources ("IDWR" or "Department") granted *A&B Irrigation District's Request for Hearing* filed April 29, 2025, and *A&B Irrigation District's Request for Hearing* filed July 24, 2025. *See Order Granting A&B Irrigation District's Requests for Hearing, Consolidating Proceedings for Hearing, and Appointing Hearing Officer; Notice of Prehearing Conference* (Sep. 3, 2025) ("*Order Granting Hearing*"). AFA has a direct and substantial interest in these proceedings because the Director's resolution of one or more of the

identified issues could negatively affect AFA's patrons' future mitigation obligations. Undersigned counsel certify that they have conferred with counsel for A&B Irrigation District ("A&B") on this *Petition to Intervene* and A&B does not oppose AFA's intervention as a party to these consolidated proceedings.

BACKGROUND

1. One of the issues in these consolidated proceedings is: "Whether the steady-state use of the ESPAM 2.2 in identifying A&B's proportionate share of the estimated in-season demand shortfall is consistent with the transient use of the model in identifying ground water rights subject to curtailment as outlined in the *Sixth Methodology Order*." *Order Granting Hearing* at 2-3.[1]
2. AFA is presently protected from curtailment in the instant delivery call matter because it is a party to the *2024 Stipulated Mitigation Plan* (*2024 Plan*) that was approved by the Director in Docket No. CM-MP-2024-003.
3. Under the *2024 Plan,* the participating districts agreed to use steady state modeling to allocate the ground water district's mitigation obligation.
4. The *2024 Stipulated Mitigation Plan* terminates at the end of 2027 and may not automatically renew. *See Joint Motion for Order Approving 2024 Stipulated Mitigation Plan*, Appendix A at ¶ 3.

[1] As the Director explained, only certain mitigation plans require the Director to determine parties' proportionate shares of the estimated in-season demand shortfall. A&B's mitigation plan is one such plan, whereas the *2024 Stipulated Mitigation Plan* is not. *See Order Revising April 2025 Forecast Supply and Continuing May 16, 2025 Curtailment Order (Methodology Steps 5 & 6)*, No. CM-DC-2010-001, at 11 n.6 (July 10, 2025).

5. In the absence of an approved mitigation plan, AFA is likely to be subject to future curtailment based on the modeling method determined by the Director in this proceeding. Because of AFA's geographic location, curtailment based on the use of transient modeling would devastate AFA's members' livelihood as well as the local economy.

STANDARDS FOR INTERVENTION IN IDWR CONTESTED CASES

6. Regarding petitions to intervene, the Department's Rules of Procedure provide: "A person who is not already a party to a contested case and who has a direct and substantial interest in the proceeding may petition for an order granting intervention as a party to the contested case." IDAPA 37.01.01.350 (Rule 350).

7. A petition to intervene is timely if it is filed by the date of the initial prehearing conference. *See* Rule 352.

8. If the timely-filed petition "shows direct and substantial interest in any part of the subject matter of a contested case and does not unduly broaden the issues, the agency shall grant intervention, subject to reasonable conditions, unless the applicant's interest is adequately represented by existing parties." Rule 353.01.

9. AFA's petition is timely because it is filed on or before the date of the initial prehearing conference, which is September 18, 2025. *See Order Granting Hearing* at 5.

10. AFA has a direct and substantial interest in the issues identified in these contested case proceedings, particularly the issue regarding running steady-state simulations, versus transient simulations, to determine proportionate shares of the Surface Water Coalition's estimated in-season demand shortfall. If the Director resolves this issue by deciding that transient simulations should be run, such a decision could negatively affect AFA's mitigation obligations in the foreseeable future.

11. AFA's participation in these proceedings will not unduly broaden the issues, as AFA does not intend to introduce additional issues beyond those listed in A&B's requests for hearing, but reserves the right to do so if the need arises in the course of litigation.

12. Finally, AFA's direct and substantial interest is not adequately represented by existing parties. To the extent they participate in these proceedings, neither Idaho Ground Water Appropriators, Inc. ("IGWA") nor any other Ground Water District ("GWD") adequately represent AFA's interest because their interests may even conflict with AFA's interest. While there is not a live controversy between AFA and IGWA or the other GWDs, a controversy regarding each GWD's respective obligations under future iterations of the *2024 Stipulated Mitigation Plan* could arise depending on the Director's resolution of the aforementioned issue regarding transient versus steady-state simulations. Thus, it is important for AFA to appear in these proceedings individually and protect its own interests.

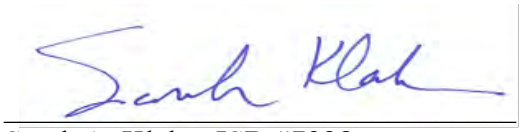
13. Accordingly, because AFA has a direct and substantial interest in the issues in these proceedings, will not unduly broaden the issues, and is not adequately represented by existing parties, and this *Petition to Intervene* was timely-filed, AFA is entitled to intervene as a party. *See* Rule 353.01.

CONCLUSION

Based on the foregoing, AFA satisfies the requirements for intervention and respectfully requests that this *Petition to Intervene* be granted.

DATED this 17th day of September 2025.

SOMACH SIMMONS & DUNN, P.C.



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Maximilian C. Bricker, ISB #12283

Attorneys for the American Falls-Aberdeen Ground Water District

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 17th day of September 2025, I caused a true and correct copy of the foregoing document to be filed and served on the persons below via email:

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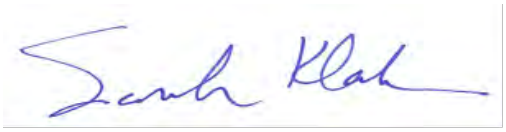

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BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY OR FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY	Docket No. CM-DC-2010-001 **SURFACE WATER COALITION'S PETITION TO INTERVENE**

COME NOW, American Falls Reservoir District #2, Burley Irrigation District, Milner Irrigation District, Minidoka Irrigation District, North Side Canal Company, and Twin Falls Canal Company (hereinafter collectively referred to as "SWC" or "Coalition"), by and through their undersigned counsel of record, pursuant to Procedural Rules 350 through 354 of the Idaho Department of Water Resources ("Department" or "IDWR"), IDAPA 37.01.01.350 to 354, and hereby petition to intervene in the above-captioned matter.

BACKGROUND

On July 10, 2025, the Director of the Idaho Department of Water Resources issued the *Order Revising April 2025 Forecast Supply and Continuing May 16, 2025 Curtailment Order (Methodology Steps 5&6*) ("*Steps 5/6 Order*"). On July 24, 2025, A&B Irrigation District filed *A&B Irrigation District's Request for Hearing* pursuant to Idaho Code § 42-1701A(3). On September 3, 2025, the Director filed an *Order Granting A&B Irrigation District's Requests for Hearing, Consolidating Proceedings for Hearing, and Appointing Hearing Officer; Notice of Prehearing Conference*. A prehearing conference has been set for September 18, 2025.

STANDARD OF REVIEW

Entities that are "not already a party to a contested case and who ha[ve] a direct and substantial interest in the proceeding may petition for an order granting intervention as a party to the contested case." IDAPA 37.01.01.350. A timely filed petition to intervene showing "a direct and substantial interest in any part of the subject matter of a contested case" that "does not unduly broaden the issues" must be granted "subject to reasonable conditions, unless the applicant's interest is adequately represented by existing parties." IDAPA 37.01.01.353. "Petitions to intervene must be filed at least fourteen (14) days before the date set for formal hearing, or by the date of the initial prehearing conference, whichever is earlier, unless a different time is provided by order or notice." IDAPA 37.01.01.352.

The Department's Rules of Procedure provide the following for intervention in a proceeding:

> Petitions to intervene must comply with Rules 52, 200, and 300. The petition must set forth the name and address of the potential intervenor and must state the direct and substantial interest of the potential intervenor in the proceeding.

IDAPA 37.01.01.351.

ARGUMENT

The SWC's *Petition to Intervene* is timely because no formal hearing has been set or conducted in this matter, the Department has not issued any order or notice establishing a different time for filing a petition to intervene, and the pre-hearing conference has not yet occurred. For the reasons discussed below, the Coalition's intervention should be granted because its members have a direct and substantial interest in the subject matter of this contested case, the SWC's participation will not unduly broaden the issues, and the SWC's interest is not adequately represented by the existing parties.

I. The Coalition's Direct and Substantial Interest.

A. Name and Address

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Burley Irrigation District
Don Terry, Manager
246 E. 100 S.
Burley, Idaho 83318

Twin Falls Canal Company
Jay Barlogi, Manager
P.O. Box 326
Twin Falls, Idaho 83303

Minidoka Irrigation District
Dan Davidson, Manager
98 W. 50 S.
Rupert, Idaho 83350

North Side Canal Company
Alan Hansten, Manager
921 N. Lincoln St.
Jerome, Idaho 83338

Milner Irrigation District
Jeff War, Manager
5294 E 3610 N
Murtaugh, Idaho 83344

B. Interest in Proceeding

The SWC members hold both decreed natural flow and storage water rights in the Upper Snake River Basin under which they divert for delivery of water to their respective landowners and shareholders in their projects. These water rights are used by the Coalition's water users to irrigate approximately 600,000 acres in southern Idaho. The hearing is being conducted in the contested case that the Coalition members are participating in as the senior water right holders

that filed the delivery call. The SWC is actively involved in this proceeding to protect their respective senior water rights. *See e.g. United States v. Pioneer Irr. Dist.*, 144 Idaho 106 (2007) ("Irrigation districts act as trustees for the landowners managing the water right, and standing in place of the landowners in cases involving the appropriation of the water"). The water rights represent valuable property right interests that are protected by state law. *See* I.C. § 55-101. The SWC seeks to intervene to protect the interests of its landowners and shareholders that will be impacted by any decision concerning the *Steps 5/6 Order*.

Additionally, the Coalition has an interest in how IDWR recalculates the demand shortfall through the irrigation season and apportions the predicted injury amongst the various junior priority ground water right holders. The Director made certain findings the *Steps 5/6 Order* relative to the water supplies during the 2025 irrigation season and how that injury could or could not be mitigated based upon the water rights subject to curtailment at the time. The issues identified in A&B's petition are relevant to these determinations and the Coalition seeks to participate to provide its position as necessary.

II. The Coalition's Petition Does Not Unduly Broaden the Issues.

The SWC seeks intervention in this matter to protect the members' individual interests, including their respective water rights. To date, the Coalition is unaware of any substantive motions filed and no pre-hearing conferences have been held. As such, the issues to be heard have not yet been fully defined, and the contested case is in the very early stages. Accordingly, the SWC's petition does not unduly broaden the matters currently at issue in this proceeding.

III. The Coalition is Not Adequately Represented by Existing Parties

The other parties that are currently appearing in this matter do not represent the individual Coalition members' interests in this matter. SWC members are separate legal entities

that hold unique natural flow and storage water rights in the Upper Snake River Basin. Although the SWC may have similar interests in certain matters or issues, it is not certain how this case will proceed or what positions will be advanced throughout the proceeding by each individual entity. The petitioner, A&B Irrigation District, though a member of the SWC for purposes of its senior surface water rights, has filed the petition to address issues concerning its groundwater rights. As such, each SWC member has a right to intervene to ensure individual interests and legal rights are adequately protected and represented.

CONCLUSION

The SWC has submitted this timely *Petition to Intervene* in the above-captioned matter so that it may protect the respective individual members' direct and substantial interests. The Coalition has filed this joint petition in the interests of economy but requests the Director recognize each Coalition member's right to participate individually in this proceeding. Since the Petition will not unduly broaden the issues and there is no existing party that adequately represents the Coalition's interests, intervention should be granted.

DATED this 17th day of September, 2025.

PARSONS BEHLE & LATIMER

Abby R. Bitzenburg

Abby R. Bitzenburg

Attorneys for Burley Irrigation District, Milner Irrigation District, NSCC, and TFCC

PARSONS BEHLE & LATIMER

Norman M. Semanko
Garrett M. Kitamura

Attorneys for Minidoka Irrigation District and American Falls Reservoir District #2

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 17th day of September, 2025, I caused to be served a true and correct copy of the foregoing **SURFACE WATER COALITION'S PETITION TO INTERVENE** by the method indicated below, and addressed to each of the following:

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/s/ Jessica Nielsen

Jessica Nielsen
Assistant for Abby R. Bitzenburg

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BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY OR FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY	Docket No. CM-DC-2010-001 **A&B IRRIGATION DISTRICT'S REQUEST FOR IDWR TO PRODUCE INFORMATION AND IDENTIFY WITNESSES**

COMES NOW, A&B IRRIGATION DISTRICT ("A&B or "District"), by and through counsel of record, and pursuant to the Hearing Officer's request, hereby submits the following request for the Idaho Department of Water Resources ("IDWR") to produce information and identify particular witnesses in this matter:

Information / Documents / Data:

Any and all information, documents, and data relied upon IDWR with respect to the following:

April 16, 2025 Order (Steps 1 – 3)

1) Model simulations and calculations relating to junior ground water users proportionate share of the predicted April In-Season Demand Shortfall (p. 5, ¶ 6, and p. 5, n. 8).

July 16, 2025 Order (Steps 5-6)

1) Model simulations and calculations relating to Findings of Fact 32-33 (pp. 9-10).

2) Model simulations and calculations relating to junior ground water users proportionate share of the predicted April In-Season Demand Shortfall (p. 11, ¶ 7, and p. 11, n. 6).

3) Information, communications, IDWR actions related to enforcement and implementation of May 16, 2025 *Curtailment Order* (p. 12) and model simulations resulting from that curtailment and/or non-curtailment of the affected junior priority ground water rights.

Witnesses:

A&B further requests IDWR to identify witnesses responsible for and involved with the above analysis and identified actions and availability for potential depositions between October 1-31.

Deadline:

In order to comply with the schedule set at the pre-hearing conference and allow sufficient time for review and analysis prior to the disclosure of its expert report and opinions, A&B requests the Hearing Officer to order the above information and list of witnesses be made available to the parties on or before Friday October 10, 2025.

DATED this 19th day of September, 2025.

PARSONS BEHLE & LATIMER

Travis L. Thompson

Attorneys for A&B Irrigation District

CERTIFICATE OF SERVICE

I hereby certify that on this 19th day of September, 2025, I served a true and correct copy of the foregoing *A&B Irrigation District's Request for IDWR to Produce Information and Identify Witnesses* on the following by the method indicated:

Gerald F. Schroeder Garrick Baxter Sarah Tschohl State of Idaho Dept. of Water Resources 322 E Front St. Boise, ID 83720-0098 *** service by electronic mail gerald_23107@msn.com garrick.baxter@idwr.idaho.gov sarah.tschohl@idwr.idaho.gov file@idwr.idaho.gov	Gail McGary U.S. Bureau of Reclamation 1150 N. Curtis Rd. Boise, ID 83706-1234 *** service by electronic mail only emcgarry@usbr.gov	John K. Simpson IdaH20, PLLC P.O. Box 152 Boise, ID 83701 *** service by electronic mail only jks@idahowaters.com
T.J. Budge Elisheva Patterson Racine Olson P.O. Box 1391 Pocatello, ID 83204-1391 *** service by electronic mail only tj@racineolson.com elisheva@racineolson.com	Sarah A. Klahn Maximillian C. Bricker Somach Simmons & Dunn 1155 Canyon Blvd., Ste. 110 Boulder, CO 80302 *** service by electronic mail only sklahn@somachlaw.com vfrancisco@somachlaw.com mbricker@somachlaw.com	David Gehlert ENRD – DOJ 999 18th St. South Terrace, Ste. 370 Denver, CO 80202 *** service by electronic mail only david.gehlert@usdoj.gov
Rich Diehl City of Pocatello P.O. Box 4169 Pocatello, ID 83201 *** service by electronic mail only rdiehl@pocatello.us	Candice McHugh Chris M. Bromley McHugh Bromley, PLLC 380 South 4th Street, Ste. 103 Boise, ID 83702 *** service by electronic mail only cbromley@mchughbromley.com cmchugh@mchughbromley.com	Robert E. Williams William, Meservy & Lothspeich, LLP P.O. Box 168 Jerome, ID 83338 *** service by electronic mail only rewilliams@wmlattys.com
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/s/ Jessica Nielsen

Jessica Nielsen
Assistant for Travis L. Thompson

RECEIVED
Sep 19, 2025
DEPARTMENT OF
WATER RESOURCES

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STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

IN THE MATTER OF DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY OR FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY	Docket No. CM-DC-2010-001 **STIPULATION TO INTERVENTION**

Idaho Ground Water Appropriators, Inc. ("IGWA") and A&B Irrigation District, by and through their respective counsel, hereby stipulate to IGWA's intervention in the contested case initiated in response to *A&B Irrigation District's Request for Hearing* filed July 24, 2025, in this matter.

IGWA represents the collective interests of North Snake Ground Water District, Magic Valley Ground Water District, Carey Valley Ground Water District, Southwest Irrigation District, American Falls-Aberdeen Ground Water District, Bingham Ground Water District, Bonneville-Jefferson Ground Water District, Jefferson-Clark Ground Water District, Madison Ground Water District, and Henry's Fork Ground Water District. In some cases, individual districts may have interests that diverge from IGWA's membership generally. In such cases, individual districts may participate separately from IGWA, as has occurred here with the interventions of American Falls-Aberdeen Ground Water District and Bonneville Ground Water District. IGWA's participation in this contested case is on an associational basis for its member districts who do not intervene separately in this case.

Dated this 19th day of September, 2025.

RACINE OLSON, PLLP

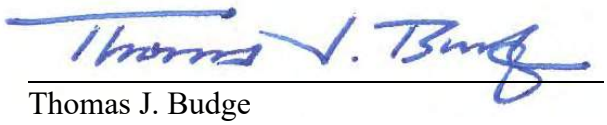
By: _____
Thomas J. Budge
Attorneys for IGWA

PARSONS BEHLE & LATIMER

By: */s/ Travis L. Thompson*
Travis L. Thompson
Attorneys for A&B Irrigation District

CERTIFICATE OF SERVICE

I hereby certify that on this 19th day of September, 2025, I cause the foregoing document to be served on the persons below via the method below:



Thomas J. Budge

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BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY OR FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY	**Docket No. CM-DC-2010-001** **ORDER ON INTERVENTION, AUTHORIZING DISCOVERY, EMAIL SERVICE, AND SCHEDULING** **ORDER GRANTING MOTION FOR SUBPOENA** **NOTICE OF HEARING**

BACKGROUND

On April 29, 2025, the Idaho Department of Water Resources ("Department") received *A&B Irrigation District's Request for Hearing*. In that request, A&B Irrigation District ("A&B") contested the Director's April 16, 2025 *Final Order Regarding April 2025 Forecast Supply (Methodology Steps 1–3)* ("*April As-Applied Order*"). *A&B Req. for Hr'g*, at 1 (Apr. 2025).

On July 24, 2025, A&B filed another request for hearing, this time contesting the Director's July 10, 2025 *Order Revising April 2025 Forecast Supply and Continuing May 16, 2025 Curtailment Order (Methodology Steps 5 & 6)* ("*July As-Applied Order*"). *A&B Req. for Hr'g*, at 1 (July 2025).

On September 3, 2025, the Director issued an *Order Granting A&B Irrigation District's Requests for Hearing, Consolidating Proceedings for Hearing, and Appointing Hearing Officer; Notice of Prehearing Conference*, scheduling a prehearing conference for September 18, 2025, and appointing former Idaho Supreme Court Justice Gerald F. Schroeder as the hearing officer in this matter.

On September 17, 2025, the Department received petitions to intervene from American Falls-Aberdeen Ground Water District ("American Falls") and the Surface Water Coalition ("SWC") in this matter. No opposition to either petition was filed.

On September 18, 2025, Hearing Officer Schroeder held a prehearing conference. Counsel for A&B, American Falls, SWC, Idaho Ground Water Appropriators ("IGWA"), Bonneville-Jefferson Ground Water District ("Bonneville-Jefferson"), and Coalition of Cities were present. At the conference, Bonneville-Jefferson and the Coalition of Cities each presented an oral motion to intervene in the subject consolidated contested cases. IGWA also stated an intent to intervene. A&B did not oppose the intervention of either Bonneville-Jefferson or the Coalition of Cities; however, A&B did not agree to the intervention of IGWA, stating that there may be an issue of standing so it might object to such a request. Accordingly, during the prehearing conference the Hearing Officer granted intervention to the SWC, American Falls,

Bonneville-Jefferson, and Coalition of Cities, and acknowledged that he would wait for a formal filing before considering IGWA's intervention.

After discussing intervention, the Hearing Officer and the parties discussed authorizing discovery, dates and deadlines for discovery, and a date for the hearing. A request to authorize discovery was made and granted, and the parties agreed to certain scheduling dates and deadlines. In accordance with IDAPA 37.01.01.553, the Hearing Officer reserved the right to exercise his discretion to hold another conference with the parties to formulate or simplify the issues if necessary.

Additionally, during the prehearing conference A&B stated a desire to receive information and a witness list from the Department. Given the Department is not a party to the proceedings, the Hearing Officer requested that A&B formally file a request. A&B filed *A&B Irrigation District's Request for IDWR to Produce Information and Identify Witnesses* ("*A&B Production Request*") on September 19, 2025.

Also on September 19, 2025, IGWA and A&B filed a *Stipulation to Intervention* for IGWA to intervene. No opposition to the stipulation was filed.

Pursuant to IDAPA 37.01.01.514, this order memorializes the rulings made and agreements reached during the prehearing conference. Further, in this order the Hearing Officer will address: (1) the stipulation concerning IGWA's intervention; (2) the request for information and witnesses filed by A&B; and (3) although not previously discussed, the Hearing Officer will exercise his discretion to authorize the Department and the parties to officially serve documents by email.

ANALYSIS

I. IGWA's Petition to Intervene

In the *Stipulation to Intervention*, IGWA states that it represents the collective interests of certain ground water districts and acknowledges that some of its member districts "may have interests that diverge from IGWA's membership generally." *Stipulation to Intervention*, at 2. IGWA clarified that its participation would be "on an associational basis for its member districts who do not intervene separately in this case"—as American Falls and Bonneville-Jefferson have. *Id*. During the prehearing, IGWA also made note of its consistent and longstanding involvement in the SWC delivery call.

The Hearing Officer will consider the *Stipulation to Intervention* as timely, since the issue of IGWA's intervention was initially raised during the prehearing conference and the stipulation was filed a day later, as anticipated. *See* IDAPA 37.01.01.352.

The Department's Rules of Procedure ("Rules") govern proceedings in these consolidated cases. IDAPA 37.01.01.000–.001, .050. Rule 350 states that: "A person who is not already a party to a contested case and who has a direct and substantial interest in the proceeding may petition for an order granting intervention as a party to the contested case." IDAPA 37.01.01.350. When deciding a petition to intervene, Rule 353 provides that:

> If a timely-filed petition to intervene shows direct and substantial interest in any part of the subject matter of a contested case and does not unduly broaden the issues, the agency shall grant intervention, subject to reasonable conditions, unless the applicant's interest is adequately represented by existing parties.

IDAPA 37.01.01.353.01.

Given IGWA has historically represented the interests of certain member districts in the overarching SWC delivery call matter and based on the clarification concerning representation provided in the stipulation, the Hearing Officer concludes that: (1) IGWA has a direct and substantial interest in these consolidated contested cases; (2) IGWA's participation will not unduly broaden the issues; and (3) its interests are not adequately represented by existing parties. For those reasons, coupled with the fact that A&B stipulated to the intervention and no objections were filed, the Hearing Officer will grant intervention to IGWA.

II. Matters of Discovery

As a preliminary matter, the dates and deadlines agreed upon during the prehearing conference are included in the order below, as well as a memorialization of the parties' authorization to conduct discovery.

The Department's Rules allow a hearing officer discretion to authorize discovery and resolve discovery disputes in contested cases. IDAPA 37.01.01.412 (authorizing hearing officers to hear and rule on motions and evidentiary issues, and schedule and compel discovery); IDAPA 37.01.01.521 (authorizing hearing officers to "limit the type and scope of discovery"). A hearing officer properly exercises discretion when the hearing officer: (1) correctly perceives the issue as one of discretion; (2) acts within the boundaries of such discretion; (3) acts consistently with any legal standards applicable to the specific choices before him or her; and (4) reaches a decision by an exercise of reason. *See Lunneborg v. My Fun Life*, 163 Idaho 856, 863, 421 P.3d 187, 194 (2018) (citation omitted) (clarifying the Idaho Supreme Court's four-part standard of review for abuse of discretion by a trial court).

When analyzing issues involving scope of discovery, the Department's Rules direct hearing officers to Rule 26 of the Idaho Rules of Civil Procedure ("I.R.C.P."). IDAPA 37.01.01.520.02. In relevant part, I.R.C.P. 26(b)(1)(A) states:

> [T]he scope of discovery is as follows: Parties may obtain discovery regarding any nonprivileged matter that is relevant to any party's claim or defense . . . . For good cause, the court may order discovery of any matter relevant to the subject matter involved in the action. Relevant information need not be admissible at the trial if the discovery appears reasonably calculated to lead to the discovery of admissible evidence.

Additionally, I.R.C.P. 34 provides guidance on requests for production, and states in relevant part:

> Requests may be served . . . upon any other **party** with or after service of the summons and complaint. **A party may serve on any other party** a request within the scope of Rule 26(b) . . . .

I.R.C.P. 34(a) (emphasis added).

The Department is not a party to these contested cases, but it is undeniable that the agency may have unique and relevant information. *See* IDAPA 37.01.01.600, .602. Therefore, in the interest of judicial economy, the Hearing Officer will treat the *A&B Production Request* as a motion for subpoena to produce documents and information, pursuant to IDAPA 37.01.01.523. The Department's Rules only grant the Hearing Officer the discretion to issue a subpoena in these cases. *Contrast* IDAPA 37.01.01.523 ("The presiding officer may issue subpoenas upon a party's motion or upon its own initiative."), *with* I.R.C.P. 45(a)(3) (authorizing the clerk of the court and "[a]n attorney licensed in Idaho as officer of the court" to "issue and sign a subpoena").

A&B requested that the Department "produce information and identify particular witnesses in this matter" that relate to:

> Any and all information, documents, and data relied upon by [sic] IDWR with respect to the following:
>
> *April 16, 2025 Order (Steps 1 – 3)* [*April As-Applied Order*]
>
> 1) Model simulations and calculations relating to junior ground water users proportionate share of the predicted April In-Season Demand Shortfall (p. 5, ¶ 6, and p. 5, n. 8).
>
> *July 16, 2025 Order (Steps 5-6)* [*July As-Applied Order*]
>
> 1) Model simulations and calculations relating to Findings of Fact 32-33 (pp. 9-10).
>
> 2) Model simulations and calculations relating to junior ground water users proportionate share of the predicted April In-Season Demand Shortfall (p. 11, ¶ 7, and p. 11, n. 6).
>
> 3) Information, communications, IDWR actions related to enforcement and implementation of May 16, 2025 *Curtailment Order* (p. 12) and model simulations resulting from that curtailment and/or non-curtailment of the affected junior priority ground water rights.

A&B Production Request, at 1–2.

For witnesses, A&B requested that the Department "identify witnesses responsible for and involved with the above analysis and identified actions and availability for potential depositions between October 1-31." *Id.* at 2. A&B requested that the Department provide this documentation and witness list to the parties on or before October 10, 2025. *Id.*

The Hearing Officer can find no good cause to limit the scope of the request for documents and information. If the Department believes it necessary, it may timely file a motion to quash for the Hearing Officer's consideration. The Hearing Officer will exercise his discretion to grant A&B's motion and issue a subpoena for production of documents and require the Department to testify concerning the information requested. However, once potential witnesses are identified by the Department, any additional depositions of Department employees that the parties wish to take will require a separate motion for subpoena. Given the condensed schedule in these cases, the extent of the documentation requested, and the agreed upon deposition deadline set at the prehearing conference, the Hearing Officer will exercise his discretion to set the deadline for the Department to provide such documents and any written information to the parties to October 24, 2025. A copy of the issued *Subpoena for Production of Documents and Information—The Department of Water Resources* is attached to this order and provides guidance concerning authorized depositions. As the requesting party, A&B is responsible for service of the issued subpoena.[1]

ORDER

IT IS HEREBY ORDERED that the *American Falls-Aberdeen Ground Water District's Petition to Intervene* is GRANTED.

IT IS FURTHER ORDERED that the *Surface Water Coalition's Petition to Intervene* is GRANTED.

IT IS FURTHER ORDERED that Bonneville-Jefferson Ground Water District and the Coalition of Cities are GRANTED intervention.

IT IS FURTHER ORDERED that the *Stipulation to Intervention* is GRANTED and Idaho Ground Water Appropriators, Inc. is GRANTED intervention.

IT IS FURTHER ORDERED that as of September 18, 2025, and pursuant to IDAPA 37.01.01.521, the parties are authorized to conduct and engage in the methods of discovery listed under IDAPA 37.01.01.520.01. Barring any conflicting discovery procedures or limitations set forth in the Department's Rules of Procedure or an order of the presiding officer, discovery shall conform to Title V of the Idaho Rules of Civil Procedure.

IT IS FURTHER ORDERED that as of October 7, 2025, and pursuant to IDAPA 37.01.01.053.02–03, the Department and the parties are authorized to serve documents by email

[1] To reduce potential confusion, the Hearing Officer confirmed that Garrick Baxter and Meghan Carter, Deputy Attorneys General, will be representing the Department as it relates to information requests and witness testimony. They may be reached by phone at (208) 287-4800 or by email at garrick.baxter@idwr.idaho.gov and meghan.carter@idwr.idaho.gov.

as an alternative to service by mail or personal service. The emails included in the certificate of service below are to be used as the official service emails, unless a notice instructing otherwise is filed with the Department and properly served on the parties.

IT IS FURTHER ORDERED that A&B Irrigation District's motion for subpoena for the Department to produce documents and information is GRANTED.

IT IS FURTHER ORDERED that the following schedule is ADOPTED:

Nov. 7, 2025 Deadline for the parties to file a list of expert witnesses they intend to rely upon at the hearing, including names, addresses, and updated curricula vitarum. However, a curricula vitarum is not required if the expert identified is an employee of the Department.

Deadline for the parties to exchange proposed stipulations of fact and expert reports. Unless the expert identified is an employee of the Department, if a party intends to have an expert testify during the hearing, the expert needs to have authored a disclosed expert report.

Deadline for the parties to serve written discovery requests. If a party feels that additional time for written discovery is necessary, the party may move the Hearing Officer for an extension. Such a motion must explain the additional discovery sought and the reason the discovery could not be conducted prior to the deadline. Any response must be filed within 4 days after service of the motion. Replies are not authorized.

Dec. 5, 2025 Deadline for the parties to respond to written discovery.

Deadline for the parties to exchange rebuttal expert reports, if any. If an updated curricula vitarum for the rebuttal expert witness was not previously disclosed, one shall be provided with their report.

Dec. 19, 2025 Deadline for the parties to complete all depositions.

Jan. 6, 2026 Deadline for the parties to file an index of exhibits and a list of the names and addresses of all witnesses that they may call to testify at the hearing. A short summary of the scope of each witnesses' anticipated testimony shall be included and expert witnesses shall be identified as such. The parties shall use the following reserved exhibit numbers and reach out to Paralegal Sarah Tschohl if additional numbers are needed:

Exhibit Nos.	Assigned Party
1–99	A&B
100–199	SWC
200–299	IGWA
300–399	American Falls

400-499	Bonneville-Jefferson
500-599	Coalition of Cities

Jan. 12, 2026 Deadline for the parties to exchange and submit to the Department an electronic copy (via e-file email, USB thumb drive, or disc(s)) of their pre-marked exhibits. Each exhibit must be an independent file, and all file text must be machine readable. Exhibits shall be pre-marked in the bottom right corner of every page and must include the name of the party proposing the exhibit, the exhibit number, and a page number (each exhibit must start with page 1).

Jan. 14, 2026 Prior to the start of the hearing, the parties shall submit to the Department three physical copies of their pre-marked exhibits. Exhibits shall be organized in binders that are labeled with the party's name and include dividers that identify each exhibit by its number.

NOTICE OF HEARING

NOTICE IS HEREBY GIVEN that Hearing Officer Schroeder will hold a hearing in this matter on **January 14–16, 2026**. Each hearing day will begin at **9:00 a.m. (MT)**. The hearing will take place at the Department's State Office, located at 322 E. Front Street, 6th Floor, Conference Rooms 602B–D, Boise, Idaho. All parties who wish to participate in the hearing and their witnesses shall be present in person.

The hearing will be held in accordance with the provisions of Chapter 17, Title 42, and Chapter 52, Title 67, Idaho Code, and the Department's Rules of Procedure, IDAPA 37.01.01. A copy of the Rules of Procedure may be obtained from the Department upon request or at https://adminrules.idaho.gov/rules/current/37/370101.pdf.

The hearing will be conducted in a facility that meets the accessibility requirements of the Americans with Disabilities Act. If you require reasonable accommodation to attend, participate in, or understand the hearing, please advise the Department no later than five (5) days before the hearing. Inquiries for reasonable accommodations should be directed to Sarah Tschohl, Idaho Department of Water Resources, PO Box 83720, Boise, Idaho 83720-0098, telephone (208) 287-4815, or email sarah.tschohl@idwr.idaho.gov.

DATED this 7th day of October 2025.

GERALD F. SCHROEDER
Hearing Officer

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 7th day of October 2025, the above and foregoing, was served by the method indicated below, and addressed to the following:

Travis L. Thompson Abby R. Bitzenburg PARSONS BEHLE & LATIMER PO Box 63 Twin Falls, ID 83303-0063 tthompson@parsonsbehle.com abitzenburg@parsonsbehle.com	☐ U.S. Mail, postage prepaid ☒ Email
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Sarah Tschohl
Paralegal

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY OR FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY	Docket No. CM-DC-2010-001 **SUBPOENA FOR PRODUCTION OF DOCUMENTS AND INFORMATION—THE DEPARTMENT OF WATER RESOURCES**

TO: Idaho Department of Water Resources
c/o Garrick L. Baxter
Meghan M. Carter
Deputy Attorneys General
PO Box 83720
Boise, Idaho 83720-0098
Telephone: (208) 287-4800
garrick.baxter@idwr.idaho.gov
meghan.carter@idwr.idaho.gov

YOU ARE HEREBY COMMANDED: (1) to appear at the place, date and time specified below to testify at the taking of a deposition in the above case; and (2) to produce or permit inspection and copying of the following documents or objects, including electronically stored information, at the place, date and time specified below.

PLACE: A&B Irrigation District
c/o Travis L. Thompson
Abby R. Bitzenburg
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DATE/TIME: You are not required to appear in person at the place of production or inspection if you: (1) produce by **October 24, 2025**, the documents and/or objects described and requested below; (2) produce by **October 24, 2025**, answers to the information requested below, verified by an identified record custodian(s); (3) complete, serve, and file into the above-caption matter, an affidavit or declaration of service, in accordance with the Department's Rules of

Procedure, IDAPA 37.01.01. A copy of the Rules of Procedure may be obtained from the Department upon request or at https://adminrules.idaho.gov/rules/current/37/370101.pdf.

If you prefer to designate an employee(s) and require their attendance for a deposition upon oral examination to testify concerning the information requested, in lieu of providing verified answers, you must inform A&B Irrigation District of your decision by **October 17, 2025**. You must work with A&B Irrigation District to complete any such deposition by **October 31, 2025**.

TESTIFY TO/PRODUCE: All information, documents, and data relied upon by the Department with respect to the following requests, as they relate to the orders identified below that were issued in the above-caption matter:

1. *Final Order Regarding April 2025 Forecast Supply (Methodology Steps 1–3)* (April 16, 2025)

    a) Model simulations and calculations relating to junior ground water users proportionate share of the predicted April In-Season Demand Shortfall (p. 5, ¶ 6, and p. 5, n. 8).

2. *Order Revising April 2025 Forecast Supply and Continuing May 16, 2025 Curtailment Order (Methodology Steps 5 & 6)* (July 16, 2025)

    a) Model simulations and calculations relating to Findings of Fact 32-33 (pp. 9-10).

    b) Model simulations and calculations relating to junior ground water users proportionate share of the predicted April In-Season Demand Shortfall (p. 11, ¶ 7, and p. 11, n. 6).

    c) Information, communications, IDWR actions related to enforcement and implementation of May 16, 2025 Curtailment Order (p. 12) and model simulations resulting from that curtailment and/or non-curtailment of the affected junior priority ground water rights.

Additionally, identify Department witnesses responsible for and involved in the above analysis and identified actions.

BY ORDER OF the Idaho Department of Water Resources.

DATED this 7th day of October 2025.

GERALD F. SCHROEDER
Hearing Officer

RECEIVED
Nov 18, 2025
DEPARTMENT OF
WATER RESOURCES

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BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY OR FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY	Docket No. CM-DC-2010-001 **AMERICAN FALLS-ABERDEEN GROUND WATER DISTRICT'S MOTION TO RECONSIDER *ORDER GRANTING HEARING* AND VACATE HEARING OR, ALTERNATIVELY, TO CLARIFY THE SCOPE OF HEARING; REQUEST FOR EXPEDITED RULING; BRIEF IN SUPPORT**

COMES NOW American Falls-Aberdeen Ground Water District ("AFA"), by and through undersigned counsel of record, pursuant to Rules 220 and 300 of the Idaho Department of Water Resources' ("IDWR" or "Department") Rules of Procedure,[1] and hereby moves the

[1] Unless stated otherwise, any "Rules" referenced herein are from the Department's Rules of Procedure located at IDAPA 37.01.01.

Additionally, unless stated otherwise, all documents cited herein are available at the webpage for the Surface Water Coalition Delivery Call, IDWR Docket No. CM-DC-2010-001: https://idwr.idaho.gov/legal-actions/delivery-call-actions/swc/ (last visited Nov. 17, 2025).

Director to reconsider the *Order Granting A&B Irrigation District's Requests for Hearing, Consolidating Proceedings for Hearing, and Appointing Hearing Officer; Notice of Prehearing Conference* dated September 3, 2025 ("*Order Granting Hearing*") and vacate the hearing set to commence on January 14, 2026, or, alternatively, to clarify the scope of the hearing. AFA also requests an expedited ruling on this motion.

This Motion is made to the Director rather than the Hearing Officer for two reasons: first, under the Department's Rules, motions to reconsider interlocutory orders must be made to the official who issued the order; second, and more practically, because the *Order Granting Hearing* describes the scope of the Hearing Officer's authority in this matter, the Director is arguably the only official who can either reconsider whether the Order was proper **or** clarify the scope of the hearing. This motion and a brief in support are contained below.

MOTION

I. Reconsideration of the Department's *Order Granting Hearing* and Vacation of the Hearing

AFA moves the Department to reconsider the *Order Granting Hearing* and deny A&B Irrigation District's ("A&B") requests for hearing on two grounds: first, as shown in the table attached hereto as Exhibit 1, five of the six issues raised in A&B's two requests for hearing were previously the subject of a hearing in front of the Department on June 6-9, 2023. Thus, A&B is not entitled to another hearing on these issues under Idaho Code ("I.C.") section 42-1701A(3) and, further, is barred from relitigating them under principles of res judicata.

Second, A&B's one remaining issue (issue no. 3 in the July 24, 2025 *Request for Hearing*) was mooted by A&B's stipulation with the Surface Water Coalition ("SWC") regarding A&B's 2025 mitigation obligation and thus does not warrant a hearing.

Because A&B's requests for hearing should be denied for all issues, AFA requests that the Department vacate the hearing set to commence on January 14, 2026.

II. In the Alternative, Clarify the Scope of Hearing

Alternatively, if the hearing is not vacated, AFA moves the Department to clarify the scope of hearing. Contrary to A&B's requests for hearing, A&B's expert report primarily concerns why the orders applying the *Sixth Methodology Order* are faulty and should be replaced by a Groundwater Management Plan ("GMP"). *See* David Colvin, *A&B Proportionate Share Expert Report* at 3, 4, 6 (Nov. 7, 2025), attached hereto as Exhibit 2. A&B's opportunity to challenge the substance and application of the *Sixth Methodology Order* was during the June 2023 hearing; its effort to litigate whether a GMP should replace the *Sixth Methodology Order* as the mechanism to regulate groundwater use on the Eastern Snake Plain Aquifer Ground Water Management Area ("ESPA-GWMA") is a collateral attack on the *Sixth Methodology Order* and should be rejected. If the Department proceeds with the hearing, the Director should clarify that the scope of hearing is limited to issues related to the Department's determinations of proportionate shares of the predicted in-season demand shortfall through application of the *Sixth Methodology Order* that have not previously been heard, not to testimony and evidence regarding a prospective GMP.

Finally, because upcoming discovery and other prehearing activities could be affected by the Department's ruling on this motion, AFA requests an expedited ruling. *See* Rule 220.02.f.

BRIEF IN SUPPORT

I. Standard of Review

In contested cases, parties may move the Department to review interlocutory orders without any time limitations. *See* Rule 711. Rule 710 defines interlocutory orders:

> Interlocutory orders or intermediate orders are orders that do not decide all previously undecided issues presented in a proceeding, except the presiding officer may by order decide some of the issues presented in a proceeding and provide that the decision on those issues is final and subject to review by reconsideration or exceptions filed with the agency head, or judicial review in district court, but is not final on other issues. Unless an order contains or is accompanied by a document containing one (1) of the paragraphs set forth in Rules 720, 730 or 740 or a paragraph substantially similar, the order is interlocutory. The following orders are always interlocutory: orders joining, consolidating or separating issues, proceedings or parties; orders granting or denying intervention; orders scheduling prehearing conferences, discovery, hearing, oral arguments or deadlines for written submissions; and orders authorizing, compelling or refusing to compel discovery. Interlocutory orders may be reviewed by the presiding officer issuing the order pursuant to Rules 711, 760, and 770.

(Emphasis added.) Upon review, the Department official that issued the interlocutory order may rescind it and issue a substitute order. *See* Rule 711, 760. Additionally, the Department may clarify interlocutory orders. *See* Rule 710, 770.

The *Order Granting Hearing* is an interlocutory order under the definition in Rule 710 and, because there are no time limits on the review of interlocutory orders, this motion is timely.

II. Argument

A. The Director Should Reconsider the *Order Granting Hearing*, Deny A&B's Requests for Hearing, and Vacate the Hearing

In the *Order Granting Hearing*, the Director erred in concluding that A&B is entitled to a hearing under I.C. section 42-1701A(3) because "A&B has not previously been afforded an opportunity for hearing on the issues it presented within the requests." *Order Granting Hearing* at 4-5. To the contrary, A&B participated in a hearing in the captioned matter from June 6-9, 2023, where it presented two issues that are substantively identical to five of the six issues for which A&B seeks a hearing now. *See,* Ex. 1. During the June 2023 hearing, A&B elicited testimony from Department employee Jennifer Sukow related to those issues, including the Department's use of steady-state modeling to determine proportionate shares of predicted in-

season demand shortfalls. *See City of Idaho Falls v. IDWR*, Case No. CV01-23-13238, *Settled Agency Hearing Transcript on Appeal* at 100:23-102:7 (4th Jud. Dist., Ada Cnty., Sep. 28, 2023).[2] Finally, A&B argued these issues in its post-hearing brief, including the assertion that the Department should reduce A&B's proportionate share of any predicted in-season demand shortfalls becaue A&B is no longer irrigating as much land with groundwater as it once was. *See Surface Water Coalition's Post-hearing Brief* at 12 (June 16, 2023).[3] These are the same issues that A&B seeks to litigate now; that it has sought to re-litigate them in the context of the referenced orders issued in 2025 does not cure the defect in their request.

While the Director did not address these issues in the *Post-Hearing Order Regarding Fifth Amended Methodology Order* dated July 19, 2023, A&B elected to not appeal the order. Accordingly, for five of the issues now raised, A&B has "previously been afforded an opportunity for a hearing on the matter," and thus not is entitled to a hearing under I.C. § 42-

[2] "Q. [by Mr. Simpson] And then Mr. Budge was asking you about a calculation that you did with respect to dividing up the IGWA's proportionate share under the Footnote 5, I believe, of the As-Applied Order. Do you recall that testimony? A. [by Ms. Sukow] Yes. Q. I'm not sure if I fully appreciated the calculation you made. But my understanding is that your method that you utilized, and this was your proposed method, acknowledged the long-term impacts of each ground water district on the Blackfoot to Minidoka reach. And then once that percentage was calculated, then it was utilized in the calculation of the responsibility of each ground water district of the total for IGWA; is that correct? A. Well, and again, that was provided as a courtesy, and the Department is not telling them, IGWA what each ground water districts responsibility is. But it is just an apportioning of it based on their long-term impacts." Available at https://idwr.idaho.gov/wp-content/uploads/sites/2/legal/CV01-23-13238/CV01-23-13238-20230928-Settled-Agency-Hearing-Transcript-on-Appeal.pdf (last visited Nov. 17, 2025).

[3] "The April As Applied Order identified A&B's proportionate share of the projected inseason demand shortfall to be 458 acre-feet. . . . This calculation was made using a steady-state run of ESPAM to apportion respective responsibility for the shortfall and mitigation obligation. . . . Since A&B has replaced groundwater with surface water delivery on certain lands, that should be taken into account when analyzing the proportionate share of any in-season demand shortfall predicted for the Surface Water Coalition."

1701A(3).[4] Moreover, A&B should be barred from relitigating these issues under principles of res judicata. *See Markin v. Grohmann*, 153 Idaho 223, 227-28 (2012).[5]

As for the one remaining issue (issue no. 3 in the July 24, 2025 *Request for Hearing*), while A&B may have been entitled to a hearing at the time the *Order Granting Hearing* was issued, the issue became moot by the following week when the Director found, "A&B does not need to establish that they can mitigate for its proportionate share of the predicted IDS." *Order Revising July 2025 Forecast Supply (Methodology Step 7-8)* at 12 n.7 (Sep. 11, 2025).[6] Accordingly, this is a moot issue that does not warrant a hearing.[7]

In sum, all six of the issues that A&B presented in its 2025 requests were litigated in the June 2023 hearing or are now moot. Accordingly, A&B is not entitled to a hearing under I.C. section 42-1701A(3), and the Department should deny the requests and vacate the hearing to conserve judicial resources.

---

[4] Following the *Post-Hearing Order Regarding Fifth Amended Methodology Order*, the Director denied the *City of Pocatello's, City of Idaho Falls', and Coalition of Cities' Request for Hearing and Order Authorizing Discovery* on the same grounds: they "have previously been afforded an opportunity for a hearing on the issues," even though they were requesting a hearing on a different order. *See Order Denying Cities' Motion for Clarification and Reconsideration* at 2-3 (Sep. 25, 2023). On reconsideration, the Director should rule similarly on A&B's requests for hearing, as A&B also seeks a hearing on the same issues in 2025 as they did in 2023, even if it is a different as-applied order.

[5] "The doctrine of res judicata rests upon the ground that the party . . . has litigated, or had an opportunity to litigate the same matter in a former action in a court of competent jurisdiction, and should not be permitted to litigate it again to the harassment and vexation of his opponent. Public policy and the interest of litigants alike require that there be an end to litigation."

[6] A&B was relieved of this obligation because the SWC stipulated to accept 1,252 acre-feet of storage water as satisfactory, which is far less than the 5,039 acre-feet for which the Department determined A&B was responsible in the *Order Revising April 2025 Forecast Supply and Continuing May 16, 2025 Curtailment Order (Methodology Steps 5 & 6)* dated July 10, 2025.

[7] The Department has previously denied requests for hearing on the basis that the issue for which the party sought a hearing "was rendered moot because a mid-season order determined there was no longer an obligation." *Order Denying IGWA's Petition for Review* at 2 (Aug. 23, 2023). On reconsideration, the Director should rule similarly with respect to issue no. 3 in A&B's July 24, 2025 *Request for Hearing*, as A&B's issue was similarly mooted by an as-applied order that found it no longer had an obligation.

B. Alternatively, the Department Should Clarify that the Scope of Hearing Does Not Include Issues Related to the ESPA Ground Water Management Area

If the hearing is not vacated, the Department should clarify that GMP-related testimony and evidence is outside the scope of this hearing. It is apparent from its expert report that A&B desires to use this proceeding as a vehicle to advocate for the adoption of a GMP and/or to propose concepts (e.g., that not all ground water users should be "equally responsible" for mitigating demands shortfalls, and priority should be a factor in how demand shortfalls are apportioned amongst groundwater users[8]) that are inconsistent with the Department's Methodology-administrative framework. If A&B wishes to present testimony and evidence regarding a prospective GMP, they should do so in the appropriate matter (i.e., the ESPA-GWMA matter, IDWR Docket No. AA-GWMA-2016-001[9]) and should be barred from doing so here.

Moreover, A&B's current efforts are a collateral attack on the *Sixth Methodology Order*, which are prohibited under Idaho law. *See Cuevas v. Barraza*, 152 Idaho 890, 894 (2012); *Baird-Sallaz v. Sallaz*, 157 Idaho 342, 346 (2014). The Department applies the *Sixth Methodology Order* on an annual basis to predict/determine the SWC's in-season demand shortfall and accordingly order responsible junior groundwater users to mitigate or face curtailment in order to prevent or remedy the SWC's material injury. By advocating for a GMP that would reduce the mitigation obligation that A&B incurs from the Department's application of the *Sixth Methodology Order*, A&B is presenting arguments and evidence here that it made or

[8] *See* Ex. 2 at 4, 8.

[9] Moreover, A&B had the opportunity to present such concepts during the ESPA-GWMA Advisory Committee meetings in 2023-24. *See* https://idwr.idaho.gov/water-rights/groundwater-management-areas/eastern-snake-plain-aquifer-advisory-committee/ (last visited Nov. 17, 2025).

should have made during the June 2023 hearing, thereby collaterally attacking the *Sixth Methodology Order*.

In sum, to avoid the wasting of resources in discovery and other prehearing activities, the Department should clarify that testimony and evidence regarding a GMP is outside the scope of this hearing.

III. Conclusion

Based on the forgeoing, AFA requests that the Department reconsider the *Order Granting Hearing*, deny A&B's requests and vacate the hearing, or, alternatively, clarify the scope of hearing. Because upcoming discovery and other prehearing activities could be affected by the ruling on this motion, AFA requests an expedited ruling.

DATED this 18th day of November 2025.

SOMACH SIMMONS & DUNN

By _____
Sarah A. Klahn, ISB #7928

Attorney for American Falls-Aberdeen Ground Water District

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 18th day of November 2025, I caused a true and correct copy of the foregoing document to be filed and served via electronic mail to the following:

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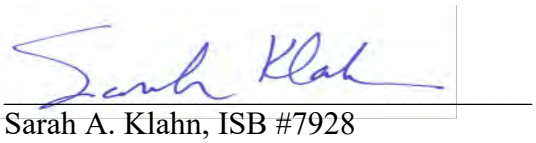


Sarah A. Klahn, ISB #7928

Exhibit 1

Table of Issues Presented by A&B Irrigation District

Exhibit 1

Issues Presented by A&B		
May 5, 2023 *Original Request for Hearing*	**April 29, 2025 *Request for Hearing***	**July 24, 2025 *Request for Hearing***
1) Whether the order's identified proportionate share (458 acre-feet) of the predicted injury (75,200 acre-feet) to TFCC is calculated correctly based upon A&B's actual diversion and use of water rights that are subject to the identified curtailment date (junior to December 30, 1953).	1. Whether the order's identified proportionate share (384 acre-feet) of the predicted injury (63,000 acre-feet) to TFCC is calculated correctly based upon A&B's actual diversion and use of water rights that are subject to the identified curtailment date (junior to August 28, 1955).	1. Whether the order's identified proportionate share (5,039 acre-feet) of the predicted injury (75,300 acre-feet) to TFCC is calculated correctly based upon A&B's actual diversion and use of water rights that are subject to the identified curtailment date (junior to October 11, 1900).
2) Whether the steady-state use of the ESPAM 2.2 in identifying A&B's proportionate share is consistent with the transient use of the model in identifying ground water rights subject to curtailment as outlined in the *Fifth Methodology Order*.	2. Whether A&B should be allowed to mitigate for a portion of groundwater right 36-15127A (approximately 508.3 acres) that will be diverted used during the 2025 irrigation season, as opposed to mitigating for all 1,886.4 acres authorized by the water right.[1]	2. Whether the steady-state use of the ESPAM 2.2 in identifying A&B's proportionate share of the estimated in-season demand shortfall is consistent with the transient use of the model in identifying ground water rights subject to curtailment as outlined in the *Sixth Methodology Order*.
Green = Previously Heard in 2023 **Purple = Moot**	3. Whether the steady-state use of the ESPAM 2.2 in identifying A&B's proportionate share is consistent with the transient use of the model in identifying ground water rights subject to curtailment as outlined in the *Sixth Methodology Order*.	3. Whether the Director's failure to implement the May 16, 2025 curtailment order in accordance with Idaho law has injured A&B by subjecting its senior water right 36-2080 to curtailment and/or mitigation requirements during the 2025 irrigation season.

[1] While issue no. 2 in the April 29, 2025 *Request for Hearing* may appear different, it is substantively the same as issue no. 1 in both the April 29, 2025 *Request for Hearing* and July 24, 2025 *Request for Hearing*: whether A&B should be required to mitigate for a water right in whole (based on authorized diversion/use) or in part (based on actual diversion/use).

Exhibit 2

***A&B Proportionate Share Expert Report by* David Colvin**

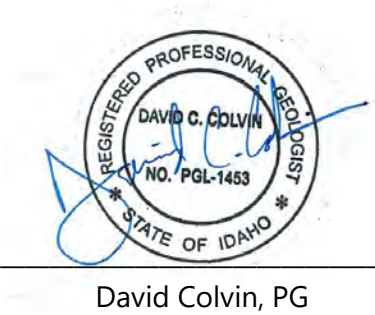
A&B Proportionate Share Expert Report Docket No. CM-DC-2010-001

Prepared for:

A&B Irrigation District

November, 2025
1604FLE01

The technical material in this report was prepared by or under the supervision and direction of the undersigned.



David Colvin, PG

The following LRE Water staff members contributed to the preparation of this report.

Principal Hydrogeologist	David Colvin, PG
Project Hydrogeologist	Tom Glose, PG
Project Hydrogeologist	Gus Womeldorph, PG
Project Engineer	Kelsey Briggs, PE
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Figures

Figure 1 - SWC Methodology Steps

Figure 2 - IDWR 2025 Methodology Steps Transient ESPAM Curtailment Modeling

Appendices

Appendix A: Curriculum Vitae for David Colvin

1. Introduction

This report provides David Colvin's opinions regarding the 2025 implementation of the July 19, 2023 *Sixth Final Order Regarding Methodology for Determining Material Injury to Reasonable In-Season Demand and Reasonable Carryover* (IDWR, 2023, Methodology Order) issued by the Director of the Idaho Department of Water Resources (IDWR). On September 3, 2025 the Director issued an order granting a hearing (IDWR, 2025f) related to the following topics requested by the A&B Irrigation District (A&B):

1. Whether the order's identified proportionate share (384 acre-feet) of the predicted injury (63,000 acre-feet) to TFCC is calculated correctly based upon A&B's actual diversion and use of water rights that are subject to the identified curtailment date (junior to August 28, 1955).
2. Whether A&B should be allowed to mitigate for a portion of groundwater right 36-15127A (approximately 508.3 acres) that will be diverted [sic] used during the 2025 irrigation season, as opposed to mitigating for all 1,886.4 acres authorized by the water right.
3. Whether the steady-state use of the ESPAM 2.2 in identifying A&B's proportionate share is consistent with the transient use of the model in identifying ground water rights subject to curtailment as outlined in the *Sixth Methodology Order*.

The following report represents the expert opinions of David Colvin, Principal Hydrogeologist and Rocky Mountain Regional Director for LRE Water. Mr. Colvin's curriculum vitae is provided as Attachment A. The next section contains a summary of his opinions and is followed by additional discussion sections. If additional information becomes available, Mr. Colvin reserves the right to alter his opinions regarding A&B's proportionate share.

2. Summary of Opinions

My detailed opinions regarding the A&B proportionate share analysis are summarized below.

- **Opinion 1** - A&B's mitigation plan specifies that storage water is only required to cover the in-season demand shortfall (IDS) beyond the benefits of other mitigation measures.
- **Opinion 2** - According to the terms and conditions of the A&B mitigation plan, they should only have to mitigate for groundwater use on the acres currently being diverted (e.g., approximately 508.3 acres of water right 36-15127A).
- **Opinion 3** - An ESPA Groundwater Management Plan (GMP) could provide coordination of mitigation actions and curtailment, balancing in-season demands with the decades of

historical junior groundwater pumping. A GMP could be structured to allow for transient modeling of the long-term mitigation obligations/actions and the in-season mitigation action benefits to reach gains.

- **Opinion 4** - The IDWR methodology contains logical inconsistencies rooted in problems with attempts to constrain injury determination and defining mitigation requirements within a single irrigation season. ESPA methodology calculation of IDS is caused by decades of junior groundwater pumping, and the mitigation responsibility should consider priority.
- **Opinion 5** - The Methodology order does not specify how to calculate the proportionate amount of mitigation required by each junior groundwater right covered by a mitigation plan. IDWR should calculate proportionate share consistently.
- **Opinion 6** - A&B's mitigation plan is unique and should be treated as such in how IDWR calculates proportionate shares. According to the terms of the plan, consideration should be given to all A&B's mitigation activities.
- **Opinion 7** - There was a time when the ESPA was in balance and groundwater pumping was not reducing the supplies of senior surface water rights and causing in-season demand shortfalls. Because IDWR continued to approve new groundwater rights without consideration of long-term impacts on the connected surface water sources, the system became over-appropriated and junior groundwater pumping began reducing the senior surface water supplies. IDWR should explain how the groundwater rights with a priority date senior to the time of over-appropriation are equally responsible for mitigating the IDS as groundwater rights junior to that time.
- **Opinion 8** - When the IDS was estimated in July, IDWR recognized actual supply and demand conditions and that the May curtailment was not implemented. Partially because no May curtailment was implemented, the July IDS increased.
- **Opinion 9** - If IDWR had implemented the May curtailment, the July IDS would have been less, and the curtailment date could have been more junior. IDWR's lack of curtailment action contributes to a reduction in the availability of groundwater rights junior to 1955.

3. A&B Mitigation Plan

A&B Irrigation District (A&B) developed a mitigation plan to address the depletive effects of its junior priority groundwater rights on the near Blackfoot to Minidoka reach gains (reach gains) of the Snake River. The initial plan (A&B, 2015) was approved by the Director in the Final Order Approving Mitigation Plan issued on December 16, 2015 (IDWR, 2015). A&B and the Surface Water Coalition (SWC) later filed a Stipulated Mitigation Plan, which was approved in January 2025 (IDWR, 2025a), as an amendment to the original plan.

The mitigation actions originally specified in the A&B Mitigation Plan include:

1. Conversion of 1,378 acres (or 1,377.8 acres) from groundwater to surface water irrigation.
2. Development of a second pumping plant and pipeline project to deliver available surface water, supporting future groundwater-to-surface-water conversions.
3. Enrollment of 121 acres in the federal Conservation Reserve Enhancement Program (CREP)[1].
4. Delivery of storage water, using A&B's storage rights in American Falls and Palisades Reservoirs, if the benefits of other conversions and CREP activities do not satisfy the injury caused by A&B's junior priority groundwater rights.

A&B's mitigation plan specifies that storage water is only required to cover the in-season demand shortfall (IDS) beyond the benefits of other mitigation measures:

> *"Finally, A&B holds rights to storage water in American Falls Reservoir (46,826 af) and Palisades Reservoir (90,800 af) and has the ability to participate in Water District 1's Rental Pool. Available storage, if necessary, can be rented and delivered to injured Coalition members to mitigate for any shortfalls caused by the District's junior priority ground water that are subject to curtailment. This action would only be necessary if the benefits of the above conversions and CREP action did not satisfy the injury caused by A&B' s ground water rights that are found to be subject to curtailment."* (A&B, 2015)

A&B's approved mitigation plan includes significant actions related to the conversion of groundwater to surface water. A&B historically mitigates injury to the SWC by curtailing groundwater diversions on approximately 3,574 acres within its irrigation service area and replacing that groundwater use with surface water (soft conversions). However, IDWR requires A&B to demonstrate its ability to mitigate annually for its proportionate share of the predicted IDS.

According to the terms and conditions of the A&B mitigation plan, the district should only have to mitigate for groundwater use on the acres actually being diverted (e.g., approximately 508.3 acres of water right 36-15127A) instead of the full authorized acreage (1,886.4 acres). A&B intends to continue delivering surface water to approximately 3,573.6 acres formerly irrigated with groundwater. IDWR has not demonstrated why it cannot calculate a partial mitigation obligation for only partial use of a groundwater right.

[1] No longer active.

4. Lack of Coordination with other Mitigation Plans

Other stipulated mitigation plans, like those approved for the Ground Water Districts (IGWA), the Coalition of Cities, and the Southwest Irrigation District (SWID) are fundamentally different from A&B's plan. In these other plans, the SWC agreed to junior groundwater users undertaking aquifer mitigation actions (such as recharge, conversions, and voluntary curtailment) every year, regardless of the annual mitigation obligation, in exchange for obtaining safe harbor from the SWC delivery call. Under other agreements, these entities do not need to establish annually that they can mitigate for their proportionate share of the predicted IDS with actions such as reductions in junior groundwater pumping. Unlike IDWR's apportionment of A&B mitigation requirements, IGWA is allowed to determine how to apportion those reductions between their member organizations in a way that is unlikely to accurately represent the reach gain impacts and IDS.

Mitigation plans allow for multi-season accounting of groundwater withdrawals and provide mitigation water supplies over multiple years. However, IDWR is required to administer water rights within each year. This highlights one of the fundamental issues in this hearing, the tension between calculating the reach gain impacts of decades of junior groundwater pumping and requiring mitigation within a single season.

There is no comprehensive coordination between mitigation plans and curtailment. An ESPA Groundwater Management Plan (GMP) would provide this coordination, balancing in-season demands with the decades of historical junior groundwater pumping. A GMP could be structured to allow for transient modeling of the long-term mitigation obligations/actions and the in-season mitigation action benefits to reach gains.

5. Methodology Steps

IDWR annually implements steps supporting the Methodology Order (**Figure 1**). The IDWR methodology contains logical inconsistencies rooted in problems with attempts to constrain injury determination and defining mitigation requirements within a single irrigation season. IDWR calculates the IDS using observed or predicted water supply conditions. These supplies are impacted by long term and in-season pumping. The issue at hand is how to identify which junior groundwater pumping is causing the injury during any given season while considering the groundwater right's priority and location.

In the Sixth Methodology Order, IDWR is directed to use the transient version of the Eastern Snake Plain Aquifer Model (ESPAM) Version 2.2 (IDWR, 2021) for the calculation of what curtailment date will provide enough increased gains to mitigate the IDS within a few months. Because curtailment is a short-term change in the system, the transient model was found to be more appropriate than a steady state model for calculating how reach gains are impacted within a given irrigation season. The Director's order found that only 9% to 15% of the steady state response is predicted to accrue to the near Blackfoot to Minidoka reach between May 1 and September 30 of the same year which would not fully mitigate the IDS. (IDWR, 2023b, Findings of Fact 86)

The Methodology order does not specify how to calculate the proportionate amount of mitigation required by each junior groundwater pumping entity covered by a mitigation plan. IDWR should calculate proportionate share consistently.

IDWR has been using the steady state version of the model to calculate the proportionate share of the IDS each entity is responsible for mitigating. IDWR's rationale for applying the steady state model is that the junior groundwater pumping has been happening for many decades and that it is in approximately equilibrium conditions. (Sukow, 2025) There is no IDWR order specifying that a steady-state model should be used for calculating proportionate shares of IDS mitigation responsibility.

A steady state model is useful in understanding systems that are in equilibrium. However, it does not accurately predict changes in a given irrigation season. Any change to the system at a specific time is best represented with a transient model that shows how that change propagates through the system over time. Mitigation actions and groundwater curtailments represent changes in the ESPA at specific times and are best modeled using transient models. Because the Methodology is limited to each irrigation season, the transient version of the model should be consistently used for implementing the steps and apportioning mitigation obligations that occur during an irrigation season.

Because most ESPA groundwater pumping has been happening for decades, IDWR uses a pre-mitigation, steady-state version of ESPAM to calculate the proportionate share for A&B, assuming the groundwater irrigation for all acres continues to be pumped. A&B's mitigation plan is unique and should be treated as such in how IDWR calculates proportionate shares. According to the terms of the plan, consideration should be given to all of A&B's mitigation activities. Use of the steady-state model does not account for priority between junior ground water rights, and how that should be apportioned.

Relevant issues with using the steady state ESPAM model during the Methodology implementation include:

- The lagged timing of depletive effects from junior groundwater pumping is not represented. All resulting mitigation and curtailment impacts (increased reach gains) are assumed to be instantaneous. This does not reflect the hydrologic reality within a given irrigation season or across multiple years.
- Because the lagged timing is ignored, changes in junior groundwater pumping far from the river are assumed to have immediate impact on reach gains when the reality is that they can take decades to happen.
- Steady state models cannot reflect temporal variations such as seasonal irrigation patterns or reductions to pumping under recent mitigation plans.
- A steady state model cannot differentiate between priority dates and doesn't reflect the evolution of groundwater development through time.

There was a time when the ESPA was in balance and groundwater pumping was not reducing the supplies of senior surface water rights. Because IDWR continued to approve water rights, the system became over-appropriated and junior groundwater pumping began reducing the senior surface water supplies. IDWR should explain how the groundwater rights with a priority date senior to the time of over-appropriation are equally responsible for mitigating the IDS as those groundwater rights junior to that time. It is too late for junior groundwater pumping to offset all depletive impacts in time, location, and amount and so IDWR has chosen to focus on the IDS as calculated for every irrigation season. It stands to reason that all groundwater rights are not equally responsible for the IDS based upon relative priorities.

IDWR's transient ESPAM curtailment modeling should contain the information needed to apportion the mitigation responsibility by priority date and the timing of impact within a given irrigation season.

5.1 2025 Methodology

In the April 2025 Forecast Supply Order (IDWR, 2025c), IDWR estimated that the IDS would be 63,000 AF. They utilized the transient version of ESPAM 2.2 to select a curtailment date of August 28, 1955 (**Table 1**). The majority of irrigation covered by A&B's groundwater rights has a priority date of September 9, 1948, so the A&B proportionate share was calculated to be the relatively small volume of 164 AF (Baxter, 2025). IDWR failed to curtail wells that they should have in May, as required by the methodology when an IDS is identified. (IDWR, 2025e) When the IDS was estimated in July, IDWR recognized actual supply and demand conditions and that the May curtailment was not implemented. Partially because no May curtailment was implemented, the July IDS increased to 75,300 AF (**Table 1**). Mitigating this IDS within a three-month period pushed the curtailment date back to October 11, 1900. This predates all of the A&B priorities and so their proportionate share increased to 5,039 AF. Of the 12,300 AF IDS increase, A&B was

identified as being responsible for 4,875 AF or 40% of the increase. Using a transient ESPAM analysis, we calculated that curtailment of A&B groundwater rights would yield less than 14 AF of in-season reach gain benefit if initiated in August.

If IDWR had implemented the May curtailment, the July IDS would have been less, and the curtailment date could have been more junior. IDWR's lack of curtailment action contributes to a reduction in the availability of groundwater rights junior to 1955. **Figure 2** shows data IDWR provided as back up to their July curtailment date modeling. Annotations have been added to highlight the modeling of different priority dates (1955 versus 1900).

Table 1 - 2025 Methodology Steps, IDS, A&B Proportionate Share, and Curtailment Date

Date	April 16	July 10
Steps	1-3	5 & 6
In-Season Demand Shortfall (IDS)	63,000 AF	75,300 AF
A&B Share	164 AF[1]	5,039 AF
Curtailment Date	8/28/55	10/11/1900

Note: 1- Original calculated proportionate share updated via email (Baxter, 2025)

6. Alternative Calculation of Proportionate Shares

Steady-state modeling does not accurately calculate the impacts of in-season pumping or mitigation. It also oversimplifies calculation of long-term pumping because it assumes that all pumping has been at equilibrium forever and will continue unchanged forever.

An alternative approach to calculating proportionate share (including for A&B) could be devised to accurately estimate the in-season reach gain benefits of curtailment and mitigation actions, while holding junior groundwater pumpers responsible for their depletions, even if located far from the river.

IDWR has already recognized that transient modeling is more accurate for curtailment date identification and that it can be used for estimating the timing, location, and amount of long-term pumping. (Sukow, 2022) A transient model run could be used to estimate the in-season benefits of curtailment, recharge, conversions, and other mitigation activities with consideration of the priority dates of each water right. The actual amount of in-season reach gain benefit for a given priority date can be calculated. If that amount does not fully mitigate the IDS, then a transient or steady state model can be used to calculate the remaining priority date-based mitigation requirement that can only be achieved using direct delivery of storage water.

Using the transient ESPAM, Jennifer Sukow has calculated that the maximum reach gain benefit of curtailment of all groundwater pumping junior to October 1, 1900 is 97,700 AF (Sukow, 2022). Up to that amount of reach gain benefit can be met by any action within approved mitigation plans, including storage delivery. For any IDS identified more than that volume, a transient or steady-state model could be used to calculate the additional amount of mitigation that can only be met by direct delivery of storage water within the irrigation season.

In July 2022, IDWR calculated an IDS of 162,000 AF (IGWA, 2025d). If the transient ESPAM model predicts a maximum of 97,700 AF of curtailment or reduction in pumping benefit during that season, then those junior pumpers identified as contributing to the in-season increase in reach gains should be responsible for that amount of mitigation. Because the full IDS includes another 64,900 AF, that amount of mitigation responsibility could be identified with a transient or steady state model, and only able to be mitigated by delivery of storage water by groundwater rights junior to a specific date. In this case, the curtailment of groundwater pumping junior to November 27, 1984 was calculated to provide 64,647 AF, or nearly the remainder of the entire IDS.

This alternative approach to apportioning mitigation obligations could be recommended to the Director for approval and adoption.

7. References

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Sukow, Jennifer, 2025 (October 22). *Deposition of Jennifer Sukow,* Docket No. CM-DC-2010-001.

Figures

2023 SWC Methodology
Steps as defined by the Sixth Final Order Regarding Methodology for Determining Material Injury to Reasonable In-season Demand and Reasonable Carryover - July 19, 2023

Key
- Schedule
- Methodology Step
- Step Detail

by April 1

Step 1: SWC submits upcoming irrigated acres

by April 15

Step 2: USBR/USACE Joint Forecast for Heise Gage

- Calculate FS for each SWC entity = natural flow supply + storage allocations
- IDWR compares FS, RISD, & IDS
- Transient ESPAM run to determine curtailment date that meets DS in nrBF-Minidoka reach

May 1

Step 3: Jr GW users secure water to meet April DS

- DS reduced by reasonable carryover shortfall water secured in prior year.
- Water delivery for SWC at Time of Need

As soon as practical

Step 4: Director issues curtailment of junior GW users

- 1) w/o mitigation plans; 2) w/o water secured; 3) fail to comply w/ mitigation plans
- Presumes junior GW users are not already under previous years' curtailment(s)
- If actual SWC natural flow diversion or storage accrual exceeds predictions, Director will revise DS

Within 14 days of WD1 storage allocation

Step 5: Do SWC storage allocations fill?

- Yes: no reasonable carryover shortfall
- No: reasonable carryover provided to SWC
  - Reasonable carryover water made available to SWC (not to exceed storage).

Halfway through irrigation season ~July

Step 6: Recalculate RISD, FS, and the estimated Time of Need

- Utilize YTD actual project efficiency, BD, and CWN

Shortly before Time of Need ~August

Step 7: Recalculate RISD, FS, and the estimated Time of Need

- Forecasted natural supply based on analogous years w/ similar BF to Milner reach gains.

Time of Need

Step 8: Junior GW useres deliver DS

Nov 30

Step 9: Order Establishing Reasonable Carryover

- Dept. determines total actual volumetric demand and total actual CWN
- Analysis of reasonable carryover shortfall
- Selection of future BLY
- Refinement and improvement of method

Dec 14

Jr GW Users establish storage/ mitigation

- Director issues curtailment if mitigation insufficient

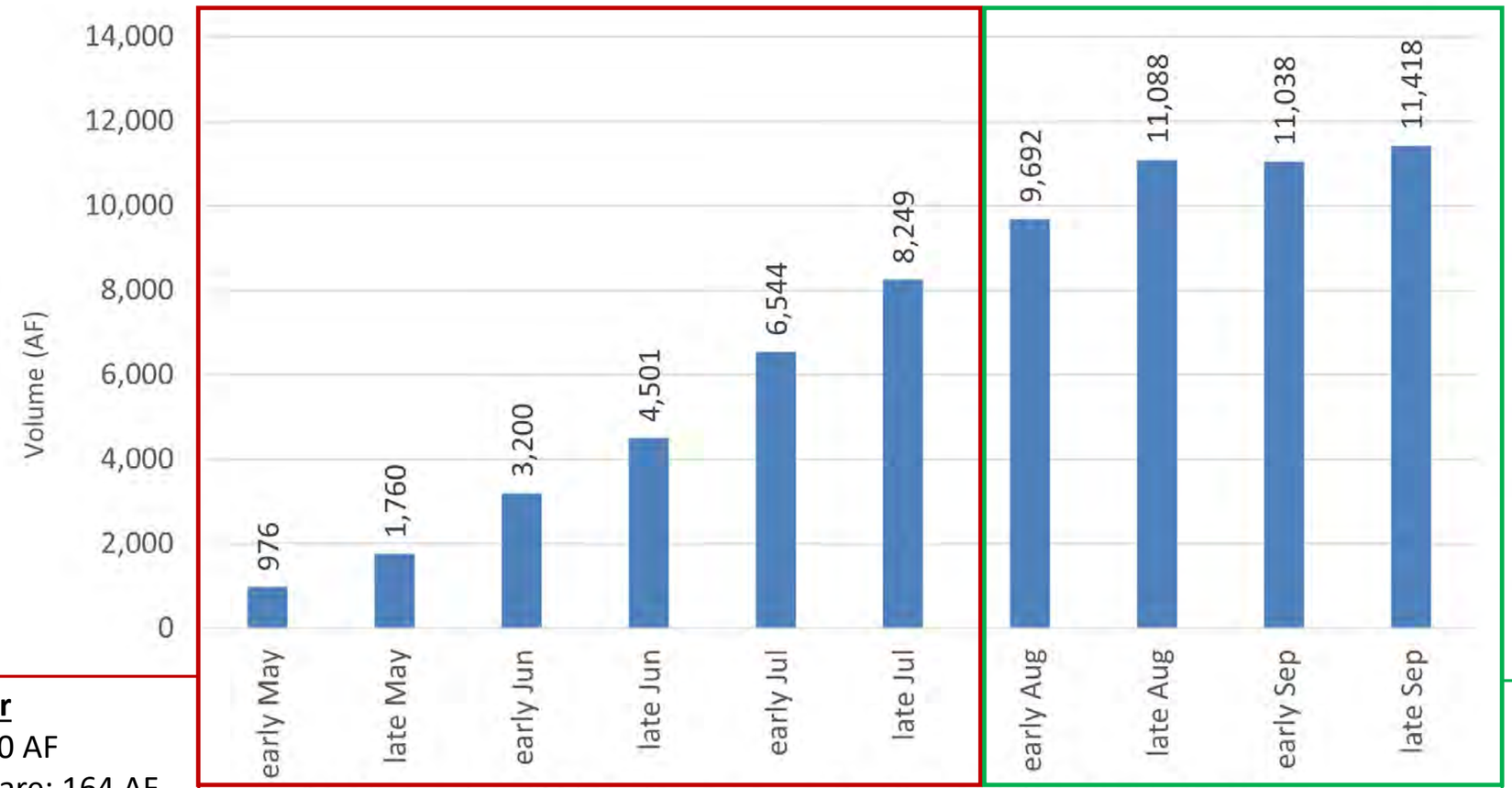
Definitions:
- BD - baseline year demand
- BLY - baseline year
- CWN - crop water need
- Day of Allocation - time in the irrigation season when the Water District 01 watermaster is able to issue allocations to storage space holders after the reservoir system has achieved its maximum physical fill, maximum water right accrual, and any excess spill past Milner Dam has ceased.
- IDS - in-season demand shortfall
- FS - forecasted supply, the combination of the forecast of natural flow supply and the storage allocation
- Natural Flow Supply - cumulative flow past the Heise gage from April-July (90-21 avg 3.284 MAF)
- Reasonable Carryover - the difference between a baseline year demand ("BD") and projected typical dry year supply
- Reasonable Carryover Shortfall = Actual Carryover - Reasonable Carryover
- RISD - reasonable in-season demand
- Time of Need - predicted day in which the remaining storage allocation will be equal to reasonable carryover. The Time of Need will not be earlier than the Day of Allocation.

DATE: 10/30/25

AUTHOR: DC

Figure 1
SWC Methodology Steps

LRE WATER
CONNECTING WATER TO LIFE
A SPHERUS ENVIRONMENTAL COMPANY



April Steps 1-3 Order
Predicted IDS: 63,000 AF
SS Predicted A&B Share: 164 AF
Curtailment Date: 8/28/1955
*Curtailment never implemented

Modeled increase in ESPA discharge to near Blackfoot to Minidoka reach resulting from curtailment of ground water junior to August 28, 1955, May-July, and junior to October 11, 1900, August-September

July Steps 5-6 Order
Predicted IDS: 75,300 AF
SS Predicted A&B Share: 5,039 AF
Curtailment Date: 10/11/1900

Adapted from IDWR background information (https://idwr.idaho.gov/wp-content/uploads/sites/2/legal/CM-DC-2010-001/July-2025.zip) provided with the Director's July 10, 2025 Order Revising April 2025 Forecast Supply and Continuing May 16, 2025 Curtailment Order (Methodology Steps 5 & 6)

DATE: 10/2/25

AUTHOR: DC

Figure 2
IDWR 2025 Methodology Steps
Transient ESPAM Curtailment Modeling

LRE WATER
CONNECTING WATER TO LIFE
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Appendix A: Curriculum Vitae for David Colvin

DAVE COLVIN, PG

Rocky Mountain Regional Director | Principal Hydrogeologist | Senior Project Manager

EDUCATION

M.S. Environmental Science and Engineering, Colorado School of Mines, 2002

B.S. Geology, Syracuse University, 1996

PROFESSIONAL REGISTRATION

Professional Geoscientist
- AZ RG#68926
- ID #PGL-1453
- WY #PG-3602

Project Management Professional (PMP) #1749472 (inactive)

PROFESSIONAL ACTIVITIES

Colorado Water Congress

Colorado Groundwater Association

National Groundwater Association

AWRA Colorado
- 2017/2018 Past President

Water Education Colorado
- 2012 Water Leaders Program

Dave is a Principal Hydrogeologist and Senior Project Manager with over 25 years of experience in groundwater hydrology, water resources, and environmental sciences. He serves as the Rocky Mountain Regional Director responsible for managing a diverse group of water resource professionals. Dave supervises teams of diverse subject matter experts and provides technical leadership to solve today's water resource challenges. His technical expertise subject areas include groundwater supply and storage development, groundwater management, groundwater governance/administration, surface water/groundwater interaction, horizontal wells, riverbank filtration (RBF), soil aquifer treatment (SAT), managed aquifer recharge (MAR), aquifer storage and recovery (ASR), aquifer characterization, groundwater modeling, and subsidence caused by groundwater pumping.

FEATURED PROGRAM & PROJECT EXPERIENCE

Salt River Project – Gila River Basin Adjudication, Arizona Superior Court Case W1-103, San Pedro Basin, AZ (2018 – ongoing)

Hydrogeologist providing groundwater analysis and modeling supporting adjudication of water rights in the San Pedro Basin. Tasks include review of groundwater model development, calibration and uncertainty analysis, and trial/litigation support. Provides protection of surface water flows, riparian habitat, and water rights from negative impacts due to groundwater pumping.

Surface Water Coalition, Idaho (2019-ongoing)

Lead Hydrogeologist and Project Manager providing litigation support related to water management of the Eastern Snake Plain Aquifer. Provides protection of surface water flows and senior surface water rights from negative impacts of junior groundwater pumping. Serves on the Eastern Snake Plain Hydrologic Modeling Committee supporting MODFLOW modeling activities related to complex surface water/groundwater management and water rights administration. Also serves as the SWC representative on technical working groups guiding the implementation and adaptation of a settlement agreement between the SWC and Idaho Ground Water Appropriators including monitoring/evaluation of hydrology, pumping reductions, consumptive use and planning for managed aquifer recharge. Provides technical input to the development of a Groundwater Management Area adaptive management plan.

City of Aurora – Horizontal Well Project; Weld County, CO (2019 – ongoing)

Project Manager for feasibility evaluation and planning of two radial collector wells for the City's Prairie Waters System. The project targets increasing system yield while maximizing riverbank filtration water quality improvements. Investigation included hydrogeophysical surveys, exploratory drilling, aquifer testing, and groundwater modeling. Results included siting and design of horizontal wells that maintain the existing system water quality while providing adaptable system operations that can increase yield during drought demands. Currently the Lead Hydrogeologist providing design, construction phase, testing, and permitting services.

Salt River Project – Gila River Basin Adjudication, Arizona Superior Court Case W1-106 Verde River Watershed, AZ (2019 – ongoing)

Project manager and hydrogeologist providing groundwater analysis of Verde River watershed water management impacts to the Verde River. Support includes review and response to subflow administrative procedures.

Salt River Project – Cooperative Agreement No. 1, Big Chino Sub-Basin, AZ (2016 – ongoing)

Project manager and hydrogeologist providing groundwater analysis characterizing water management impacts on flows of the Upper Verde River Springs. Support includes specialized technical consulting, review and oversight of modeling and monitoring programs implemented by a multi stakeholder group seeking science-based resolution of water rights conflict.

City of Northglenn – ASR Feasibility Evaluation and Pilot Testing (2020 – ongoing)

Lead hydrogeologist and Project Manager for feasibility investigation and pilot test system design services. Support includes ASR feasibility data analysis, water quality evaluation, DWR and EPA UIC permitting, pilot system design and test planning. The project will provide pilot storage of the City's fully consumable water rights, providing more surface storage space for other supplies. If recovered water quality is compatible, the pilot system will be converted into permanent infrastructure as the first phase of a larger ASR system.

Riverence Holdings LLC – Snake River Spring Supply Support (2022-ongoing)

Project Manager and lead hydrogeologist supporting multiple fish hatcheries throughout Idaho's Magic Valley. Provides hydrogeologic planning of spring fed aquaculture focusing on upgradient aquifer pumping and recharge impacts on water rights, water quality, and water supply reliability.

Dominion Water and Sanitation District – Groundwater Support; Douglas County, CO (2015-ongoing)

Lead Hydrogeologist providing Denver Basin and South Platte alluvial aquifer groundwater resources planning services including water rights evaluation, water quality assessment, well field yield estimation and project planning. Provides hydrogeologic and contractor management support during Denver Basin well site design, construction, testing, aquifer characterization, and sampling. Additional technical support includes regional groundwater management planning, documentation for County hearings, interactions with local water agencies, and groundwater transaction due diligence.

City of Aurora – Box Elder Basin Aquifer Storage and Recovery (ASR) Feasibility Investigation and Pilot Testing (2018 – Ongoing)

Project Manager and lead hydrogeologist investigating the feasibility of recharging and storing water in the Box Elder alluvial aquifer at the Aurora Center for Renewable Energy (ACRE). Tasks included hydrogeophysical surveys, exploratory drilling/test pits, and infiltration testing. The project identified recharge as a viable option for innovative underground water storage opportunities. Services include recharge source water characterization, water rights and permitting planning, water quality evaluation, groundwater modeling, and pilot system design.

Town of Erie – Water Supply Planning Support (2018 – ongoing)

Lead hydrogeologist and Project Manager providing groundwater support related to water supply planning. Services include aquifer characterization, water quality studies, ASR feasibility analysis, and water rights. Prepared Colorado Water Conservation Board and Division of Local Affairs grant applications to obtain project funding. Provided due diligence review and retrofit design of an existing horizontal well currently being incorporated as expanded supply. Provided feasibility investigation, alternatives analysis, water rights, design, construction procurement/oversight, and testing for a 1,000 foot long horizontal directionally drilled riverbank filtration well.

Town of Castle Rock – Groundwater Support; Douglas County, CO (2015-ongoing)

Project Manager providing comprehensive groundwater support. Projects have included:

- Denver Basin Well Drilling, Testing, and Aquifer Storage and Recovery (ASR) – Support includes Denver Basin ASR planning/permitting, bidding services, contractor management, construction oversight, well/pump design, aquifer testing, and groundwater regulatory support.
- Alluvial Well Field Expansion and Rehabilitation – Project Manager for two projects aimed at improving yields in well fields affected by biofouling and performance issues. Oversaw construction and testing of six horizontal directional drilled (HDD) wells installed to increase yield, performance, and sustainability.

City of Aurora and Town of Castle Rock – Lost Creek Underground Storage Pilot Project; Lost Creek Designated Basin, CO (2017-2018)

Project Manager for aquifer characterization and evaluation of recharge potential for underground water storage pilot project. Obtained grant funding and facilitated multiple stakeholder project planning and implementation. The project identified important field investigation methods and results for storage related aquifer characteristics previously overlooked in desktop studies.

City of Aurora – Prairie Waters North Campus Master Plan; Adams and Weld Counties, CO (2017-2019)

Lead hydrogeologist providing master planning services for approximately 20 MGD expansion of the Prairie Waters Project – North Campus over the next 20 years. Facility expansion included riverbank filtration well field, pipelines, and storage reservoirs. Led facilities operational planning, supported water resource planning, gap analysis, and capital improvements planning.

Denver Water – Aquifer Storage and Recovery (ASR) Pilot Project, City and County of Denver, CO (2016-current)

Groundwater technical support and project management for ASR feasibility investigation. Provided Denver Basin aquifer characterization including exploratory borehole drilling, hydrogeophysical investigation (Nuclear

Magnetic Resonance and conventional methods), and 3-D geologic modeling. Current services include an advisory role for installation of a multi-aquifer Westbay Denver Basin monitoring well.

City of Greeley – ASR Feasibility Evaluation (2019-2021)

Senior Technical Advisor for a project evaluating the feasibility of new and existing ASR projects in multiple bedrock aquifers. Includes evaluation of water quality, aquifer characteristics, well construction/testing, project planning, and regulatory support, including negotiating an EPA UIC Rule Authorization in less than two months.

Project 7 Water Authority – Riverbank Filtration Feasibility Study, Montrose CO (2019-2020)

Project Manager for RBF feasibility study in the Uncompahgre River alluvial aquifer. The study included geophysical surveys, borehole drilling, pumping test analyses, water quality investigation, and groundwater modeling. The project objectives where to characterize vertical and horizontal well field alternatives for maximum yield while providing water quality pre-treatment improvements.

Colorado Water Conservation Board - HB16-1256 South Platte Storage Study; CO (2018)

Lead hydrogeologist providing evaluation of underground water storage options for the Lower South Platte alluvial aquifer. Provided alluvial storage site evaluation, conceptual design, cost estimates, and comparison to surface storage options.

Aurora Prairie Waters Project – North Campus; Weld County, CO (2008)

Supported City of Aurora's Prairie Waters project near the South Platte River, CO. Acted as team liaison for multi-consultant, multi-disciplinary project team. Field investigation and construction tasks included field oversight of drilling, well construction, pump/motor installation, aquifer testing, system start up testing, well field yield optimization, and geotechnical investigations. Support also included the design, construction, and operation of alluvial recharge and riverbank filtration pilot test facilities. Developed and implemented pilot test procedures, including tracer studies to assess flow paths, travel times, and stream/aquifer interaction. MODFLOW modeling support for the Prairie Waters Project included development of regional groundwater model for Colorado Division 1 case 2006CW104. Performed parallel processing model calibration using UCODE. Prepared expert and rebuttal reports, exhibits and materials used in settlement negotiations.

Eagle River Water and Sanitation District and Upper Eagle Regional Water Authority – Groundwater Support; Eagle County, CO (2010-ongoing)

Project Manager and lead Hydrogeologist for alluvial well field groundwater support. Projects have included:

- GWUDI Evaluation – Regulatory support, groundwater modeling and operational monitoring of alluvial well fields in support of CDPHE GWUDI evaluation
- Lake Creek Well Field Planning – Services included groundwater modeling, well drilling, aquifer testing, source water quality characterization, regulatory support for Eagle County 1041, CDPHE, and DWR permitting
- Well field maintenance and rehabilitation support – well rehabilitation in response to well issues including pump issues, casing holes, and water quality contamination

City of Steamboat Springs – Infiltration Gallery System Expansion; Routt County, CO (2018-ongoing)

Project Manager for feasibility evaluation of alluvial groundwater supply expansion alternatives. Expansion options being considered include vertical and horizontal well options. Tasks included exploratory drilling, aquifer testing, groundwater modeling and conceptual expansion system design. Modeling was performed to optimize well siting to maximize yield, maintain water quality, and to minimize pipeline costs.

Texas Water Development Board – Statewide Subsidence Risk Evaluation (2018)

Technical advisor for risk evaluation of subsidence due to groundwater pumping in all Texas major and minor aquifers. The project used well lithology data with model predicted water level declines to create a statewide risk map and prioritized table. Recommended follow up actions for identified areas of risk. The project provided important subsidence risk information for statewide planning and local user considerations.

Village at Taos Ski Valley – Spring Water Supply Expansion; Taos County, NM (2018-ongoing)

Senior Technical Advisor providing groundwater evaluation into the management, protection and expansion of spring water supplies.

City of Phoenix – ASR Tracer Test Design; Maricopa County, AZ (2017)

Provided MT3D groundwater modeling to assist in aquifer characterization, travel time estimates, and the design of an ASR tracer injection test for feasibility. The testing was in support of the Northeast Phoenix Reclaimed Water Recharge and Recovery Study. The system is intended to create a potable water resource through Indirect Potable Reuse (IPR), provide additional non-potable supplies, and to mitigate land subsidence issues.

Groundwater Relief – Kutupalong Refugee Camp Groundwater Supplies; Cox's Bazaar, Bangladesh (2019)

Volunteer hydrogeologist providing well testing and water quality support to field geologists. The project is developing emergency water supplies for nearly 1 million Rohingya refugees who have fled religious persecution in Myanamar.

City of San Angelo – Riverbank Filtration Feasibility Evaluation; Tom Green County, TX (2018)

Provided feasibility evaluation, preliminary siting, design and costs for a potential riverbank filtration (RBF) well field near the Concho River. This information was used to evaluate RBF as an alternative for expansion of the City's water supply.

Tarrant Regional Water District – Cedar Creek Wetlands; Kaufman County, TX (2013)

Project manager and lead Hydrogeologist for riverbank filtration feasibility investigation along the Trinity River. Project tasks include geotechnical, hydrogeologic, and surface geophysical surveys, groundwater modeling, and design, construction and testing of riverbank filtration pilot test sites.

Rangen, Inc. – Water Rights Support; Gooding County, ID (2010-2016)

Expert witness providing testimony and trial support for a water rights hearing (IDWR Case No. CM-DC-2011-004) involving springs and complex surface water/groundwater interaction of the Eastern Snake Plain Aquifer. Represented a fish hatchery reliant on spring flow that was being impacted by groundwater pumping. Served

on the Eastern Snake Plain Hydrologic Modeling Committee supporting MODFLOW modeling activities in the Eastern Snake Plain of Idaho.

Overturf, McGath, and Hull, P.C. – Stewart No. 1 Ditch Company; Pitkin County, CO (2017)

Expert witness support including expert and rebuttal reports, depositions, and settlement negotiations for a civil case involving alleged roadway water damage from ditch operations.

Fredrickson Law Offices – In-Play Golf; Weld County, CO (2017)

Expert witness providing expert and rebuttal reports, depositions, and trial support for a civil case involving alleged water damages from golf course irrigation.

Boulder Valley School District – Douglass Elementary Non-Tributary Determination; Boulder County, CO (2018)

Project Manager for a non-tributary well application in the Boulder Complex Area of the Denver Basin Aquifers. Provided aquifer characterization and regulatory support leading to a non-tributary determination and permit approval.

Boulder County Parks and Recreation – Kenosha Ponds Groundwater Evaluation; Boulder County, CO (2016)

Expert witness providing hydrogeology water rights support for a Boulder County Parks and Recreation augmentation pond. Technical support included expert report writing and trial exhibit preparation for the hydrologic characterization of a recharge pond between two streams where the pond bottom was below the water table.

City of Burkburnett, Texas – Alluvial Well Field Evaluation; Wichita County, TX (2016)

Project Manager and groundwater lead for evaluation of underperforming well fields near the Red River. Wells ranged from 3-50 years old with a variety of issues causing low yields. Project tasks included well operational data integration, analysis, and development of alternatives to improve well yields.

Penrose Water District – Arkansas River Alluvial Well Field; Fremont County, CO (2016)

Groundwater technical management for planning, design, and construction of an alluvial well field for diversion of Arkansas River water rights. Tasks included aquifer characterization, water rights support, groundwater modeling, contractor management, well drilling, construction and testing.

Salt River Project – New River Agua Fria Underground Storage Project; Phoenix, AZ (2013)

Project involved optimization and in-channel expansion design for an existing recharge facility. Support included evaluation of operational data and adaptation of an existing MODFLOW model for operational optimization and feasibility testing.

City of San Marcos, Texas – Well Performance Investigation and Replacement Plan; Hays County, TX (2015)

Project Manager and groundwater lead for investigation into reduced yield problems for a well in the Edwards Aquifer. Well construction and operational data were analyzed to test viability of rehabilitation or equipment replacement. Provided ultimate solution of siting a replacement well in a more productive aquifer area.

Winkler Services – Well Field Siting and Design; Wink County, Texas (2017)
Technical advisor for well field siting in the Pecos Valley Alluvium and Upper Dockum Aquifer. Support included project planning, aquifer characterization, and geologic modeling.

Oakwood Homes – Neighborhood Scale Dewatering Systems and Water Rights; CO (2016)
Project Manager and groundwater lead for planning, design, and permitting of neighborhood scale dewatering systems. Managed project work including groundwater modeling, system design, data analysis, contractor coordination, DWR and CDPHE permitting, and water rights evaluations.

Donala Water and Sanitation District – Reuse Evaluation; El Paso County, CO (2015)
Preliminary feasibility investigation into riverbank filtration alternatives for indirect potable reuse. Evaluated hydrogeologic conditions for permitting, cost, and performance feasibility considerations.

City of Scottsbluff – Well Field Uranium Investigation and Monitoring; Scotts Bluff County, NE (2016)
Technical advisor for a project aimed at reducing uranium concentrations in an alluvial groundwater supply. Provided aquifer characterization and uranium monitoring data analysis.

Confidential Client; Groundwater Supply and Subsidence Analysis; AZ (2010-2011)
Development of regional MODFLOW models used to estimate well field yield and land subsidence due to groundwater pumping in Arizona. Work included statewide study of subsidence-related empirical relationships and prediction methods, aquifer characterization, 3-D geologic and groundwater flow modeling, automated model calibration and predictive uncertainty analysis using PEST, and numerical MODFLOW subsidence modeling.

Confidential Client - Oilfield Produced Water Infiltration Modeling, San Louis Obispo County, CA(2008-2010)
Lead Hydrogeologist for the development of an engineering design MODFLOW-SURFACT model with the goal of infiltrating 13 acre-feet of water per day into the subsurface of a 200 acre alluvial site. Performed model calibration using PEST software in a parallel processing environment utilized 50 geologic conceptualizations for stochastic predictions of system performance.

Colorado Department of Public Health and Environment – Summitville Superfund Site; Summitville, CO (2008)
Provided support for abandoned mine hydrology and geochemistry, field sampling, monitoring and mine facility inspection, and database support. The project goal was to monitor and minimize mine waste impacts on the Alamosa River.

Various Mines – Groundwater Modeling and Analysis; Basin and Range Province; NV (2008-2010)
Provided MODFLOW modeling and water balance studies in support of mine water management and regulatory reporting. Analyses included point flow surface water modeling to evaluate stream gain/loss; detailed water balance quantifications; well inventories and pumping estimates; groundwater underflow assessments.

Miron Construction - Laramie-Fox Hills Well; Hudson, Colorado (2008)
Assisted in design and field engineering for the construction and testing of a 960-foot deep, large capacity, municipal/industrial, Laramie-Fox Hills water supply well at the Hudson Correctional Facility.

Perini/US Army Corps of Engineers – Groundwater System Design and Optimization; Baghdad, Iraq (2007)
MODFLOW modeling support for the U.S. Agency for International Development in Baghdad, Iraq. Developed a numerical groundwater model for the optimization of water supply well locations and pumping operations. Main objectives were to maximize well yields while minimizing differential land subsidence across newly constructed East End Barracks.

Colorado Haiti Project (Volunteer Position); Petit Trou de Nippes, Haiti (2013)
Technical advisor for groundwater development, management, and protection in a rural, developing area of Haiti.

Water For People Groundwater Management Project (Volunteer Position); San Pedro Sula, Honduras (2008)
Technical advisor for development of a scope of work for a participatory groundwater management plan aimed at restoring and protecting an over utilized alluvial aquifer in a developing region.

ASARCO - California Gulch Superfund Site; Leadville, Colorado (2000-2005)
Conducted environmental sampling for the Kids First Program to identify and address sources of lead exposure for children in residential areas. Provided statistical analysis and reporting for evaluation of program effectiveness. Designed sampling plan and performed soil sampling and analysis to delineate extent of metals contamination at the Arkansas Valley Smelter Operable Unit. Provided technical support for hydrogeological and geochemical characterization of the Apache Tailings site; and implemented the surface water and groundwater performance monitoring program to assess the effectiveness of the remedial action. Conducted synoptic surface water flow measurement and water quality sampling.

Asarco - Omaha Lead Site, Omaha, Nebraska (2003)
Assisted in the development of program to identify sources of lead exposure for children in residential areas.

Mine Waste and Tailings Pile Sites, Various Locations (2000-2004)
Performed hydrologic evaluation of remedial alternatives for repository evaluation using Hydrologic Evaluation of Landfill Performance (HELP) model.

Industrial Groundwater Contamination Sites, Various Locations (2000-2005)
Performed groundwater modeling to assist design of groundwater extraction remediation wells using MODFLOW modeling code.

EPA - Vasquez Boulevard and Interstate 70 Superfund Site, Denver, Colorado (2002-2003)
Designed, directed, and performed environmental sampling for project identifying sources of lead and arsenic exposure for children in residential areas.

Hertz Rent-a-Car - Former Underground Storage Tank, Colorado Springs, Colorado (2000-2002)

Project Hydrogeologist and technical lead for the characterization, monitoring, and remediation of hydrocarbon contaminated soils and groundwater at a former underground storage tank site. Performed quarterly monitoring and reporting; developed and implemented an in-situ chemical oxidation remediation program.

R&R Super Service - Former Underground Storage Tank, Arvada, Colorado (2000-2002)

Project Manager and technical lead for the characterization and remediation of soils and groundwater contaminated by petroleum hydrocarbons at a former service station. Responsibilities included client and regulatory interaction; site characterization activities to delineate the nature and extent of contamination in soil and groundwater; modeling of vapor and mass extraction rates using VENT2D; respirometry testing to quantify biodegradation rates in vadose zone soils; startup testing; operating, maintaining, and monitoring of an air sparge/soil vapor extraction system.

City and County of Denver - Former Stapleton International Airport Remediation; Denver, Colorado (1998-2000)

Served as a hydrogeologist conducting field investigations to define nature and extent of hydrocarbon and solvent contamination, contributing to remediation. Field tasks included lithologic logging with a hollow-stem auger and direct-push drilling rigs; soil, groundwater, and soil vapor testing, remediation system construction/operation/maintenance, data evaluation and reporting.

National Park Service – Mt. Rainier National Park, Longmire, Washington (1996-1997)

Biologist and crew leader for aquatic ecosystem studies in Mt. Rainier National Park. Conducted field surveys and sub-alpine wetland monitoring. Performed aquatic field sampling, wetland classification, biological species identification, and aquatic laboratory analyses.

PRESENTATIONS & PUBLICATIONS

Colvin, Dave and Chipman, Jeff, 2025. “Squeezing Water Storage into an Urban Landscape – Northglenn ASR Pilot Project.” National Ground Water Association – Managed Aquifer Recharge – Unleashing Resiliency, Protecting Groundwater Quality Conference. Denver, CO

Colvin, Dave, 2025. “Challenges of Advancing the Best Available Science for Groundwater – Surface Water Conflict Resolution.” Colorado State University - The Past and Future of Groundwater in the West Symposium. Fort Collins, CO.

Colvin, Dave, 2024. “Aurora Water’s Radial Collector Well Providing RBF Solutions.” American Groundwater Trust Colorado Groundwater Conference. Golden, CO.

Colvin, Dave, 2022. “Evaluation of ASR for Water Supply Resiliency – Determining ASR Feasibility for the City of Northglenn.” RMSAWWA/RMWEA Rocky Mountain Water Conference. Keystone, CO.

Colvin, Dave, 2021. “Managed Aquifer Recharge – Overcoming Challenges to Realizing the Benefits.” South Dakota Water and Wastewater Association Annual Conference. Rapid City, SD.

Colvin, Dave, 2020. “Moving from Conflict to Collaboration: The Role of MAR in Mitigating Groundwater Pumping Impacts to Surface Water” 17th Biennial Symposium on Managed Aquifer Recharge. Tempe, AZ.

Colvin, Dave, 2020. “Drawing the Line in the Sand between Underground Water Storage and Augmentation Recharge.” American Water Resources Association – Colorado Chapter & Colorado Groundwater Association Joint Annual Symposium. Denver, CO

Colvin, Dave, 2019. “Demonstrating Dominion and Control – Moving from Black Magic to Understandable Science.” American Groundwater Trust Annual Colorado Groundwater Conference. Denver, CO.

Colvin, Dave, 2019. “Now We Know What We Don’t Know: An ASR Regulatory Update”. Colorado Groundwater Association September Meeting. Denver, CO.

Colvin, Dave, 2019. “The Evolution of Colorado Underground Water Storage Administration”. American Water Resource Association / Colorado Groundwater Association 2019 Joint Annual Symposium. Denver, CO.

Colvin, Dave, 2018. “Technical Considerations for ASR Planning in Colorado’s Front Range”. American Groundwater Trust Annual Colorado Groundwater Conference. Denver, CO.

Colvin, Dave, 2018. “ASR Panel Discussion: The Revolution of Subsurface Water Storage”. American Water Works Association ACE18 Conference. Las Vegas, Nevada.

Colvin, Dave, and Keester, Michael, 2017. “Applying Web-Based Information Management Tools to Increase Efficiency and Expand Opportunities for Groundwater Conservation Districts”. Texas Association of Groundwater Districts Groundwater Summit. San Marcos, TX.

Colvin, Dave, and Pence, Rachel, 2017. “Using NMR and Hydrogeophysics to Evaluate ASR Feasibility in the Denver Basin”. 2017 NGWA Conference on Hydrogeophysics and Deep Groundwater, Denver, CO. (https://ngwa.confex.com/ngwa/hdg2017/webprogram/Paper11286.html)

Colvin, Dave, and Justus, Heather, 2016. “Benefits of Directionally Drilled Alluvial Well Lateral Arms in the Town of Castle Rock”. 2016 RMSAWWA/RMWEA Joint Annual Conference, Keystone, CO.

Colvin, Dave, and Furnans, Jordan, 2016. “Can/Should Texas learn from Colorado? A primer on groundwater-surface water interactions and regulation methods”. 2016 Texas Water Conservation Association Spring meeting, Woodlands, TX. (http://www.slideshare.net/TWCA/twca-annual-convention-canshould-texas-learn-from-colorado-jordan-furnans-and-dave-colvin)

Colvin, Dave, 2015. “Methods for Confident Model Predictions and Integration”. Colorado Water Congress 2015 Annual Conference; DARCA Workshop Series, “The Next Step: Modeling Colorado’s Water Plan”, Denver, CO.

Colvin, Dave, 2014. “Groundwater Challenges and Solutions for Colorado Watersheds.” 2014 Colorado Sustaining Watersheds Conference, Avon, CO.

Colvin, Dave and Loopesko, William, 2014. “Advantages of Alluvial Aquifer Storage Alternatives for Managing Hydrologic Extremes and Future Water Supply Risks.” 2014 Upper Colorado River Basin Water Forum, Grand Junction, CO.

Colvin, Dave, 2014. “Groundwater Solutions for Indirect Potable Reuse.” 2014 Rocky Mountain Water Reuse Workshop, Golden, CO.

Colvin, Dave, Bauer, Jacob, and Noack, Tim, 2013. “Effective Tools and Project Planning for Riverbank Filtration Feasibility Investigation” Poster session at 2014 Texas Water, Dallas, TX. (http://s3.amazonaws.com/eventmobi-assets/events/txwater14/documents/person/1366969/201404_RBF_Feasibility_Poster_Final.pdf)

Colvin, Dave, and Bauer, Jacob, 2013. “Cost Effective Feasibility Investigation of Natural Subsurface Reuse Treatment Systems.” Poster session at the 2013 National Water Reuse Symposium, Denver, CO.

Colvin, Dave, Bauer, Jacob, and Neupauer, Roseanna, 2013. “Riverbank Filtration Feasibility Modeling.” MODFLOW and More 2013. Integrated Groundwater Modeling Center. Golden, CO.

Colvin, David C., 2012. “Comparison of One and Three Dimensional MODFLOW Subsidence Results.” 2012 Groundwater Summit, National Groundwater Association, Westerville, OH.

Colvin, David C., 2012. "One Dimensional MODFLOW Modeling of Land Subsidence Due to Fluid withdrawal." GSA 2012 Cordilleran Section Meeting, Vol. 44, No. 3. Geological Society of America. Boulder, CO.

EXPERT TESTIMONY

Dave has provided expert testimony in trial or depositions in the following cases:

Salt River Project; Superior Court of the State of Arizona, Maricopa County, Gila River Adjudication, Contested Case No. W1-106, Subflow Zone Delineation Technical Report for the Remainder of the Verde River Watershed, August 2024.

Idaho Surface Water Coalition; Idaho Department of Water Resources Snake River Basin Moratorium, Administrative Hearing Regarding on the Consolidated Big Wood and Snake River Moratorium Matter, October 2023.

Idaho Surface Water Coalition; Idaho Department of Water Resources Docket No. CM-DC-2010-001, Hearing Regarding the Fifth Methodology Order, June 2023.

Idaho Surface Water Coalition; Idaho Department of Water Resources Docket No. AA-GWMA-2016-001, Order Designating the Eastern Snake Plain Aquifer Groundwater Management Area, February 2020.

Stewart No. 1 Ditch Company; Pitkin County Case No: 2014CV30084, Pitkin County Board of County Commissioners v. Brothers, et. al., September, 2015.

In-Play Golf, Inc; Weld County Case 12CV727, Helen Hawkins et. al. v. Vista Ridge Development Corporation et. al., August, 2015.

Rangen, Inc.; Idaho Department of Water Resources In the Matter of Application for Idaho Water Rights Permit No., 36-17011, February, 2015.

Rangen, Inc.; Idaho Department of Water Resources Case No. CM-DC-2011-004, Distribution of Water To Water Right Nos. 36-02551 and 36-07694, May, 2013.

EXPERT REPORTS

Dave has performed groundwater analysis, aided in settlement negotiations, and authored or contributed to reports in the following cases.

Salt River Project; Superior Court of the State of Arizona, Maricopa County, Gila River Adjudication, Contested Case No. W1-106, Subflow Zone Delineation Technical Report for the Remainder of the Verde River Watershed, August 2024.

Idaho Surface Water Coalition; Idaho Department of Water Resources Snake River Basin Moratorium, Administrative Hearing Regarding on the Consolidated Big Wood and Snake River Moratorium Matter, October 2023

Idaho Surface Water Coalition; Idaho Department of Water Resources Docket No. CM-DC-2010-001, Hearing Regarding the Fifth Methodology Order, June 2023

Idaho Surface Water Coalition; Idaho Department of Water Resources Docket No. AA-GWMA-2016-001, Order Designating the Eastern Snake Plain Aquifer Groundwater Management Area, February 2020

Town of Erie; CO Division 1 Case Nos. 2019CW3063 and 2019CW3064, Application for Underground Water Rights and Plan for Augmentation, 2020.

Salt River Project; AZ Big Chino Cooperative Agreement #1, Evaluation of Big Chino Water Ranch impacts on Upper Verde Springs discharge, 2016 - ongoing.

Salt River Project; AZ Gila River Adjudication Contested Case No. W1-103, Groundwater adjudication and subflow depletion evaluation, 2017 – ongoing.

In-Play Golf, Inc; Weld County Case 12CV727, Helen Hawkins et. al. v. Vista Ridge Development Corporation et. al., August, 2015.

Stewart No. 1 Ditch Company; Pitkin County Case No: 2014CV30084, Pitkin County Board of County Commissioners v. Brothers, et. al., September, 2015.

Rangen, Inc.; In the Matter of Application for Idaho Water Rights Permit No. 36-17011, February, 2015.

Rangen, Inc.; Idaho Department of Water Resources Case No. CM-DC-2011-004, Distribution of Water To Water Right Nos. 36-02551 and 36-07694, May, 2013.

Boulder County Parks and Open Space; CO Division 1 Case No. 2010CW320, Change of Use and Plan for Augmentation for Kenosha Ponds Open Space, 2013.

City of Aurora; CO Division 1 Case No. 2006CW104, Aurora's Prairie Waters Project, 2007.

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DEPARTMENT OF
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STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

IN THE MATTER OF DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY OR FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY	Docket No. CM-DC-2010-001 **IDAHO GROUND WATER APPROPRIATORS, INC.'S MOTION FOR SUMMARY JUDGMENT**

Idaho Ground Water Appropriators, Inc. ("IGWA"), by and through counsel, and pursuant to IDAPA 37.01.01.220.03, hereby moves for summary judgment in response to A&B Irrigation District's ("A&B") requests for hearing filed April 29 and July 24, 2025. This motion is supported by declarations of Sophia Sigstedt and Thomas J. Budge filed herewith. It is also supported by pleadings and orders filed in this contested case and in related contested cases cited in this motion.[1]

[1] All pleadings and orders cited in this motion are part of the agency record in this Docket No. CM-DC-2010-001 unless a citation is given to a different docket. IGWA requests that the hearing officer take official notice pursuant to IDAPA 37.01.01.602 of all pleadings and orders cited in this motion. IDWR's maintains an online repository of contested case pleadings and orders accessible via https://idwr.idaho.gov/legal-actions/administrative-actions/.

Introduction

A&B's hearing request filed April 29, 2025, challenges the *Final Order Regarding April 2025 Forecast Supply* issued April 16, 2025 ("April 2025 As-Applied Order"). (*A&B Irr. District's Req. for Hrg.*, Apr. 29, 2025.) Specifically, A&B requests a hearing to challenge the method used by the Director to calculate A&B's storage water mitigation obligation under the Surface Water Coalition ("SWC") delivery call. *Id*.

A&B's hearing request filed July 24, 2025, challenges the *Order Revising April 2025 Forecast Supply and Continuing May 16, 2025 Curtailment Order* issued on July 10, 2025 ("July 2025 As-Applied Order"). (*A&B Irr. District's Req. for Hrg.*, Jul. 24, 2025.) As with A&B's April hearing request, its July request challenges the method used by the Director to calculate A&B's storage water mitigation obligation under the SWC delivery call. *Id*.

As explained below, the hearing officer should issue summary judgment that A&B is barred by the doctrines of *res judicata*, "law of the case," and *quasi-estoppel* from challenging the method used by the Director to calculate A&B's proportionate storage water obligation.

Relevant Facts & Procedural History

A&B has an approved mitigation plan to protect its groundwater rights from curtailment under the SWC delivery call. A&B's plan was filed with the Department on May 21, 2015. (*A&B Irr. District's Amended Rule 43 Mit. Plan*, Docket No. CM-MP-2015-003 (May 21, 2015).) It proposed to mitigate injury to the SWC by several means, including the delivery of storage water. *Id*. at 3. The Director of the Idaho Department of Water Resources ("IDWR" or "Department") approved the plan on December 16, 2015. (*Final Order Approving Mit. Plan*, Docket No. CM-MP-2015-003 (Dec. 16, 2015).) Neither the plan nor the order approving it specifies how A&B's storage water mitigation obligation would be calculated.

On December 27, 2023, A&B filed a stipulation regarding its approved mitigation plan, which confirms A&B's ability to provide storage water as mitigation. (*Stip. Re. A&B Irr. District's Amended Rule 43 Mit. Plan*, Docket No. CM-MP-2015-003 (Dec. 27, 2023).) The Director issued an order approving the stipulation on January 10, 2025. (*Final Order Approving Amended Mit. Plan*, Docket No. CM-MP-2016-003 (Jan. 10, 2025).) Neither the stipulation nor the order approving it specify how A&B's storage water mitigation obligation would be calculated.

The Director calculates storage water mitigation obligations any time it issues a curtailment order under the SWC delivery call. Curtailment orders are issued when a "demand shortfall" is calculated under the Methodology Order governing the SWC delivery call. Each time the Director applies the Methodology Order, the Director issues which is commonly known as an "As-Applied Order."

When an As-Applied Order calculates a "demand shortfall" to the SWC, the order includes a curtailment date that will be implemented against junior groundwater users who are not protected from curtailment by an approved mitigation plan. For groundwater users authorized to deliver storage water as mitigation, the As-Applied Order also identifies the amount of storage water the groundwater user must provide as mitigation to avoid curtailment, based on their proportionate share of the demand shortfall.

From the time A&B's mitigation plan was first approved in 2015 to the present, the Director has calculated the proportionate storage water mitigation obligations of A&B and other groundwater users, including IGWA's member ground water districts, using a steady-state application of ESPAM. (Sigstedt Decl., ¶¶ 6-7.)

A&B first challenged the Director's calculation of its storage water mitigation obligation in 2016. On April 19, 2016, the Director issued its *Final Order Regarding April 2016 Forecast Supply* ("April 2016 As-Applied Order"), which predicted a demand shortfall of 44,200 acre-feet and calculated A&B's proportionate share as 3,463 acre-feet. A&B challenged this determination by filing *A&B Petition for Reconsideration/Request for Hearing* on May 2, 2016.

On May 11, 2016, the Director issued an *Order on Petition for Reconsideration and Request for Hearing*, finding that A&B's proportionate share should be adjusted downward because the Director had mistakenly considered groundwater use by non-A&B water rights within A&B's service area. A&B did not further challenge the Director's method for calculating A&B's storage water mitigation obligation.

On April 21, 2023, the Director changed the methodology used to administer water rights under the SWC delivery call by issuing the *Fifth Amended Final Order Regarding Methodology for Determining Material Injury to Reasonable In-Season Demand and Reasonable Carryover* ("Fifth Methodology Order"). Among other things, the Fifth Methodology Order changed the way the Director calculates curtailment dates in response to a demand shortfall, switching from a steady-state to a transient-state application of ESPAM. The Fifth Methodology Order did not

change the way mitigation storage obligations are calculated, which continued to be based on steady-state modeling.

Also on April 21, 2023, the Director issued the *Final Order Regarding April 2023 Forecast Supply* ("April 2023 As-Applied Order"), which calculated A&B's storage water mitigation obligation as 498 acre-feet. (p. 5, fn. 5). Several parties, including A&B, challenged the Fifth Methodology Order and the April 2023 As-Applied Order. A&B submitted a statement of issues for hearing, including: (1) whether A&B's proportionate storage water mitigation obligation calculated in the April 2023 As-Applied Order "is correctly based upon A&B's actual diversion and use of water rights that are subject to the identified curtailment date;" and (2) whether "the steady-state use of the ESPAM 2.2 in identifying A&B's proportionate share is consistent with the transient use of the model" for determining curtailment dates. (*SWC's Req. for Hrg. and Stmt. of Issues* (May 5, 2023, pp. 2-3.))

A hearing was held June 6-9, 2023, after which A&B submitted a post-hearing brief. (*SWC Post-Hrg. Br.*, (June 16, 2023).) Among other things, A&B challenged the method used by the Director to calculate A&B's proportionate share of the "demand shortfall" for the purpose of defining its storage water mitigation obligation. *Id*. at 12. The Director issued a *Post-Hearing Order Regarding Fifth Amended Methodology Order* on July 19, 2023, which did not grant the relief requested by A&B. A&B did not appeal that decision.

On April 18, 2024, the Director issued the *Final Order Regarding April 2024 Forecast Supply* ("April 2024 As-Applied Order"), which calculated A&B's storage water mitigation obligation as 498 acre-feet. (p. 5, fn. 8). The method the Director employed was the same one used in the April 2023 As-Applied Order. (Sigstedt Decl., ¶ 6.) A&B did not challenge the April 2024 As-Applied Order.

On April 16, 2025, the Director issued the April 2025 As-Applied Order, which calculated A&B's storage water mitigation obligation as 384 acre-feet. (p. 5, fn. 8.) This time, A&B challenged the method used by the Director to calculate its storage water mitigation obligation. (*A&B Irr. District's Req. for Hrg.*, (April 29, 2025).) The Director subsequently issued the July 2025 As-Applied Order, and A&B again requested a hearing on the same issues. (*A&B Irr. District's Req for Hrg.* (Jul. 24, 2025).)

Related to the issue of how storage water mitigation obligations are calculated is the 2024 Stipulated Mitigation Plan ("2024 Plan") between the SWC and IGWA's member ground water

districts. A&B is a party to the 2024 Plan, which requires that the storage water mitigation obligations be calculated using steady-state modeling. The 2024 Plan was approved by the Director via the *Amended Final Order Approving Stipulated Mitigation Plan* issued February 7, 2025, in IDWR Docket No. CM-MP-2024-003.

Summary Judgment Standard

Under Department rules of procedure, motions for summary judgment are governed by rule 56 of the Idaho Rules of Civil Procedure. Under I.R.C.P. 56(c), summary judgment is appropriate where there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. The Court should liberally construe all facts and draw all reasonable inferences in favor of the nonmoving party. *Iron Eagle Dev., LLC v. Quality Design Sys., Inc.*, 138 Idaho 487, 491 (2003). However, "the mere existence of some alleged factual dispute between the parties will not defeat an otherwise properly supported motion for summary judgment; the requirement is that there be no genuine issue of material fact." *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 247-48 (1986). There must be sufficient evidence provided which would reasonably allow a jury to return a verdict in the favor of the party who is resisting the motion. *Gneiting v. Idaho Asphalt Supply, Inc.*, 130 Idaho 393, 396 (Ct. App. 1997).

Statement of Undisputed Facts

1. The Director has, since 2016, calculated storage water mitigation obligations under the Methodology Order using steady-state applications of ESPAM. (Sigstedt Decl., ¶¶ 6-7.)
2. The Methodology Order was substantially changed in 2023. Based on the new Methodology Order, the Director issued the April 2023 As-Applied Order which predicted a demand shortfall and calculated A&B's proportionate storage water mitigation obligation.
3. A&B challenged the Director's method for calculating A&B's proportionate storage water mitigation obligation in the April 2023 As-Applied Order. The Director rejected A&B's arguments, and A&B declined to appeal it.
4. The April 2024 As-Applied Order predicted a demand shortfall to the SWC and calculated A&B's proportionate storage water mitigation obligation. A&B did not challenge the order.

5. On November 15, 2024, A&B and other parties executed the 2024 Plan, then submitted it to the Director for approval in IDWR Docket No. CM-MP-2024-003. The director approved it via the *Amended Final Order Approving Stipulated Mitigation Plan* issued February 7, 2025, in IDWR Docket No. CM-MP-2024-003.
6. The 2024 Plan expressly states that storage water mitigation obligations among the participating ground water districts should be based on steady-state application of ESPAM.

Argument

As explained below, the doctrines of *res judicata* and "law of the case" preclude A&B from challenging the method by which the Director calculates A&B's proportionate storage water mitigation obligations because A&B could have and did raise these issues previously in this action. In addition, the *quasi-estoppel* doctrine precludes A&B from challenging the Director's use of steady-state modeling to calculate storage water mitigation obligations because A&B agreed to the use of steady-state modeling in the 2024 Plan.

A. *Res Judicata*

Res judicata bars litigation of claims and issues that were or could have been litigated in a prior action. *Ferrell v. Brown*, 111 Idaho 1027, 1030 (Ct.App. 1986). The doctrine covers both claim preclusion and issue preclusion (collateral estoppel). *Elsaesser v. Riverside Farms, Inc*., 170 Idaho 502, 508 (2022). It applies in administrative proceedings as well as judicial proceedings. *Byrd v. Idaho State Bd. of Land Comm'rs*, 169 Idaho 922, 931 (2022).

"Claim preclusion bars a subsequent action between the same parties upon the same claim or upon claims relating to the same cause of action." *Id*. (quoting *Berkshire Invs., LLC v. Taylor*, 153 Idaho 73, 81 (2012)). There are three elements: "(1) the original action ended in final judgment on the merits, (2) the present claim involves the same parties as the original transaction, and (3) the present claim arises out of the same transaction or series of transactions as the original action." *Id*. "When the three elements are established, claim preclusion bars every matter offered and received to sustain or defeat the claim but also as to every matter which might and should have been litigated in the first suit." *Monitor Fin., L.C. v. Wildlife Ridge Estates., LLC*, 164 Idaho 555 (2019) (quoting *Magic Valley Radiology, P.A. v. Kolouch*, 123 Idaho 434, 437 (1993)).

The Department has applied the *res judicata* doctrine in prior contested cases involving the SWC delivery call. For example, in IDWR Docket No. CM-MP-2016-001, IGWA advocated for the use of a three-year baseline to measure compliance with groundwater conservation obligations under what is commonly known as the 2015 Mitigation Plan. The Department denied IGWA's argument based on *res judicata*, stating that "IGWA had an opportunity to request a hearing on the 2022 Compliance Order but failed to timely do so and that IGWA failed to raise the issue at other critical times." (*Order Denying IGWA's Request for Clarification of Order Denying IGWA's Motion to Vacate or Amend 2022 Compliance Order*, IDWR Docket No. CM-MP-2016-001 (May 28, 2024, p. 1.))

Here, A&B seeks to litigate the method used by the Director to calculate A&B's proportionate storage water mitigation obligation to the SWC. As discussed above, the Director has been issuing As-Applied Orders that calculate A&B's proportionate storage water mitigation obligation since 2016. A&B challenged the Director's calculation in 2016 and again in 2023 after the Methodology Order was substantially revised. After the April 2023 As-Applied Order was issued, A&B requested a hearing on the following issues:

1) Whether the order's identified proportionate share (458 acre-feet) of the predicted injury (75,200 acre-feet) to TFCC is calculated correctly based on A&B's actual diversion and use of water rights that are subject to the identified curtailment date (junior to December 30, 1953).

2) Whether the steady-state use of the ESPAM 2.2 in identifying A&B's proportionate share is consistent with the transient use of the model in identifying ground water rights subject to curtailment as outlined in the *Fifth Methodology Order*.

(*Surface Water Coalition's Request for Hearing and Statement of Issues* (May 5, 2023), pp. 2-3.)

An evidentiary hearing was held on issues raised by A&B and others, resulting in a final judgment on the merits. (*Post-Hearing Order Regarding Fifth Methodology Order* (July 19, 2023).) The final order did not change the way A&B's proportionate storage water mitigation obligation is calculated, and A&B declined to appeal that ruling. Further, the same method was used in the April 2024 As-Applied Order, which A&B declined to challenge.

The parties to the April 2023 As-Applied Order and the April 2024 Order are the same parties to the 2025 As-Applied Orders being challenged now by A&B, and A&B's present claims arise out of the same transaction or series of transactions as the original action. Therefore,

the doctrine of claim preclusion prevents A&B from challenging the method used by the Director to calculate its proportionate storage water mitigation obligation.

The doctrine of issue preclusion doctrine also prevents A&B from challenging the method used by the Director to calculate its proportionate storage water mitigation obligation. The elements of issue preclusion are:

> (1) the party against whom the earlier decision was asserted had a full and fair opportunity to litigate the issue decided in the earlier case; (2) the issue decided in the prior litigation was identical to the issue presented in the present action; (3) the issue sought to be precluded was actually decided in the prior litigation; (4) there was a final judgment on the merits in the prior litigation; and (5) the party against whom the issue is asserted was a party or in privity with a party to the litigation.

Elsaesser, 170 Idaho at 509 (quoting *Ticor*, 144 Idaho at 124).

The doctrine of issue preclusion prevents A&B from challenging the method used by the Director to calculate its proportionate storage water mitigation obligation because (1) A&B had a full and fair opportunity to litigate the issue in response to the April 2016 As-Applied Order, the April 2023 As-Applied Order, and the April 2024 As-Applied Order; (2) the issue decided in the prior As-Applied Orders is identical to the issue raised by A&B in the present action; (3) the issue sought to be precluded was actually decided in the prior As-Applied Orders; (4) there was a final judgment on the merits in the prior As-Applied Orders; and (5) A&B was a party to the prior As-Applied Orders.

Therefore, IGWA respectfully requests that the hearing officer grant summary judgment by ruling that the doctrine of *res judicata* bars A&B from challenging the method used by the Director to calculate its proportionate storage water mitigation obligation.

B. Law of the Case

In addition to *res judicata*, the "law of the case" doctrine precludes A&B from raising issues that it did or could have raised previously in the SWC delivery call case. The "law of the case" doctrine "prevents consideration on a subsequent appeal of alleged errors that might have been, but were not, raised in the earlier appeal." *State v. Hawkins*, 155 Idaho 69, 72 (2013). Previously in this case, A&B argued that the "law of the case" doctrine precluded IGWA from

raising issues that had previously been litigated.[2] By the same token, A&B is barred by that doctrine from raising issues that were or could have been litigated in this proceeding.

C. *Quasi-Estoppel*

The Idaho Supreme Court has held repeatedly that "the doctrine of quasi-estoppel prevents a party from asserting a right, to the detriment of another party, which is inconsistent with a position previously taken." *Gomez v. Hurtado*, 174 Idaho 1002, 1014, 554 P.3d 53, 65 (2024) (quoting *Atwood v. Smith*, 143 Idaho 110, 114, 138 P.3d 310, 314 (2006)); see also *Hollingsworth v. Thompson*, 168 Idaho 13, 22-23, 478 P.3d 312, 321-22 (2020); *Trumble v. Farm Bureau Mut. Ins. Co. of Idaho*, 166 Idaho 132, 146, 456 P.3d 201, 215 (2019). *Quasi-estoppel* is "a broadly remedial doctrine, often applied ad hoc to specific fact patterns." *Thomas v. Arkoosh Produce, Inc*., 137 Idaho 352, 357, 48 P.3d 1241, 1246 (2002) The elements are:

1. The offending party took a different position than their original position; and
2. Either (a) the offending party gained an advantage or caused a disadvantage to the other party; (b) the other party was induced to change positions; or (c) it would be unconscionable to permit the offending party to maintain an inconsistent position from one they have already derived a benefit or acquiesced in.

Atwood, 143 Idaho at 114.

Here, A&B agreed in the 2024 Plan that steady-state modeling is the appropriate method for allocating storage water mitigation obligations among groundwater users. This agreement was made more than a year after the Fifth Methodology Order had been issued. Notwithstanding the change in the Fifth Methodology Order from steady-state to transient-state modeling for the purpose of calculating curtailment dates under the Methodology Order, A&B agreed that steady-state modeling is the appropriate method for calculating storage water mitigation obligations. A&B now seeks to argue for transient-state modeling, a position directly contrary to its prior agreement in the 2024 Plan.

A&B gained an advantage and/or derived a benefit by agreeing to the use of steady-state modeling to define storage water mitigation obligations in the 2024 Plan. Without that provision, the ground water districts would not have agreed to the 2024 Plan, and A&B would not be the beneficiary of mitigation provided by the districts under the 2024 Plan.

[2] Surface Water Coalition's Response Brief, Ada Co. Case No. CV01-23-13173 (Jan. 19, 2024) (Excerpt attached as Appx. A, Budge Decl.).

IGWA and its member ground water districts relied on the use of steady-state modeling to define storage water mitigation obligations in the 2024 Plan, and the Director approved the 2024 Plan on that basis. Allowing A&B to change its position would upend the 2024 Plan and the settled expectations of all parties, to the detriment of IGWA and its member ground water districts.

To IGWA's members, A&B's conduct appears to be in bad faith—seeking to retain the benefits of the Plan while attacking its core terms. A&B's challenge here is an indirect attack on the 2024 Plan itself. This is precisely the type of conduct Idaho's *quasi-estoppel* doctrine is designed to prevent.

Conclusion

For the foregoing reasons, IGWA respectfully requests that the Hearing Officer grant summary judgment in favor of IGWA by ruling that A&B is barred by the doctrines of *res judicata*, "law of the case," and *quasi-estoppel* from challenging the method used by the Director to calculate its storage water mitigation obligations under the Methodology Order.

Dated this 18th day of November, 2025.

RACINE OLSON, PLLP

By:

Thomas J. Budge
Attorneys for IGWA

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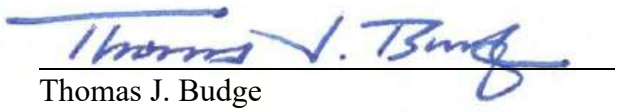

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STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

IN THE MATTER OF THE DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY AND FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY	Docket No. CM-DC-2010-001 **DECLARATION OF SOPHIA SIGSTEDT**

I, Sophia Sigstedt, declare the following:

1. I am over the age of 18 and competent to testify. If called upon to testify, I could testify to the following, all of which are within my own personal knowledge or based upon my professional judgment.

2. I am an American Institute of Hydrology Professionally Certified (No. 7015) Hydrogeologist with a specialization in groundwater. I have a master's degree in hydrology from the New Mexico Institute of Mining and Technology. My work includes hydrogeology, water resources engineering, and water resources planning and management. I have directed or contributed to several river-basin-scale water management studies that involved analysis of basin hydrology and water uses and the development of computer models to investigate implications of changes in hydrology, system operations, and water uses. My experience includes historical consumptive use analysis, evaluation of surface and ground water interactions, development of

protective terms and conditions for water users, settlement negotiations and expert witness testimony. I am employed by Lynker, 287 Century Cir #200, Louisville, Colorado.

3. For several years I have worked as a technical consultant for Idaho Ground Water Appropriators, Inc. ("IGWA"). In that capacity, I participate on the Eastern Snake Plain Hydrologic Modeling Committee, the Big Lost Modeling Technical Advisory Committee, and the Swan Falls Technical Working Group, and I have testified as an expert witness in several cases before the Idaho Department of Water Resources ("IDWR" or "Department"). I further provide IGWA with technical assistance on a variety of matters, including the Surface Water Coalition ("SWC") delivery call.

4. I have reviewed the April Background Information that the Department issues with its April As-Applied Orders on its legal action docket (https://idwr.idaho.gov/legal-actions/delivery-call-actions/swc/) in connection with the SWC Delivery Call.

5. I have reviewed the April Background Information associated with the *Final Order Regarding April 2023 Forecast Supply* ("April 2023 As-Applied Order"); *Final Order Regarding April 2024 Forecast Supply* ("April 2024 As-Applied Order"); and *Final Order Regarding April 2025 Forecast Supply* ("April 2025 As-Applied Order").

6. The Department is using the same process in the April 2024 As-Applied Order and April 2025 As-Applied Order as it did in the April 2023 As-Applied Order to determine A&B Irrigation District's proportionate share of the predicted demand shortfall. I understand this process is based on A&B's steady-state impact to the Near Blackfoot to Minidoka reach of the Snake River, not transient-state impacts.

7. Before the *Fifth Amended Final Order Regarding Methodology for Determining Material Injury to Reasonable In-Season Demand and Reasonable Carryover* ("Fifth Methodology Order") the Department's As-Applied Orders would determine A&B's proportionate share of the predicted demand shortfall based on A&B's steady state impact to the Near Blackfoot to Minidoka reach of the Snake River, not transient state impacts.

I declare under the penalty of perjury pursuant to the law of the State of Idaho that the foregoing is true and correct.

DATED this 18th day of November, 2025.

Sophia C. Sigstedt

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I hereby certify that on this 18th day of November, 2025, I served the foregoing document on the persons below via email or as otherwise indicated:

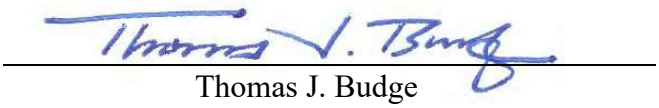

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EXHIBIT A

EXHIBIT B

EXHIBIT C

EXHIBIT D

EXHIBIT E

EXHIBIT F

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STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

IN THE MATTER OF THE DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY AND FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY	Docket No. CM-DC-2010-001 **DECLARATION OF THOMAS J. BUDGE**

I, Thomas J. Budge, declare the following:

1. I am one of the attorneys of record representing Idaho Ground Water Appropriators, Inc. ("IGWA") in the above-captioned matter.

2. Attached hereto as Appendix A is an excerpt from *Surface Water Coalition's Response Brief* filed January 19, 2024, in Ada County Case No. CV01-23-13173. This district court case was initiated by IGWA's petition for judicial review of the Director's July 19, 2023, *Post-Hearing Order Regarding Fifth Methodology Order*, in IDWR Docket No. CM-DC-2010-001, issued in response to challenges by IGWA, the SWC, and others to the Fifth Methodology Order and April 2023 As-Applied Order.

I declare under the penalty of perjury pursuant to the law of the State of Idaho that the foregoing is true and correct.

DATED this 18th day of November, 2025.

Thomas J. Budge

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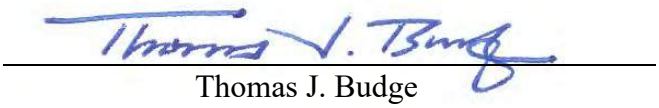

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APPX. A

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By: Caterina Moritz Gutierrez, Deputy Clerk

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

IDAHO GROUND WATER APPROPRIATORS, INC.,

Petitioner,

vs.

THE IDAHO DEPARTMENT OF WATER RESOURCES, and GARY SPACKMAN, in his capacity as Director of the Idaho Department of Water Resources,

Respondents,

and

AMERICAN FALLS RESERVOIR DISTRICT #2, MINIDOKA IRRIGATION DISTRICT, A&B IRRIGATION DISTRICT, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, TWIN FALLS CANAL COMPANY, CITY OF POCATELLO, CITY OF BLISS, CITY OF BURLEY, CITY OF CAREY, CITY OF DECLO, CITY OF DIETRICH, CITY OF GOODING, CITY OF HAZELTON, CITY OF HEYBURN, CITY OF JEROME, CITY OF PAUL, CITY OF RICHFIELD, CITY OF RUPERT, CITY OF SHOSHONE, CITY OF WENDELL, BONNEVILLE-JEFFERSON GROUND WATER DISTRICT, and BINGHAM GROUND WATER DISTRICT,

Intervenors.

IN THE MATTER OF DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY AND FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN

Case No. CV01-23-13173

FALLS RESERVOIR DISTRICT NO. 2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY.

SURFACE WATER COALITION'S RESPONSE BRIEF

Judicial Review from the Idaho Department of Water Resources
Gary D. Spackman, Director
Honorable Eric J. Wildman, Presiding

John K. Simpson, ISB #4242
Travis L. Thompson, ISB #6168
Abby R. Bitzenburg, ISB #12198
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Attorneys for American Falls Reservoir District #2 and Minidoka Irrigation District

(See Service Page for Remaining Counsel)

> First, neither section (Art. XV § 4 and § 5) applies to the water user who has appropriated water directly from the water source. . . . Finally, neither section governs conjunctive management. . . . There is nothing in the wording of Article XV, § 7, that indicates that it grants the legislature or the Idaho Water Resource Board the authority to modify that portion of Article XV, § 3, which states, "Priority of appropriation shall give the better right as between those using the water" . . . The policy of securing the maximum use and benefit, and least wasteful use, of the State's water resources applies to both surface and underground waters, and it requires that they be managed conjunctively.

150 Idaho at 805-807, 252 P.3d at 86-88.

Accordingly, any claims of error related to the Director's application of the Ground Water Act or CM Rule 20 should be denied. Those provisions do not apply in the manner IGWA suggests and do not expose any errors in the Director's *Sixth Order* and the continued conjunctive water right administration in this case. Further, the following legal doctrines prohibit IGWA's attempts to re-challenge the methodology and the established burdens of proof and evidentiary standards adopted by the Idaho Supreme Court. *See A&B Irr. Dist.*, 155 Idaho at 655, 315 P.3d at 843.

II. Res Judicata and The Law of the Case Doctrines Preclude IGWA's Alleged Defenses.

IGWA attempts to impermissibly re-litigate certain defenses through its "substantive errors" portion of the opening brief. *See generally IGWA Br.* at 29-31, 36-44. These defenses, having been previously raised and litigated, are barred by both the *res judicata* and "law of the case" doctrines. In other words, IGWA cannot continue to regurgitate defenses that have already been denied by Idaho's judiciary. The Court should reject IGWA's arguments accordingly.

The doctrine of *res judicata* covers both claim preclusion and issue preclusion. *See Monitor Finance, L.C. v. Wildlife Ridge Estates, LLC*, 164 Idaho 555, 560, 433 P.3d 183, 188 (2019). Claim preclusion bars a subsequent action between the same parties upon the same claim or upon claims relating to the same cause of action. *See id.*

The three criteria are: 1) the original action ended in a final judgment on the merits; 2) the present claim involves the same parties; and 3) the present claim arises out of the same transaction or series of transactions as the original action. *See id.* The doctrine exists "to prevent the resurrection of a lawsuit already laid to rest." *See Byrd v. Idaho State Bd. of Land Comm'rs*, 169 Idaho 922, 931, 505 P.3d 708, 717 (2022). Further, the doctrine applies to administrative proceedings as well. *See id.* All three of the criteria are met here and therefore the Court should apply *res judicata* to deny IGWA's present appeal of the agency's alleged "substantive errors."

First, the appeal concerns the same parties, the Coalition, IGWA, and IDWR. Next, the claims arise out of the same transaction, the underlying delivery call proceeding and the Director's methodology for administration. IGWA collaterally attacks the Director's methodology for forecasting water supply, use of irrigated acreage, accounting for supplemental groundwater use, and calculating project efficiency and system improvements. *See IGWA Br.* at 32-39. IGWA also alleges the Director wrongly refused to deny the call on theories of "futile call" and "maximum beneficial use." *See id.* at 39-44. All of these claimed errors and defenses were previously litigated and denied.[23] Moreover, any challenges to the methodology steps and underlying analysis were fully adjudicated in the *382 Decision*. Consequently, the final criteria of a final judgment on the merits is met, and the Court can deny IGWA's appeal of these issues accordingly. There simply is no legal basis to allow IGWA to continue to litigate defenses that have already been denied.

[23] IGWA originally moved for summary judgment on "futile call" and its "maximum use" theories. *See* Addendum C (*Idaho Ground Water Appropriators' Motion for Summary Judgment and Memorandum in Support*, Mar. 23, 2005). The Director denied IGWA's motion. *See* Addendum D (*Order on Petition to Intervene and Denying Motion for Summary Judgment et al.*, Apr. 6, 2005). IGWA did not appeal the Director's decision on these issues, and the resulting order on judicial review and the Supreme Court opinion constitute a final adjudication on the merits of IGWA's claimed defenses. *See Order on Petition for Judicial Review* (Gooding County Dist. Ct., Fifth Jud. Dist., Case No 2008-551); *A&B Irr. Dist. v. IDWR*, 155 Idaho 640, 315 P.3d 828 (2013).

In addition to *res judicata*, the "law of the case" doctrine precludes IGWA from re-raising previously denied defenses and alleged errors in the methodology. The doctrine of "law of the case" is well established in Idaho and provides that "upon an appeal, the Supreme Court, in deciding a case presented states in its opinion a principle or rule of law necessary to the decision, such pronouncement becomes the law of the case, and must be adhered to throughout its subsequent progress both in the trial court and upon subsequent appeal." *Swanson v. Swanson*, 134 Idaho 512, 515, 5 P.3d 973, 976 (2000); *see also*, *South Valley*, 2024 WL 136840, at *15.

Idaho courts have applied the doctrine to preclude re-litigation of issues in cases that did not reach the Supreme Court during the first appeal. *See* 134 Idaho at 516, 5 P.3d at 977. Further, where a district court acts in an appellate capacity and there is no appeal to the Supreme Court, the rulings of the district court "become final rulings in the case, not subject to attack in this appeal, and which stated the law of the case that the magistrate–and even this appellate court–must follow in this appeal." *Id.*; *see also*, 2024 WL 136840, at *15 ("The doctrine prevents relitigating issues decided by a district court acting in its appellate capacity, even when an appeal was not taken to the Supreme Court"). The law of the case doctrine "prevents consideration on a subsequent appeal of alleged errors that might have been, but were not, raised in the earlier appeal." *State v. Hawkins*, 155 Idaho 69, 72, 305 P.3d 513, 516 (2013).

IGWA's claimed defenses of "futile call" and "maximum beneficial use" have been denied and do not preclude the Director's continued conjunctive administration in this matter. IGWA did not appeal those prior denials[24] and the Idaho Supreme Court affirmed the Director's ability to employ an adjustable "methodology" for administration of the call pursuant to the "established evidentiary standards, presumptions, and burdens of proof." *See* 155 Idaho at 648-

[24] *See supra* at 25, n. 23.

53, 315 P.3d at 836-41. Any alleged errors with the methodology framework and analysis were similarly addressed in the *382 Decision*. Consequently, these decisions are "law of the case" and therefore preclude re-litigation IGWA's alleged "substantive errors" and defenses.

Further, whereas this Court previously reviewed the methodology framework and the analyses and calculations used by the Director, IGWA cannot now claim errors related to the "baseline year," "forecast supply," and "system efficiency" issues that were previously litigated. *See IGWA Br.* at 32. The Director has updated the data based upon additional years, and IGWA cannot collaterally attack the underlying technique and analysis now. In short, both the *res judicata* and "law of the case" doctrines bar IGWA's present arguments and the Court should deny its appeal accordingly.

III. Best Science Claims

IGWA casts an overly broad argument that the *Clear Springs* Court "has instructed the Director use the 'best science available'" in support of its claims related to the forecast supply, irrigated acres, and supplemental groundwater. IGWA distorts the Court's evaluation of ESPAM in that case as standing for a new standard that the Director somehow violated.[25] IGWA further alleges the Director abused his discretion by not accepting its proposed changes to technical matters in the methodology. *See IGWA Br.* at 32. IGWA's claim regarding its "more accurate methods" rings hollow, particularly in light of the standard of review under the Idaho APA.

On judicial review, courts cannot substitute their judgment for that of the agency as to the weight of the evidence on questions of fact. *See* I.C. § 67-5279(1); *Byrd v. Idaho State. Bd. of*

[25] The issue in *Clear Springs* concerned the Groundwater Users' claim that the Director failed to take into account a higher level of uncertainty in applying the model. *See* 150 Idaho at 812-15; 252 P.3d at 93-95. The Court found the Groundwater Users "failed to show that the Director abused his discretion in relying upon the model." *Id.* The case did not, as IGWA implies here, create a new standard of review different than what is provided by Idaho's APA. *See* I.C. § 67-5279.

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BEFORE THE DEPARTMENT OF WATER RESOUCES

OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY OR FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY	Docket No. CM-DC-2010-001 **A&B IRRIGATION DISTRICT'S UNOPPOSED MOTION TO AMEND DEADLINES FOR REBUTTAL EXPERT REPORTS / DEPOSITIONS** **PARTIAL UNOPPOSED MOTION TO MODIFY RESPONSE DEADLINE TO PENDING MOTIONS FILED BY IGWA AND AMERICAN FALLS-ABERDEEN GROUND WATER DISTRICT**

COMES NOW, A&B IRRIGATION DISTRICT, by and through counsel of record, and pursuant to the Department's Rules of Procedure (IDAPA 37.01.01 et seq.) and the previous *Scheduling Order* (Oct. 7, 2025), and hereby moves the Hearing Officer to amend certain deadlines in this case as set forth below. This motion contains two parts: 1) related to the rebuttal expert report and deposition deadline; and 2) related to the motions filed by IGWA and American Falls-Aberdeen (AFA) Ground Water District on November 18, 2025.

Rebuttal Expert Reports / Depositions

In order to accommodate schedules for counsel and the parties' experts, A&B requests the Hearing Officer to amend the deadlines as follows:

Rebuttal Expert Reports	**December 19, 2025**
Deposition Deadline	**January 9, 2026**

Counsel for A&B has contacted counsel for AFA, IGWA, the Coalition of Cities, and Bonneville-Jefferson Ground Water District. All counsel do not oppose the request and have communicated their support for moving the deadlines as set forth above.

IGWA Motion / AFA Motion

IGWA filed a *Motion for Summary Judgment* and AFA filed a *Motion for Reconsideration et al.* on November 18, 2025. Pursuant to the Department's rules, any responses to these motions would be due within 14 days, or on Tuesday December 2, 2025. *See* Rule 220.02.b. A&B seeks to extend the deadline for a response to these motions on the following grounds based upon its counsel's schedule and upcoming conflicts.

First, counsel has three summary judgment motions to brief in litigation in the Kootenai County District Court and the Coeur d'Alene-Spokane River Basin Adjudication (CSRBA) District Court over the next two weeks, including an oral argument set for December 4, 2025. Second, counsel for A&B is preparing for the deposition of IDWR's witness Brian Ragan on Friday November 21, 2025. Next, counsel has a pending discovery response deadline set for December 1, 2025 in mitigation plan case CM-MP-2024-04 (Falls Water Company, Inc.). Third, next week is a holiday week with Thanksgiving falling on Thursday November 27, 2025. Counsel for A&B has plans to travel out of town to spend time with family, including a son, a

niece, and a nephew who will all be back visiting from college November 26th – 29th. Finally, counsel for A&B has an unavoidable conflict with a scheduled out-of-town meeting in another case set for December 2nd. Given these pending scheduling conflicts, and in order to provide sufficient time to prepare and file adequate responses to the IGWA and AFA motions filed just last evening, A&B requests a reasonable seven (7) day extension to the current response deadlines.

Rule of Procedure 220.02.f provides that "modifications to the time limits in this rule may be granted by the presiding officer for good cause shown." *See e.g. Prehn v. Hodge*, 161 Idaho 321, 326 (2016) ("A scheduling order may only be modified for good cause, and this Court will not reverse a district court's decision whether to consider a late-filed motion absent evidence that the district court abused its discretion"). In light of counsel's other litigation commitments and scheduled travel during the week of November 24th described above, the requisite "good cause" exists for the Hearing Officer to exercise his discretion and extend the response deadlines to the motions filed by IGWA and AFA. Stated another way, pressing work commitments and allowing some time to visit family for an important holiday meet the rule's "good cause" standard, particularly when the movants will not be prejudiced by the extension.

Counsel for A&B has conferred with counsel for the other parties to this case, and counsel for IGWA, the Coalition of Cities, and Bonneville-Jefferson Ground Water District have all stipulated to the following deadlines. However, counsel for AFA would not stipulate to this requested extension. Since the motions filed by IGWA and AFA are based on similar legal theories and seek similar relief, A&B submits that the following single response deadline would be the most efficient and appropriate for purposes of the parties' filings and the Hearing Officer's consideration:

Response to IGWA Summary Judgment Motion	**December 9, 2025**
Response to AFA Motion for Reconsideration	**December 9, 2025**

For the reasons set forth above, A&B respectfully requests an order granting this motion to extend the above-referenced deadlines. The motion is based upon the non-opposition of the other parties where noted, and the "good cause" related to A&B's counsel's schedules for other pending litigation matters and travel identified above. No oral argument is requested.

DATED this 19th day of November, 2025.

PARSONS BEHLE & LATIMER

Travis L. Thompson

Attorneys for A&B Irrigation District

CERTIFICATE OF SERVICE

I hereby certify that on this 19th day of November, 2025, I served a true and correct copy of the foregoing document on the following by the method indicated:

Gerald F. Schroeder Director Mat Weaver Garrick Baxter Sarah Tschohl Megan Carter State of Idaho Dept. of Water Resources 322 E Front St. Boise, ID 83720-0098 *** service by electronic mail gerald_23107@msn.com mat.weaver@idwr.idaho.gov garrick.baxter@idwr.idaho.gov sarah.tschohl@idwr.idaho.gov meghan.carter@idwr.idaho.gov file@idwr.idaho.gov	Sarah A. Klahn Maximillian C. Bricker Somach Simmons & Dunn 1155 Canyon Blvd., Ste. 110 Boulder, CO 80302 *** service by electronic mail only sklahn@somachlaw.com vfrancisco@somachlaw.com mbricker@somachlaw.com	Skyler C. Johns Nathan M. Olsen Steven L. Taggart Olsen Taggart PLLC P.O. Box 3005 Idaho Falls, ID 83403 *** service by electronic mail only sjohns@olsentaggart.com nolsen@olsentaggart.com staggart@olsentaggart.com
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/s/ Jessica Nielsen
Jessica Nielsen
Assistant for Travis L. Thompson

RECEIVED
Nov 20, 2025
DEPARTMENT OF
WATER RESOURCES

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BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY OR FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY	Docket No. CM-DC-2010-001 **AMERICAN FALLS-ABERDEEN GROUND WATER DISTRICT'S RESPONSE TO A&B IRRIGATION DISTRICT'S PARTIAL UNOPPOSED MOTION TO MODIFY RESPONSE DEADLINE TO PENDING MOTIONS FILED BY IGWA AND AFA**

COMES NOW American Falls-Aberdeen Ground Water District ("AFA"), by and through undersigned counsel of record, pursuant to Rules 220.02.b of the Department's Rules of Procedure, and hereby responds to *A&B Irrigation District's Unopposed Motion to Amend Deadlines for Rebuttal Expert Reports/Depositions; Partial Unopposed Motion to Modify Response Deadline to Pending Motions Filed by IGWA and American Falls-Aberdeen Ground Water District* dated November 19, 2025 ("*A&B Extension Motion*").

AFA opposes the deadline for response briefs to AFA's *Motion to Reconsider Order Granting Hearing and Vacate Hearing or, Alternatively, to Clarify the Scope of the Hearing; Request for Expedited Ruling; Brief in Support* dated November 18, 2025 *("Motion to Reconsider")* proposed in the *A&B Extension Motion* because it would not expedite resolution of the *Motion to Reconsider*. AFA requested expedited ruling on its *Motion to Reconsider* because a prompt ruling would allow the parties to avoid expending substantial resources on discovery and other prehearing matters if, on reconsideration, the Director disposes of some or all issues that A&B presented in this contested case. Moreover, A&B requests a **seven** day extension of the normal response deadline, to December 9, 2025, the same week counsel are working to schedule depositions in this matter.[1] AFA would not oppose a response deadline of November 26, and can promise a prompt reply on December 2. Accordingly, AFA requests that the *A&B Extension Motion* be denied.

Respectfully submitted this 20th day of November 2025.

SOMACH SIMMONS & DUNN

By _____
Sarah A. Klahn, ISB #7928

Attorneys for American Falls-Aberdeen Ground Water District

[1] Undersigned certifies that the parties are working towards scheduling depositions and have identified the week of December 8-12, 2025, as a time to hold multiple depositions based on the availability of counsel and witnesses.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 20th day of November 2025, I caused a true and correct copy of the foregoing document to be filed and served via electronic mail to the following:

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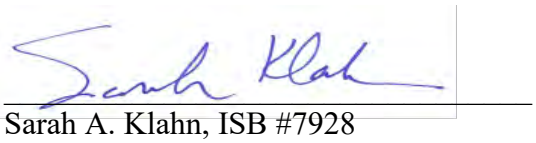

Sarah A. Klahn, ISB #7928

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY OR FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY	Docket No. CM-DC-2010-001 **FINAL ORDER ESTABLISHING 2025 REASONABLE CARRYOVER** ***(METHODOLOGY STEP 9)***

FINDINGS OF FACT

1. On July 19, 2023, the Director ("Director") of the Idaho Department of Water Resources ("Department") issued the *Sixth Final Order Regarding Methodology for Determining Material Injury to Reasonable In-Season Demand and Reasonable Carryover* ("*Methodology Order*"). The *Methodology Order* establishes nine steps for determining material injury to members of the Surface Water Coalition ("SWC"). This order applies step nine, the final step of the *Methodology Order*, for the 2025 water year.

2. The *Methodology Order* describes step 9 as follows:

> Step 9: Following the end of the irrigation season (on or before November 30), the Department will determine the total actual volumetric demand and total actual [crop water need] for the entire irrigation season. This information will be used for the analysis of reasonable carryover shortfall, selection of future [base line years], and for the refinement and continuing improvement of the method for future use.
>
> On or before November 30, the Department will issue estimates of actual carryover and reasonable carryover shortfall volumes for all members of SWC. These estimates will be based on, but not limited to, the consideration of the best available water diversion and storage data from Water District 01, return flow monitoring, comparative years, and [reasonable in-season demand]. These estimates will establish the obligation of junior ground water users in providing water to the SWC for reasonable carryover shortfall. Fourteen (14) days following the issuance by the Department of reasonable carryover shortfall obligations, junior ground water users will be required to establish, to the satisfaction of the Director, their ability to supply a volume of storage water or to conduct other approved mitigation activities that will provide water to the injured members of the SWC equal to the reasonable carryover shortfall for all injured members of the SWC. If junior ground water users cannot provide this information, the Director will issue an order curtailing junior ground water rights. A transient ESPAM simulation will be run to determine the priority date of water rights that must be curtailed to produce the reasonable

carryover shortfall volume by September 30 of the following year. Curtailment will be simulated within the area of common ground water supply, as described by [Rule 50.01 of the Department's Rules for Conjunctive Management of Surface and Ground Water Resources].[1]

Methodology Order, at 45 (footnote added).

3. The following table summarizes the 2025 irrigation season diversions and crop water need for each SWC entity. All values are reported in acre-feet ("AF"). These values are used to determine entity-specific season-ending reasonable in-season demand ("RISD") values for the in-season demand shortfall table.

Entity	Demand[2]	Crop Water Need
A&B	66,772	33,341
AFRD2	478,369	152,966
BID	282,546	101,624
Milner	68,320	31,448
Minidoka	362,365	188,837
NSCC	1,053,354	353,302
TFCC	1,135,302	462,347

4. The following table summarizes the final calculated 2025 in-season demand shortfall values in AF, if any, for each member of the SWC. The values in this table are different from those in the April 16, 2025 *Final Order Regarding April 2025 Forecast Supply (Methodology Steps 1–3)* ("*April Forecast Supply Order*"), the July 10, 2025 *Order Revising April 2025 Forecast Supply and Continuing May 16, 2025 Curtailment Order (Methodology Steps 5 & 6)* ("*July Order*"), and the September 11, 2025 *Order Revising July 2025 Forecast Supply (Methodology Steps 7–8)* ("*September Order*"). The differences are due to changes in total supply and RISD that reflect diversion and ET data not available when the *April Forecast Supply Order*, the *July Order*, and the *September Order* were issued. The second column of the summary table contains the total natural flow diversions from April 1 to October 31 for each SWC member.[3] The third column summarizes the natural flow adjustments, which include natural flow delivered for recharge[4] and natural flow delivered to Southwest Irrigation District

[1] In 2024, the Idaho Legislature established a new area of common ground water supply boundary for the Eastern Snake Plain Aquifer in Idaho Code § 42-233c. The new boundary is currently the ESPAM2.2 model boundary, but the boundary may be expanded by the Director in the future. I.C. § 42-233c(1)–(2). The Department used the ESPAM2.2 model boundary in the model simulation for this order.

[2] The "Demand" for each SWC entity is equal to each entity's 2025 April–October diversions.

[3] The natural flow diverted was calculated from the preliminary daily water right accounting records located here: https://research.idwr.idaho.gov/apps/Hydrologic/Accounting/.

[4] Natural flow recharge values represent accomplished recharge through the Idaho Water Resource Board's recharge water rights as of October 31, 2025.

("SWID").[5] The fourth column contains the preliminary storage allocations reported from the July 15, 2025 Water District 01 storage report.[6] The fifth column summarizes storage adjustments due to the application of the Minidoka Credit.[7] The sixth column contains the total supply available to each SWC member and is calculated by summing columns two through five. The seventh column contains the calculated RISD. RISD is calculated for each SWC entity using demand, crop water need, and project efficiency. The demand shortfall in the last column is calculated by subtracting the RISD from the total supply. The demand shortfall is zero when the total supply exceeds the RISD. The completed application of the methodology order results in a final net in-season demand shortfall volume of 49,100 AF to TFCC for the 2025 irrigation season.

Entity	Natural Flow Diverted through 10/31	Natural Flow Adjustment	Preliminary Storage Allocation	In-Season Storage Allocation Adjustment	Total Supply	RISD	Demand Shortfall
A&B	9,547	-	120,473	-	130,020	56,868	0
AFRD2	90,666	(1,441)	383,912	1,000	474,137	443,825	0
BID	128,387	(2,197)	214,990	5,130	346,310	240,938	0
Milner	14,687	(1,111)	81,420	-	94,996	57,470	0
Minidoka	162,476	-	338,930	8,370	509,776	376,548	0
NSCC	448,541	(12,466)	798,776	(7,750)	1,227,101	968,232	0
TFCC	880,736	(988)	233,880	(6,750)	1,106,878	1,155,974	49,100

5. The following table summarizes the end of season reasonable carryover shortfall calculation for 2025. All values are reported in AF. The second column of the table contains the preliminary storage allocations reported from the July 15, 2025 Water District 01 storage report. The third column summarizes adjustments for storage water due to the application of the Minidoka Credit. The fourth column contains the total storage water use reported from the October 31, 2025 Water District 01 water right accounting report.[8] The fifth column summarizes adjustments for water delivered through the SWC member's canals for use by non-SWC members.[9] The sixth column contains the actual carryover volumes as defined by the *Methodology Order*, *see Methodology Order*, at 45, and is calculated by subtracting the sum of columns four and five from the sum of columns two and three. The seventh column contains the

[5] Further information regarding these adjustments is provided in Attachment A. *See* "Natural Flow Adjustment" column *infra* Attachment A.

[6] The preliminary storage allocations can be found on Water District 01's website: https://www.waterdistrict1.com/current-data/.

[7] The Minidoka Credit is a long existing exchange of stored water among AFRD2, BID, MID, NSCC, and TFCC that has been incorporated into an agreement of those entities and accepted by the SRBA district court. Further information regarding these adjustments is provided in Attachment A. *See* "In-Season Storage Adjustment" column *infra* Attachment A.

[8] Data retrieved from the preliminary daily water right accounting database between November 5–10, 2025.

[9] Further information regarding these adjustments is provided in Attachment A. *See* "Storage Use Adjustment" column *infra* Attachment A (Storage Use Adjustment values include storage assignments reported on the Water District 01 Rental Pool and Adjustment Worksheet as of November 5, 2025).

reasonable carryover volumes established in the *Methodology Order*. *Methodology Order*, at 31. The reasonable carryover shortfall in the last column is zero when the actual carryover is greater than the reasonable carryover, otherwise it is calculated as the difference between reasonable carryover and the actual carryover volume for each member of the SWC. Completed application of the Methodology determines AFRD2 has a reasonable carryover shortfall of 20,932 AF and TFCC has a reasonable carryover shortfall of 65,824 AF. No other members of the SWC have a reasonable carryover shortfall.

Entity	Preliminary Storage Allocation	In-Season Storage Allocation Adjustment	Storage Use	Storage Use Adjustment	Actual Carryover	Reasonable Carryover	Reasonable Carryover Shortfall
A&B	120,473	-	57,225	0	63,248	22,700	0
AFRD2	383,912	1,000	395,244	(6,100)	(4,232)	16,700	20,932
BID	214,990	5,130	157,262	0	62,858	0	0
Milner	81,420	-	55,878	(1,134)	26,676	16,100	0
Minidoka	338,930	8,370	199,017	(35)	148,318	0	0
NSCC	798,776	(7,750)	630,279	(13,000)	173,747	113,300	0
TFCC	233,880	(6,750)	257,166	(1,612)	(28,424)	37,400	65,824

6. The above determinations are based on water diversion and storage data from Water District 01. Although these preliminary numbers are subject to revision by Water District 01 during its final accounting for 2025, revisions will not become available until after issuance of this order. For this reason, these estimates establish the final obligation of junior ground water users in supplying water to the SWC for reasonable carryover shortfall. The above determination of reasonable carryover shortfall is carried forward from the *Methodology Order* and considers the best available water diversion and storage data, comparative water years, and RISD. *Methodology Order*, at 45.

CONCLUSIONS OF LAW

1. The *Methodology Order* states that, on or before November 30, the Director will estimate the SWC's reasonable carryover shortfall, if any, for 2025. *Id*. If a reasonable carryover shortfall is established, junior-priority ground water users shall have fourteen days to demonstrate, to the satisfaction of the Director, "their ability to supply a volume of storage water or to conduct other approved mitigation activities that will provide water to the injured members of the SWC equal to the reasonable carryover shortfall for all injured members of the SWC." *Id*.

2. The evidentiary standard to apply in conjunctive administration of hydraulically connected water rights is clear and convincing. *A&B Irr. Dist. v. Idaho Dept. of Water Resources*, 153 Idaho 500, 524, 284 P.3d 225, 249 (2012).

3. "Clear and convincing evidence refers to a degree of proof greater than a mere preponderance." *Idaho State Bar v. Topp*, 129 Idaho 414, 416, 925 P.2d 1113, 1115 (1996) (internal quotations removed). "Clear and convincing evidence is generally understood to be '[e]vidence indicating that the thing to be proved is highly probable or reasonably certain.'" *State*

v. Kimball, 145 Idaho 542, 546, 181 P.3d 468, 472 (2008) (citing *In re Adoption of Doe*, 143 Idaho 188, 191, 141 P.3d 1057, 1060 (2006)); *see also Idaho Dept. of Health & Welfare v. Doe*, 150 Idaho 36, 41, 244 P.3d 180, 185 (2010).

4. Consistent with Finding of Fact 5, the Director concludes by clear and convincing evidence there is a 20,932 AF volume of material injury to AFRD2's reasonable carryover and a 65,824 AF volume of material injury to TFCC's reasonable carryover. No other members of the SWC have a reasonable carryover shortfall.

5. Because not all junior ground water users are participants in an approved mitigation plan, the Director must determine a priority date for curtailment that will result in an accumulation of water to the reaches of the Snake River from which the SWC members divert, in an amount equal to the established reasonable carryover shortfall. The water must accrue to the near Blackfoot to Minidoka reach by September 30 of the following year. Using the Eastern Snake Plain Aquifer Model ("ESPAM") Version 2.2, the Director determines curtailment of ground water rights junior to August 15, 1952, is predicted to produce a volume of at least 86,756 AF in the near Blackfoot to Minidoka reach by September 30, 2026.

6. According to the *Methodology Order*, fourteen days following issuance of this order, which establishes the reasonable carryover shortfall obligation, junior ground water users must "establish, to the satisfaction of the Director, their ability to supply a volume of storage water or to conduct other approved mitigation activities that will provide water to the injured members of the SWC equal to the reasonable carryover shortfall for all injured members of the SWC." *Methodology Order*, at 45. Otherwise, "the Director will issue an order curtailing junior ground water rights." *Id*.

ORDER

Based upon the foregoing, IT IS HEREBY ORDERED that, junior ground water users holding consumptive ground water rights within the Eastern Snake Plain Aquifer area of common ground water supply bearing priority dates junior to August 15, 1952, must mitigate for the reasonable carryover shortfall of 86,756 AF in accordance with an approved mitigation plan.[10] If, within fourteen days following issuance of this order, a junior ground water user fails to establish, to the satisfaction of the Director, their ability to mitigate for the reasonable carryover shortfall of 86,756 AF in accordance with an approved mitigation plan, the Director will issue an order curtailing the junior-priority ground water use.

[10] Participants in the mitigation plans approved for the Ground Water Districts, SWID, the Coalition of Cities, and the Water Mitigation Coalition do not need to establish their ability to mitigate for their proportionate share of the reasonable carryover shortfall. However, due to the nature of A&B Irrigation District's approved mitigation plan, A&B must establish to the satisfaction of the Director its ability to mitigate for its proportionate share of the reasonable carryover shortfall, which is 457 AF.

IT IS FURTHER ORDERED that this final order concludes the application of the *Methodology Order* to the climatic, hydrologic, and agronomic facts of the 2025 irrigation season.

DATED this 21st day of November 2025.

MATHEW WEAVER
Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 21st day of November 2025, the above and foregoing was served by the method indicated below, and addressed to the following:

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[11] The Department has been made aware that John Simpson is no longer associated with the firm on record for him in this matter: Marten Law LLP. To ensure Mr. Simpson receives a copy of this order, the Department has included his IdaH2O, PLLC email address in the service list. However, this inclusion does not remove any duty that counsel may have to formally notify the Department and the parties in this matter of his change of firm or representation in this matter.

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Attachment A

2025 SWC Adjustments

Entitiy	Adjustment Volume (AF)	Description	Natural Flow Adjustment	In-Season Storage Adjustment	Storage Use Adjustment
A&B	(164)	Twin Falls Canal Company (A&B Irrigation District)	No	No	No
		Total A&B	**0**	**0**	**0**
AFRD2	2,000	Minidoka Irrigation District (Conservation Infrastructure)	No	No	Yes
	3,500	Minidoka Irrigation District (North Snake GWD)	No	No	Yes
	833	Minidoka Irrigation District (Water Mitigation Coalition)	No	No	No
	1,000	Minidoka Credit	No	Yes	No
	600	Shoshone-Bannock Tribes (American Beef Ranch)	No	No	Yes
	16,439	IGWA	No	No	No
AFRD2	1,465	City of Pocatello (City of Pocatello)	No	No	No
	2,846	City of Pocatello (Signatory Cities)	No	No	No
	1,441	IWRB Recharge	Yes	No	No
		Total AFRD	**1,441**	**1,000**	**6,100**
BID	638	Minidoka Irrigation District (Water Mitigation Coalition)	No	No	No
	5,130	Minidoka Credit	No	Yes	No
	1,797	SWID Natural Flow	Yes	No	No
	400	IWRB Recharge	Yes	No	No
		Total BID	**2,197**	**5,130**	**0**
Milner	1,134	Artesian	No	No	Yes
	170	Minidoka Irrigation District (Water Mitigation Coalition)	No	No	No
	1,111	SWID Natural Flow	Yes	No	No
		Total Milner	**1,111**	**0**	**1,134**
MID	18	Sundt Construction	No	No	Yes
	3	Lucky Lake	No	No	Yes
	14	Whitaker Construction	No	No	Yes
	(2,000)	AFRD2 (Conservation Infrustructure)	No	No	No
	(5,000)	Magic Valley GWD	No	No	No
	(11,500)	Northside Canal (North Snake GWD)	No	No	No
	(3,500)	AFRD2 (North Snake GWD)	No	No	No
	(5,000)	Southwest Irrigation District	No	No	No
	(10,000)	Water Mitigation Coalition	No	No	No
	1,029	Minidoka Irrigation District (Water Mitigation Coalition)	No	No	No
	8,370	Minidoka Credit	No	Yes	No
	(5,000)	Magic Valley GWD	No	No	No
		Total MID	**0**	**8,370**	**35**
NSCC	11,500	Minidoka Irrigation Disrict (Northsnake GWD)	No	No	Yes
	1,500	Minidoka Irrigation Disrict (Water Mitigation Coalition)	No	No	Yes
	2,065	Minidoka Irrigation District (Water Mitigation Coalition)	No	No	No
	(7,750)	Minidoka Credit	No	Yes	No
	12,466	IWRB Recharge	Yes	No	No
		Total NSCC	**12,466**	**(7,750)**	**13,000**
TFCC	1,612	Artesian	No	No	Yes
	164	A&B Irrigation District	No	No	No
	1,088	Minidoka Irrigation Disrict (Water Mitigation Coalition)	No	No	No
	2,678	Minidoka Irrigation District (Water Mitigation Coalition)	No	No	No
	704	Simplot	No	No	No
	(6,750)	Minidoka Credit	No	Yes	No
	58,561	IGWA	No	No	No
	988	IWRB Recharge	Yes	No	No
		Total TFCC	**988**	**(6,750)**	**1,612**

EXPLANATORY INFORMATION TO ACCOMPANY A FINAL ORDER

(To be used in connection with actions when a hearing was **not** held)

The accompanying document is a "**Final Order**" issued by the Idaho Department of Water Resources ("Department") pursuant to Idaho Code § 67-5246.

PETITION FOR RECONSIDERATION

(*See* Idaho Code § 67-5246(4))

Any party may file a petition for reconsideration of this 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 presiding officer 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.

REQUEST FOR HEARING

(*See* Idaho Code § 42-1701A(3))

Unless the right to a hearing before the Department or the Water Resource Board is otherwise provided by statute, any person aggrieved by any final decision, determination, order or action of the Director, and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to Idaho Code § 42-1701A(3). A written petition to the Director contesting this final order and requesting a hearing must be filed with the Department by any aggrieved person **within fifteen (15) days after service of this final order**.

CERTIFICATE OF SERVICE

(*See* IDAPA 37.01.01.053, 37.01.01.202)

All documents filed with the Department in connection with a petition for reconsideration or a request for hearing of this final order shall be served on all other parties to the proceedings in accordance with Rules of Procedure 53 and 202.

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY OR FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY	**Docket No. CM-DC-2010-001** **ORDER GRANTING A&B'S MOTION TO AMEND DEADLINES; SETTING DEADLINE TO PROVIDE STAFF MEMO**

BACKGROUND

On October 7, 2025, Hearing Officer Schroeder issued an *Order on Intervention, Authorizing Discovery, Email Service, and Scheduling; Order Granting Motion for Subpoena; Notice of Hearing* ("*Scheduling Order*"), establishing a deadline of December 5, 2025 for the exchange of rebuttal expert reports and a deadline of December 19, 2025 for completing all depositions. *Scheduling Order*, at 6.

On November 18, 2025, the Idaho Department of Water Resources ("Department") received *American Falls-Aberdeen Ground Water District's Motion to Reconsider Order Granting Hearing and Vacate Hearing or, Alternatively, to Clarify the Scope of Hearing; Request for Expedited Ruling; Brief in Support* ("*American Falls Motion*"), requesting an expedited ruling from the Director. *American Falls Motion*, at 8. That same day, Idaho Ground Water Appropriators, Inc. ("IGWA") filed its *Motion for Summary Judgment* ("*IGWA Motion*").

On November 19, 2025, A&B Irrigation District ("A&B") filed *A&B Irrigation District's Unopposed Motion to Amend Deadlines for Rebuttal Expert Reports/Depositions; Partial Unopposed Motion to Modify Response Deadline to Pending Motions Filed by IGWA and American Falls-Aberdeen Ground Water District* ("*A&B Motion*"), requesting an extension of both discovery-related deadlines and response deadlines for the *American Falls Motion* and *IGWA Motion*. *A&B Motion*, at 1.

On November 20, 2025, the Department received *American Falls-Aberdeen Ground Water District's Response to A&B Irrigation District's Partial Unopposed Motion to Modify Response Deadline to Pending Motions Filed by IGWA and AFA* ("*American Falls Response*"), arguing that extending the response deadline would preclude an expedited ruling on the *American Falls Motion*. *American Falls Response*, at 2.

ANALYSIS

I. Extending Discovery-Related Deadlines

A&B, American Falls, IGWA, the Coalition of Cities, and Bonneville-Jefferson Ground Water District ("Bonneville-Jefferson") jointly requested an extension of the deadlines associated with rebuttal expert reports and depositions. For good cause shown, the Hearing Officer will exercise his discretion to grant the unopposed portion of the *A&B Motion* and extend the deadlines as requested.

II. Extending Motion Response Deadlines

A&B also requests to extend the deadline for responding to the *American Falls Motion* and the *IGWA Motion* to December 9, 2025. *A&B Motion*, at 4. Counsel for A&B demonstrates that it has several upcoming litigation commitments, discovery deadlines before the Department on several matters, and personal holiday plans. *Id.* at 2–3. IGWA, the Coalition of Cities, and Bonneville-Jefferson all stipulated to this request. *Id.* at 3. However, American Falls declined to stipulate given its interest in receiving an expedited decision on the *American Falls Motion*. *American Falls Response*, at 2.

Rule 220.02.f. of the Department's Rules of Procedure ("Rules") authorizes the hearing officer to modify the time limits for responding to motions "for good cause shown." IDAPA 37.01.01.220.02.f. The Hearing Officer finds good cause here, including the prompt filing of the *A&B Motion* and the significant scheduling constraints outlined in its motion. American Falls' opposition is not persuasive as it does not demonstrate how extending the response deadline one week will impact the expedited consideration of the *American Falls Motion*. Therefore, the Hearing Officer will grant the *A&B Motion* and extend the response deadline to December 9, 2025.

III. Agency Staff Memo

Pursuant to Rule 602, a hearing officer "may ask agency staff to prepare reports or memoranda to be used in deciding a contested case." IDAPA 37.01.01.602. The Hearing Officer finds it appropriate and helpful for the Department staff identified to testify at the hearing to prepare a memorandum outlining the subjects of the staff's expected testimony at the hearing.

ORDER

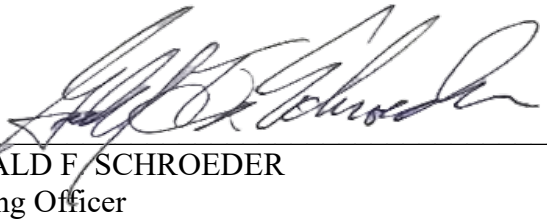
IT IS HEREBY ORDERED that the *A&B Irrigation District's Unopposed Motion to Amend Deadlines for Rebuttal Expert Reports/Depositions; Partial Unopposed Motion to Modify Response Deadline to Pending Motions Filed by IGWA and American Falls-Aberdeen Ground Water District* is GRANTED.

IT IS FURTHER ORDERED that the Department staff identified to testify at the hearing shall file an agency staff memorandum pursuant to IDAPA 37.01.01.602 outlining the subjects of their expected testimony.

IT IS FURTHER ORDERED that the *Scheduling Order* is AMENDED to add or modify the following deadlines:

Dec. 9, 2025	Deadline for A&B to respond to the *American Falls Motion* and *IGWA Motion*.
Dec. 16, 2026	Deadline for the parties to file any reply brief.
Dec. 19, 2025	Deadline for the parties to exchange rebuttal expert reports, if any. If an updated curricula vitarum for the rebuttal expert witness was not previously disclosed, one shall be provided with their report.
Dec. 30, 2026	Deadline for the Department staff to provide an agency staff memorandum explaining what they anticipate testifying about at the hearing.
Jan. 9, 2026	Deadline for the parties to complete all depositions.

DATED this 25th day of November 2025.



GERALD F. SCHROEDER
Hearing Officer

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 25th day of November 2025, the above and foregoing, was served by the method indicated below, and addressed to the following:

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Attorneys for A&B Irrigation District

BEFORE THE DEPARTMENT OF WATER RESOUCES

OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY OR FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY	Docket No. CM-DC-2010-001 **A&B IRRIGATION DISTRICT'S REQUEST FOR HEARING / EVIDENCE OF ABILITY TO MITIGATE** **REQUEST FOR STAY & INFORMAL PROCEEDINGS**

COMES NOW, A&B IRRIGATION DISTRICT ("A&B" or "District"), by and through counsel of record, and hereby requests a hearing in the above-referenced matter pursuant to I.C. § 42-1701A(3) and submits the following list of initial issues regarding the Director's *Final Order Establishing 2025 Reasonable Carryover (Methodology Step 9)* ("Step 9 Order") issued on November 21, 2025. A&B reserves the right to supplement this request as necessary.

1) Whether the "actual carryover" volumes listed for AFRD#2 and TFCC in the Step 9 are correct based upon storage assignments pursuant to other approved mitigation plans.
2) Whether the reasonable carryover shortfall is correct based upon actual carryover volumes for AFRD#2 and TFCC.
3) Whether the order's identified proportionate share (457 acre-feet) of the reasonable carryover shortfall injury (86,756 acre-feet) to AFRD#2 and TFCC is calculated correctly based upon issues #1 and #2 above.
4) Whether the order's identified proportionate share (457 acre-feet) of the reasonable carryover shortfall injury (86,756 acre-feet) to AFRD#2 and TFCC is calculated correctly based upon A&B's actual diversion and use of water rights that are subject to the identified curtailment date (junior to August 15, 1952).
5) Whether A&B should be allowed to mitigate for a portion of groundwater right 36-15127A (approximately 508.3 acres) that was delivered surface water during the 2025 irrigation season, as opposed to mitigating for all 1,886.4 acres authorized by the water right.
6) Whether the steady-state use of the ESPAM 2.2 in identifying A&B's proportionate share is consistent with the transient use of the model in identifying ground water rights subject to curtailment as outlined in the *Sixth Methodology Order*.
7) For other issues and matters that may be discovered in this proceeding.

EVIDENCE OF ABILITY TO MITIGATE

A&B has an approved mitigation plan that acknowledges the District's ability to assign storage water to injured SWC members. *See Final Order Approving Amended Mitigation Plan* at 5 (CM-MP-2015-003) (Jan. 10, 2025). A&B has an estimated 63,248 acre-feet of carryover

storage in its space (American Falls and Palisades Reservoirs). *See* Step 9 Order at 4. In light of the above issues, A&B's prior assignment and TFCC's acceptance of 1,252 acre-feet[1] of mitigation storage during the 2025 irrigation season, and Water District 01's lease application deadline (November 30th), A&B is not submitting an executed lease at this time for the 2025 irrigation season.[2] *See* Procedure 4.3.104; *Water District 1 2025 Rental Pool Procedures*.

REQUEST FOR INFORMAL PROCEEDINGS / STAY

Similar issues to those identified above are presently pending in a contested case set for hearing January 14-16, 2026. *See Order Granting A&B Irrigation District's Request for Hearing* (Sept. 3, 2025); *Order on Intervention et al. / Notice of Hearing* (Oct. 7, 2025). As opposed to having the same issues addressed in multiple contested cases where the results of the prior proceeding and any final order may impact the calculations and proportionate share of the reasonable carryover shortfall assigned to A&B, and assuming A&B's request for hearing is granted, the District would request the Director to stay any formal proceedings.

Moreover, in the interests of efficiency for the parties involved and the agency, A&B requests the opportunity for informal proceedings to address certain procedures regarding the Step 9 Order and its implementation. *See* IDWR Rule of Procedure 100, 101. Notably, A&B has questions about the timing of any storage water assignments with respect to Water District 01's final accounting for the 2025 irrigation season, the storage allocation for 2026, and the

[1] The prior assignment may be sufficient mitigation for purposes of any reasonable carryover injury as to be determined between A&B and TFCC.

[2] A&B acknowledges that the Director may include the District's junior priority water rights on list of rights subject to a forthcoming curtailment order. However, A&B has previously advised the Director about its conversion acres and intent to continue delivering surface water to those acres the following irrigation season, and the Director has accepted that representation. *See Travis L. Thompson December 13, 2024 Letter to Director Mat Weaver.* A&B intends to continue these conversions during the 2026 irrigation season.

implications, if any, of the 2024 reasonable carryover shortfall and its implementation for the present finding. *See Order Revising April 2025 Forecast Supply and Continuing May 16, 2025 Curtailment Order (Methodology Steps 5 & 6)* at 11 ("This year, no water is required to be allocated to the SWC pursuant to Step 5 related to a reasonable carryover shortfall because no junior water users secured water in 2024 to fulfill the carryover shortfall"). A&B requests the opportunity to address these questions with the agency and other parties accordingly.

DATED this 2nd day of December, 2025.

PARSONS BEHLE & LATIMER

/s/ Travis L. Thompson
Travis L. Thompson

Attorneys for A&B Irrigation District

CERTIFICATE OF SERVICE

I hereby certify that on this 2nd day of December, 2025, I served a true and correct copy of the foregoing on the following by the method indicated:

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/s/ Travis L. Thompson
Travis L. Thompson

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY OR FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY	Docket No. CM-DC-2010-001 **FINAL ORDER CURTAILING GROUND WATER RIGHTS JUNIOR TO AUGUST 15, 1952**

The Director of the Idaho Department of Water Resources ("Department") finds, concludes, and orders as follows:

FINDINGS OF FACT

1. On July 19, 2023, the Department issued its *Sixth Final Order Regarding Methodology for Determining Material Injury to Reasonable In-Season Demand and Reasonable Carryover* ("*Methodology Order*"). The *Methodology Order* established nine steps for determining material injury to members of the Surface Water Coalition ("SWC").[1]

2. On November 21, 2025, the Director issued the *Final Order Establishing 2025 Reasonable Carryover (Methodology Step 9)* ("*Step 9 Order*"). Therein, the Director concluded there is a 65,824-acre-foot ("AF") volume of material injury to Twin Falls Canal Company's reasonable carryover and a 20,932 AF volume of material injury to AFRD2. *Step 9 Order*, at 5. The Director concluded no other members of the SWC have a reasonable carryover shortfall. *Id*.

3. The Director ordered that within fourteen days of November 21, 2025, "junior ground water users holding consumptive ground water rights within the Eastern Snake Plain Aquifer area of common ground water supply bearing priority dates junior to August 15, 1952, must mitigate for the reasonable carryover shortfall of 86,756 AF in accordance with an approved mitigation plan." *Id*. The Director also ordered that, if such junior ground water users cannot establish that they can mitigate for the reasonable carryover shortfall "in accordance with an approved mitigation plan, the Director will issue an order curtailing the junior-priority ground water use." *Id.*

[1] The SWC is comprised of A&B Irrigation District, American Falls Reservoir District #2, Burley Irrigation District, Milner Irrigation District, Minidoka Irrigation District, North Side Canal Company, and Twin Falls Canal Company.

4. There are currently five approved mitigation plans in place responding to the SWC delivery call:[2]

(1) Docket No. CM-MP-2007-001 for the benefit of J.R. Simplot Company, Basic American Foods, and ConAgra Foods Packaged Foods Company, Inc., d/b/a Lamb-Weston (collectively, the "Water Mitigation Coalition");

(2) Docket No. CM-MP-2010-001 for the benefit of the Southwest Irrigation and Goose Creek Irrigation Districts (collectively, "SWID");

(3) Docket No. CM-MP-2015-003 for the benefit of the A&B Irrigation District ("A&B");

(4) Docket No. CM-MP-2019-001 for the benefit of certain cities commonly referred to as the "Coalition of Cities," the City of Idaho Falls, and the City of Pocatello (collectively, the "Cities").

(5) Docket No. CM-MP-2024-003 for the benefit of Aberdeen-American Falls Ground Water District, Bingham Ground Water District, Bonneville-Jefferson Ground Water District, Carey Valley Ground Water District, Henry's Fork Ground Water District, Jefferson-Clark Ground Water District, Madison Ground Water District, Magic Valley Ground Water District, and North Snake Ground Water District (collectively, the "Ground Water Districts");

5. In the *Step 9 Order*, the Director found that due to the nature of the approved mitigation plans for the Water Mitigation Coalition, SWID, the Cities, and the Ground Water Districts, these entities do not need to establish that they can mitigate for their proportionate share of the reasonable carryover shortfall. *Step 9 Order*, at 5 n.10. However, the Director found that due to the nature of A&B's mitigation plan, A&B must establish to the satisfaction of the Director its ability to mitigate for its proportionate share of the reasonable carryover shortfall, which is 457 AF. *Id.*

6. In response to the *Step 9 Order's* requirement for A&B to establish how it will mitigate its proportionate share of the reasonable carryover shortfall, A&B submitted *A&B Irrigation District's Request for Hearing/Evidence of Ability to Mitigate* ("*Mitigation Response*"). In the *Mitigation Response*, A&B stated that it does not intend to submit a lease demonstrating that it has secured the required storage for the benefit of the injured SWC members at this time. *Mitigation Response* at 3. A&B acknowledged that this may result in the Director including A&B's junior priority water rights in the list of water rights subject to this curtailment order. *Id*.

CONCLUSIONS OF LAW

1. Idaho Code § 42-602 authorizes the Director to supervise water distribution within

[2] In addition, there are currently five mitigation plans pending before the Department that have not been approved: (1) CM-MP-2025-004 (Big Lost River Ground Water District); (2) CM-MP-2025-003 (Bingham); (3) CM-MP-2025-001 (Pancheri); (4) CM-MP-2024-004 (Falls Water Co.); and (5) CM-MP-2024-002 (Falls Irrigation District). Because these plans are unapproved, water users may not rely on them for protection from curtailment at this time. In addition, CM-MP-2025-002 (Simplot) is no longer an effective mitigation plan because it was approved only for the 2025 irrigation season.

water districts:

> The director of the department of water resources shall have direction and control of the distribution of water from all natural water sources within a water district to the canals, ditches, pumps and other facilities diverting therefrom. Distribution of water within water districts created pursuant to section 42-604, Idaho Code, shall be accomplished by watermasters as provided in this chapter and supervised by the director.
>
> The director of the department of water resources shall distribute water in water districts in accordance with the prior appropriation doctrine. The provisions of chapter 6, title 42, Idaho Code, shall apply only to distribution of water within a water district.

2. As explained above, within fourteen days of November 21, 2025, "junior ground water users holding consumptive ground water rights within the Eastern Snake Plain Aquifer area of common ground water supply bearing priority dates junior to August 15, 1952, must mitigate for the reasonable carryover shortfall of 86,756 AF in accordance with an approved mitigation plan." *Step 9 Order*, at 5. If a junior ground water user does not establish that they can mitigate for the reasonable carryover shortfall in accordance with an approved mitigation plan, the ground water user will be subject to this "order curtailing the junior-priority ground water use." *Id.*

3. Due to the nature of the approved mitigation plans for the Water Mitigation Coalition, SWID, the Cities, and the Ground Water Districts, these entities do not need to establish that they can mitigate for their proportionate share of the reasonable carryover shortfall. Junior ground water users entitled to protection under the Water Mitigation Coalition's, SWID's, the Cities', or the Ground Water Districts' approved mitigation plans will not be subject to curtailment related to the reasonable carryover shortfall.

4. A&B has failed to provide timely documentation that it has adequately secured the storage water necessary to mitigate fully for its obligation under its approved mitigation plan. Accordingly, to ensure that A&B's ground water rights junior to August 15, 1952, are curtailed during the 2026 irrigation season, the Director will include A&B's water rights junior to August 15, 1952, on the curtailment list in Attachment A to this order.

5. The Director concludes that junior-priority ground water users who have not established that they can mitigate for the reasonable carryover shortfall in accordance with an approved mitigation plan should be curtailed. Junior-priority ground water users subject to curtailment are listed in Attachment A to this order.[3]

[3] On November 26, 2025, the Director expanded the ESPA ACGWS to include the Little Lost River Tributary basin. The administration of the newly included area of the Little Lost River Tributary Basin will be phased-in to the SWC delivery call proceeding and junior ground water rights newly included in the ESPA ACGWS are not included in the attached curtailment list. The Director anticipates issuing additional orders related to the expansion of the ESPA ACGWS. After that, the Director will issue an order addressing how the water rights in the newly expanded ESPA ACGWS will be phased-in.

ORDER

Based upon and consistent with the foregoing, IT IS HEREBY ORDERED that effective December 8, 2025, ground water users holding water rights bearing priority dates junior to August 15, 1952, within the Eastern Snake Plain Aquifer area of common ground water supply ("ESPA ACGWS") and listed in Attachment A to this order, shall curtail/refrain from diversion and use of ground water pursuant to those water rights unless notified by the Department that the curtailment order has been modified or rescinded as to their water rights.

IT IS FURTHER ORDERED that holders of ground water rights listed in Attachment A to this order, who were not previously listed in Attachment A to the July 25, 2025 Curtailment Order, may seek to participate in an approved mitigation plan through a ground water district and shall have fifteen days from the date of this order to join, solely for mitigation purposes, the ground water district situated nearest the lands to which the water rights are appurtenant. *See* H.B. 737a, 58th Leg., 2d Reg. Sess. (Idaho 2006) (*Act Relating to the Administration of Ground Water Rights Within the Eastern Snake River Plain*); *see also* I.C. § 42-5259. The water rights that have fifteen days to join a ground water district are identified in Attachment A.

IT IS FURTHER ORDERED that watermasters for the water districts within the ESPA ACGWS who regulate ground water are directed to review the water rights listed in Attachment A to this order and begin the curtailment process.

IT IS FURTHER ORDERED that this order applies to consumptive ground water rights, including but not limited to, agricultural, commercial, industrial, and municipal uses. This order excludes ground water rights used for *de minimis* domestic purposes where such domestic use is within the limits of the definition set forth in Idaho Code § 42-111 and ground water rights used for *de minimis* stock watering where such stock watering use is within the limits of the definitions set forth in Idaho Code § 42-1401A(11), pursuant to IDAPA 37.03.11.020.11.

Dated 8th day of December 2025.

MATHEW WEAVER
Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 8th day of December 2025, the above and foregoing, was served by the method indicated below, and addressed to the following:

John K. Simpson IdaH20, PLLC PO Box 152 Boise, ID 83701-0152 jks@idahowaters.com	☒ U.S. Mail, postage ☒ prepaid Email
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Matt Howard US Bureau of Reclamation 1150 N Curtis Road Boise, ID 83706-1234 mhoward@usbr.gov	☒ U.S. Mail, postage ☒ prepaid Email
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Megan Jenkins
Executive Assistant

Attachment A -Sorted by Owner
List of Ground Water Rights Junior to August 15, 1952
(Highlighted rights have 15-days to join a Ground Water District)

Owner	Water Right No.	Basis	Priority Date	Water Use List	Diversion Rate (cfs)	Total Acres	Enlargement
1523 LLC	35-14566	Decreed	11/3/1972	IRRIGATION	0.05	2.6	
288S 500W LLC	36-17158	Decreed	2/1/1961	DOMESTIC, IRRIGATION, STOCKWATER	0.03	1.0	
2ME FARMS LLC	34-2328B	Decreed	4/29/1955	IRRIGATION	1.64	82.0	
2ME FARMS LLC	34-2284B	Decreed	8/14/1957	IRRIGATION	1.50	65.0	
2ME FARMS LLC	34-2400B	Decreed	3/2/1961	IRRIGATION	2.10	116.0	
3 STRING CATTLE OF IDAHO LLC	37-23203	Decreed	7/24/1973	COMMERCIAL, STOCKWATER	0.16		
3 WEIGHT LLC	34-7081	Decreed	10/10/1974	IRRIGATION	1.30	65.0	
A & B IRRIGATION DISTRICT	36-16749	Decreed	4/1/1956	IRRIGATION	0.45	26.0	
A & B IRRIGATION DISTRICT / US BUREAU OF RECLAMATION	36-15127A	Decreed	4/1/1962	IRRIGATION	31.12		
A & B IRRIGATION DISTRICT / US BUREAU OF RECLAMATION	36-15192	Decreed	4/1/1962	IRRIGATION	0.60		
A & B IRRIGATION DISTRICT / US BUREAU OF RECLAMATION	36-15193A	Decreed	4/1/1962	IRRIGATION	0.21		
A & B IRRIGATION DISTRICT / US BUREAU OF RECLAMATION	36-15194A	Decreed	4/1/1962	IRRIGATION	0.23		
A & B IRRIGATION DISTRICT / US BUREAU OF RECLAMATION	36-15195A	Decreed	4/1/1962	IRRIGATION	0.87		
A & B IRRIGATION DISTRICT / US BUREAU OF RECLAMATION	36-15196A	Decreed	4/1/1962	IRRIGATION	0.29		
A & B IRRIGATION DISTRICT / US BUREAU OF RECLAMATION	36-15193B	Decreed	4/1/1965	IRRIGATION	0.31		Yes
A & B IRRIGATION DISTRICT / US BUREAU OF RECLAMATION	36-15194B	Decreed	4/1/1968	IRRIGATION	2.51		Yes
A & B IRRIGATION DISTRICT / US BUREAU OF RECLAMATION	36-15195B	Decreed	4/1/1978	IRRIGATION	2.24		Yes
A & B IRRIGATION DISTRICT / US BUREAU OF RECLAMATION	36-15196B	Decreed	4/1/1981	IRRIGATION	0.08		Yes
A & B IRRIGATION DISTRICT / US BUREAU OF RECLAMATION	36-15127B	Decreed	4/1/1984	IRRIGATION	28.89		Yes
A W HARDY FAMILY INVESTMENTS LTD	29-14198	Decreed	6/23/1977	IRRIGATION	0.01	0.9	
A W HARDY FAMILY INVESTMENTS LTD	29-14427	Decreed	6/23/1977	IRRIGATION	0.01	0.3	
A W HARDY FAMILY INVESTMENTS LTD	29-14431	Decreed	6/23/1977	IRRIGATION	0.01	1.3	
A W HARDY FAMILY INVESTMENTS LTD	29-14435	Decreed	6/23/1977	IRRIGATION	0.03	3.4	
ADAMS, CHERYL L; ADAMS, H LYLE; ADAMS, RODDY L	37-7078	Decreed	10/12/1970	COMMERCIAL, STOCKWATER	0.06		
ADAMS, MARY J	25-14316	Decreed	8/10/1966	IRRIGATION	0.02	1.0	
AEI CORP	29-8037	License	11/13/1990	DOMESTIC, INDUSTRIAL	0.06		
AGRI-SERVICE LLC	36-8453	License	9/21/1989	COMMERCIAL	0.04		
AIKELE, DON A	34-14179	Decreed	4/20/1961	IRRIGATION	0.02	2.0	
AIKELE, ERIC; AIKELE, JANET	34-7029	Decreed	12/4/1972	IRRIGATION	6.00	325.0	
AIKELE, ERIC; AIKELE, JANET	34-12382	Decreed	5/1/1973	IRRIGATION	0.46	325.0	Yes
AIKELE, ERIC; AIKELE, JANET	34-7060	Decreed	1/22/1974	IRRIGATION	3.00	150.0	
AIKELE, ERIC; AIKELE, JANET	34-7164	Decreed	12/14/1976	IRRIGATION	1.79	179.0	
AIKELE, ERIC; AIKELE, JANET	34-12417	Decreed	5/1/1981	IRRIGATION	0.46	179.0	Yes
AIKELE, JUEL; AIKELE, MARY ANN	34-14692	Decreed	4/20/1961	IRRIGATION	0.01	1.2	
AIKELE, PEGGY; AIKELE, STEVEN J	34-14693	Decreed	4/20/1961	IRRIGATION	0.01	1.2	

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(Highlighted rights have 15-days to join a Ground Water District)

Owner	Water Right No.	Basis	Priority Date	Water Use List	Diversion Rate (cfs)	Total Acres	Enlargement
AIRGAS INTERMOUNTAIN INC	25-7515	License	8/24/1989	INDUSTRIAL	0.05		
AKERS, DONNA E; AKERS, SHERMAN L	29-10649	Decreed	8/1/1961	IRRIGATION, STOCKWATER	0.13	6.4	
ALBERT, IVIS; GRANT US PEACE LLC; WHITEHEAD, MARIE	34-7105	Decreed	3/11/1975	DOMESTIC, IRRIGATION	0.23	11.0	
ALLEN FARMS INC	33-7173	Decreed	5/29/1985	IRRIGATION	4.07	315.0	
ALLEN FARMS INC	33-7175	Decreed	5/29/1985	IRRIGATION	5.22	297.0	
ALLEN, BRENT L; ALLEN, N SCOTT	33-7012	Decreed	6/8/1972	IRRIGATION	3.82	288.0	
ALLEN, BRENT L; ALLEN, N SCOTT; ALLEN, NORMAN G	33-2081A	Decreed	10/22/1956	IRRIGATION	1.86	288.0	
ALLEN, BRENT L; ALLEN, N SCOTT; ALLEN, NORMAN G	33-2081B	Decreed	10/22/1956	IRRIGATION	1.55	312.0	
ALLEN, BRENT L; ALLEN, N SCOTT; ALLEN, NORMAN G	33-7017	Decreed	5/25/1972	IRRIGATION, STOCKWATER	3.09	312.0	
ALLEN, NORMAN S	33-2124	Decreed	4/14/1966	IRRIGATION	4.49	305.0	
ALLEN, NORMAN S	33-7088A	Decreed	1/27/1981	IRRIGATION	0.08	4.0	
AMERICAN FALLS RESERVOIR DISTRICT #2	36-11120	Decreed	11/27/1962	DOMESTIC, IRRIGATION	0.07	1.5	
ANDERSEN, BELVA E; ANDERSEN, JOEL S	34-2397A	Decreed	2/20/1961	IRRIGATION	2.40	120.0	
ANDERSEN, BELVA E; ANDERSEN, JOEL S	34-2412C	Decreed	4/13/1961	IRRIGATION	3.52	142.1	
ANDERSEN, BELVA E; ANDERSEN, JOEL S	34-7184	Decreed	4/26/1977	IRRIGATION	0.56	33.0	
ANDERSEN, BELVA E; ANDERSEN, JOEL S	34-7210A	Decreed	11/8/1977	IRRIGATION	1.08	73.0	
ANDERSEN, DEAN	34-2416B	Decreed	5/16/1961	IRRIGATION	1.34	209.5	
ANDERSEN, DEAN; ANDERSEN, KARALEE W	34-2416C	Decreed	5/16/1961	IRRIGATION	0.80	209.5	
ANDERSEN, TRAVIS REX	34-10370A	Decreed	5/31/1960	IRRIGATION	2.29	152.0	
ANDERSEN, TRAVIS REX	34-10370B	Decreed	5/31/1960	IRRIGATION	0.81	54.0	
ANDERSEN, TRAVIS REX	34-10941A	Decreed	5/1/1965	IRRIGATION	0.60	152.0	Yes
ANDERSEN, TRAVIS REX	34-10941B	Decreed	5/1/1965	IRRIGATION	0.21	54.0	Yes
ANDERSON, BARBARA; ANDERSON, TREVOR	34-7237	Decreed	1/24/1980	IRRIGATION, STOCKWATER	0.06	3.0	
ANDERSON, BRENDA; ANDERSON, SHAWN	34-4135	Decreed	7/8/1955	IRRIGATION	3.28	164.0	
ANDERSON, BRIAN M	34-7008	Decreed	6/24/1968	IRRIGATION	0.88	44.0	
ANDERSON, CHAD ALLEN; ANDERSON, JASHELLE HEATHER	45-7650	License	6/21/1989	DOMESTIC, IRRIGATION	0.06	1.0	
ANDERSON, CLARK E; ANDERSON, TRACY	29-14453	Decreed	10/28/1953	IRRIGATION	0.02	2.9	
ANDERSON, CLARK E; ANDERSON, TRACY	29-14433	Decreed	6/23/1977	IRRIGATION	0.03	2.9	
ANDERSON, MARY M; ANDERSON, ROBERT R	34-14679	Decreed	2/11/1955	IRRIGATION	2.04	129.0	
ANDERSON, MAURICE H	34-7183	Decreed	4/25/1977	IRRIGATION	0.74	80.0	
ANDERSON, RENAE; ANDERSON, RICHARD	29-2393A	Decreed	9/25/1957	IRRIGATION	0.04	2.5	
ANDREASON, DAVID S	33-2087A	Decreed	6/12/1959	IRRIGATION	0.68	34.0	
ANDREASON, TYLER JAMES	33-7059	Decreed	9/19/1977	DOMESTIC, IRRIGATION	1.10	77.0	
ANGIELEN LLC	32-13351	Decreed	11/12/1974	STOCKWATER	0.06		
ANGIELEN LLC	32-13353	Decreed	4/1/1987	STOCKWATER	0.01		Yes

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Owner	Water Right No.	Basis	Priority Date	Water Use List	Diversion Rate (cfs)	Total Acres	Enlargement
ARCHER, CINDY L	34-2439	Decreed	10/6/1961	IRRIGATION	0.80	39.0	
ARMENTA, JUAN; SANCHEZ, BLANCA	37-23654	Decreed	9/20/1974	IRRIGATION	0.07	5.0	
ARTCO INC	22-7473	License	12/23/1983	INDUSTRIAL, IRRIGATION	0.84	17.0	
ASHLEY, LOIS J	34-14243	Decreed	4/29/1955	IRRIGATION	0.11	5.3	
ATKINSON, ANDREW ; ATKINSON, MARY	29-13736	License	2/21/2006	DOMESTIC	0.08		
B & B FARMS	22-14632	Decreed	1/25/1965	MUNICIPAL	0.61		
B & B FARMS	22-14630	Decreed	3/4/1974	MUNICIPAL	0.28		
BABCOCK, MARJORIE J; BABCOCK, REUBEN H	34-2330A	Decreed	5/5/1955	IRRIGATION	1.75	156.0	
BABCOCK, MARJORIE J; BABCOCK, REUBEN H	34-12377	Decreed	6/1/1961	IRRIGATION	1.25	156.0	
BABEL, PAUL; HAMPTON, WALLACE; PARKS, FRED A	25-7083	License	1/28/1976	DOMESTIC	0.06		
BABEL, PAUL; JEPPESEN, DARWIN J; PARKS, FRED A	25-7363	License	6/24/1983	DOMESTIC	0.04		
BABNEAU, LORI P; BABNEAU, RONALD E	34-2477J	Decreed	6/13/1966	IRRIGATION	0.05	2.5	
BAH REXBURG AC PROPERTY LLC	22-11451	Decreed	8/31/1960	IRRIGATION	0.04	2.0	
BAILEY, ARLENE; HIGGINS, DARLENE	34-7177	Decreed	4/11/1977	IRRIGATION	0.71	36.0	
BAILEY, JULIE A; BAILEY, STEVEN E	35-8619	License	9/24/1985	IRRIGATION, STOCKWATER	0.04	0.5	
BAISCH, ROBERT L	35-7481	License	2/21/1975	DOMESTIC	0.08		
BAKER FARMS INC	22-7761	License	8/20/1993	COMMERCIAL, DOMESTIC	0.04		
BAKER, BONNIE K; BAKER, JASON K	34-14954	Decreed	5/14/1977	IRRIGATION	0.19	10.0	
BAM PROPERTIES LLC	29-2495	Decreed	8/12/1964	IRRIGATION	0.61	28.5	
BANDY, BONNIE; BANDY, BRADLEY W	36-7473	Decreed	5/14/1974	IRRIGATION	0.02	1.0	
BANNOCK COUNTY	29-7329	Decreed	5/12/1976	IRRIGATION	0.82	61.1	
BANNOCK COUNTY	29-7972	License	5/5/1990	DIVERSION TO STORAGE, IRRIGATION, RECREATION STORAGE	0.48	61.1	
BARBEN, GORDON E; SAMPSON, KEN	27-7025	License	4/2/1973	DOMESTIC	0.08		
BARKDULL, CARL; BARKDULL, KATHLEEN	29-7619	Decreed	1/5/1982	DOMESTIC, IRRIGATION	0.02	1.2	
BARTAUSKY, TOM	27-7404	License	4/8/1985	IRRIGATION	1.00	50.0	
BARTAUSKY, TOM	27-7432	License	7/10/1987	IRRIGATION	0.70	35.0	
BARTAUSKY, TOM; BLEAZARD, ELCY	27-12209	License	8/22/1991	IRRIGATION	0.11	5.3	
BARTLETT, CLIFFORD; BARTLETT, SANDRA	25-14259	Decreed	8/10/1966	IRRIGATION	0.03	1.4	
BARTLETT, ERWIN; BARTLETT, JANICE	45-7653	License	6/6/1989	COMMERCIAL	0.04		
BATEMAN, CHRISTOPHER	34-14087	Decreed	5/14/1977	IRRIGATION	0.22	11.4	
BATES, ROBERT W; BATES, SHARON H; WILKINS, ELMA; WILKINS, LLOYD	25-7357	Decreed	6/16/1983	DOMESTIC	0.06		
BATT, ALAN C; BATT, MILLIE	25-7109	Decreed	5/2/1977	IRRIGATION	3.03	229.0	
BEACH, BEVERLY S; BEACH, SHELTON S	34-14591	Decreed	4/28/1977	DOMESTIC, IRRIGATION	0.30	30.0	
BEACH, BEVERLY S; BEACH, SHELTON S	34-14592	Decreed	8/5/1979	IRRIGATION	0.04	30.0	Yes

Attachment A -Sorted by Owner
List of Ground Water Rights Junior to August 15, 1952
(Highlighted rights have 15-days to join a Ground Water District)

Owner	Water Right No.	Basis	Priority Date	Water Use List	Diversion Rate (cfs)	Total Acres	Enlargement
BEAL, SETH E; BEAL, SHELLEY	34-2397B	Decreed	2/20/1961	IRRIGATION	2.36	112.0	
BEAL, SETH E; BEAL, SHELLEY	34-2397C	Decreed	2/20/1961	IRRIGATION	1.46	73.0	
BEAR CREST LTD LLC	22-14440	Permit	12/6/2021	COMMERCIAL	1.22		
BEAR ISLAND WATER ASSN INC	35-8672	License	9/6/1988	DOMESTIC	0.20		
BEARD, KAYDON	34-13779	Decreed	5/6/1954	IRRIGATION	0.14	7.0	
BECK, AMBER; BECK, TRAVIS	34-14516	Decreed	12/17/1961	IRRIGATION	0.08	4.1	
BEDY CANYON LLC	34-2424A	Decreed	6/13/1961	IRRIGATION	3.03	177.0	
BEELER, GARY; BEELER, PRISCILLA	34-14844	Decreed	9/29/1966	IRRIGATION	0.16	9.8	
BEELER, GARY; BEELER, PRISCILLA	34-14847	Decreed	5/20/1984	IRRIGATION	0.03	9.8	Yes
BEESLEY, DEAN; BEESLEY, HAZEL L; WRAUGHT, PERCY M	25-7268	Decreed	1/8/1982	DOMESTIC	0.06		
BELANGER, CARRIE A	34-7115	Decreed	12/4/1989	IRRIGATION	0.16	8.0	
BELL SMITH LLC	34-2321	Decreed	2/8/1955	DOMESTIC, IRRIGATION	6.00	738.0	
BELL SMITH LLC	34-2322	Decreed	2/8/1955	IRRIGATION	4.20	319.0	
BELL SMITH LLC	34-2367	Decreed	5/12/1960	IRRIGATION	2.87	221.0	
BELL SMITH LLC	34-2378	Decreed	8/2/1960	IRRIGATION	1.78	319.0	
BELL SMITH LLC	34-7015	Decreed	4/17/1970	DOMESTIC, IRRIGATION	4.67	738.0	
BELL, JAMIE; BELL, TROY	29-14451	Decreed	10/28/1953	IRRIGATION	0.06	6.9	
BELL, JAMIE; BELL, TROY	29-14424	Decreed	6/23/1977	IRRIGATION	0.06	6.9	
BENSON, CLIFFORD; BENSON, LADAWN C	35-8124	Permit	3/25/1983	IRRIGATION	6.40	320.0	
BEORCHIA, MICHAEL; BEORCHIA, REVA	35-14830	Decreed	1/26/1962	IRRIGATION	0.02	2.3	
BETTY JK KEKUNA-TOMISATO REVOCABLE LIVING TRUST; GLENN N TOMISATO REVOCABLE LIVING TRUST; HUFFAKER, LYLE D; HUFFAKER, TERI L	34-13932	Decreed	12/17/1961	IRRIGATION	0.08	5.0	
BETZER, CADEN BO; BETZER, DAKOTA LEE	34-14843	Decreed	9/29/1966	IRRIGATION	0.16	9.8	
BETZER, CADEN BO; BETZER, DAKOTA LEE	34-14846	Decreed	5/20/1984	IRRIGATION	0.03	9.8	Yes
BEVAN, DONNA; BEVAN, THOMAS	35-14773	Decreed	4/27/1964	IRRIGATION	0.08	2.0	
BEVERLY, EDWARD; BEVERLY, TANA	34-14598	Decreed	8/29/1960	IRRIGATION	0.06	6.0	
BEVERLY, EDWARD; BEVERLY, TANA	34-14599	Decreed	12/17/1961	IRRIGATION	0.01	6.0	
BEVERLY, EDWARD; BEVERLY, TANA	34-14600	Decreed	1/3/1975	IRRIGATION	0.01	6.0	
BEYER, PATRICK	25-7313	Decreed	4/11/1983	DOMESTIC, IRRIGATION	0.05	0.7	
BIG FIVE WATER ASSN	25-7199	Decreed	7/24/1980	DOMESTIC	0.11		
BIG J FARMS LLC; JAG FARMS LLC	35-13068	Decreed	12/31/1977	DOMESTIC	0.01		
BIG J FARMS LLC; JAG FARMS LLC	35-13199	Decreed	11/1/1983	DOMESTIC	0.08		
BIG LOST RIVER CEMETERY DISTRICT	34-2337	Decreed	1/25/1957	IRRIGATION	0.10	8.0	
BIG LOST RIVER CEMETERY DISTRICT	34-10452	Decreed	5/15/1967	IRRIGATION	0.04	8.0	Yes

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BIGGS, DONALD; BIGGS, HELEN ; BUSH, ROBERT; EATON, BENJAMIN; EATON, KENDRA; OCKERMAN, JOY	25-7082	Decreed	1/28/1976	DOMESTIC	0.16		
BINGHAM COUNTY	35-14757	License	9/21/1989	COMMERCIAL	0.13		
BINGHAM, BOYD A; BINGHAM, SHERRY R	36-8425	License	6/23/1989	IRRIGATION	0.88	105.0	
BINGHAM, CHERYL J; BINGHAM, MAX J	34-14528	Decreed	9/13/1961	IRRIGATION	0.07	4.0	
BINGHAM, CHERYL J; BINGHAM, MAX J	34-14529	Decreed	4/1/1977	IRRIGATION	0.01	4.0	Yes
BINGHAM, JERRY D; BINGHAM, VALERIE H	35-2266	Decreed	10/9/1952	IRRIGATION	3.10	391.0	
BINGHAM, JERRY D; BINGHAM, VALERIE H	35-2269G	Decreed	10/23/1952	IRRIGATION	4.35	391.0	
BINGHAM, JERRY D; BINGHAM, VALERIE H	35-12226	Decreed	4/1/1987	IRRIGATION	0.59	285.0	Yes
BINGHAM, LYNN; BINGHAM, MARCINE	33-2074	Decreed	2/25/1955	IRRIGATION	0.64	32.0	
BLACK HAWK HOMEOWNERS ASSN INC	25-14305	Decreed	8/10/1966	IRRIGATION	0.02	353.9	
BLACK HAWK HOMEOWNERS ASSN INC	25-14307	Decreed	8/10/1966	IRRIGATION	0.02	353.9	
BLACK HAWK HOMEOWNERS ASSN INC	25-14308	Decreed	8/10/1966	IRRIGATION	0.02	353.9	
BLACK HAWK HOMEOWNERS ASSN INC	25-14312	Decreed	8/10/1966	IRRIGATION	0.02	353.9	
BLACK HAWK HOMEOWNERS ASSN INC	25-14315	Decreed	8/10/1966	IRRIGATION	0.02	353.9	
BLACK HAWK HOMEOWNERS ASSN INC	25-7669	License	2/23/1999	DOMESTIC	1.05		
BLACK HAWK HOMEOWNERS ASSN INC	25-14395	License	8/28/2013	DOMESTIC	0.40		
BLAINE COUNTY SCHOOL DISTRICT #61	37-22205	Decreed	7/21/1961	MITIGATION	0.30		
BLAINE COUNTY SCHOOL DISTRICT #61	37-21742	License	4/17/2006	IRRIGATION	0.70	8.7	
BLAINE COUNTY SCHOOL DISTRICT #61	37-23102	Permit	2/20/2018	IRRIGATION	0.38	4.8	
BLAKE, AMANDA	35-14013	License	2/19/2010	RECREATION STORAGE	0.00		
BLEAK, BRUCE; BLEAK, CARMA	34-14129	Decreed	2/12/1974	IRRIGATION	1.13	29.4	
BLEDSOE, HELEN M; HACKMAN, ERNEST A	35-7916	License	9/16/1980	DOMESTIC	0.08		
BLEYL, DAARON; BLEYL, NICOLE	34-14015	Decreed	3/20/1961	IRRIGATION	0.16	8.3	
BLISS LLC	37-7761A	Decreed	5/8/1980	DOMESTIC, STOCKWATER	0.07		
BLUE SPRUCE RANCH LP	34-10579	Decreed	8/2/1961	IRRIGATION	0.92	194.0	
BLUE SPRUCE RANCH LP	34-2433	Decreed	8/2/1961	IRRIGATION	2.34	194.0	
BOHMAN, JON MARC; BOHMAN, REBECCA S	25-14271	Decreed	8/10/1966	IRRIGATION	0.02	1.1	
BOHNE, BLAINE L	34-13880	Decreed	12/17/1961	IRRIGATION	0.10	5.7	
BOISE PACKAGING & NEWSPRINT LLC	45-2568	Decreed	4/1/1958	DOMESTIC, FIRE PROTECTION FROM STORAGE, FIRE PROTECTION STORAGE, FIRE PROTECTION	0.09		
BOLINDER, CATHERINE L	27-7322	License	6/8/1982	DOMESTIC	0.06		
BONAWITZ, DANI; BONAWITZ, DUKE	36-8065	Decreed	2/17/1982	DOMESTIC, IRRIGATION	0.12	5.0	
BONNIE BARTON BANDY IRREVOCABLE TRUST	36-17287	Decreed	5/14/1974	IRRIGATION	0.08	4.0	
BORAH PEAK FARMS LLC	33-2103	Decreed	6/28/1961	IRRIGATION	3.52	1754.0	

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BORAH PEAK FARMS LLC	33-2107	Decreed	10/2/1961	IRRIGATION	3.68	1754.0	
BORAH PEAK FARMS LLC	33-10985	Decreed	4/1/1987	IRRIGATION	1.73	1754.0	Yes
BORAH PEAK FARMS LLC	33-7183	License	4/17/1987	IRRIGATION	3.61	1754.0	
BORAN , MICHAEL J	35-8635B	Decreed	12/17/1986	FISH PROPAGATION	0.72		
BORAN , MICHAEL J	35-8782	License	5/23/1989	FISH PROPAGATION	4.64		
BOWDEN, JOHN ISOM; BOWDEN, SHEENA MARYA	34-4044	Decreed	6/1/1961	IRRIGATION	0.04	2.0	
BOWN, RICHARD F; BOWN, VIRGINIA	34-4076	Decreed	6/10/1959	DOMESTIC, IRRIGATION, STOCKWATER	0.13	6.0	
BRADY, LANCE; BRADY, SHANNON; HAGAN, DANNY D; HAGAN, MARILYNN J ; HOLMES, BILL; HOLMES, LINDA	25-7330	Decreed	6/14/1983	DOMESTIC, IRRIGATION	0.08	0.4	
BRAGA, BRYAN	34-14685	Decreed	12/31/1955	DOMESTIC, IRRIGATION	0.04	2.0	
BRAGG, CANDY LEE; BRAGG, JOHNATHAN KENNETH	34-13975	Decreed	6/22/1961	IRRIGATION	0.65	39.5	
BRANAGAN, DANIEL JAMES; BRANAGAN, KERRY	34-13751	Decreed	1/30/1961	IRRIGATION	0.01	3.0	
BRANAGAN, DANIEL JAMES; BRANAGAN, KERRY	34-13753	Decreed	8/31/1976	IRRIGATION	0.05	3.0	
BRIGGS LAND & LIVESTOCK LLC	32-13404	Decreed	12/2/1976	IRRIGATION	0.73	151.0	
BRIGGS LAND & LIVESTOCK LLC	32-13405	Decreed	12/2/1976	IRRIGATION	0.86	151.0	
BRIGGS LAND & LIVESTOCK LLC	32-13406	Decreed	4/1/1986	IRRIGATION	0.25	151.0	Yes
BROADIE IV, MOJANET JAMES; BROADIE, KELSEY D	34-2413C	Decreed	5/12/1961	IRRIGATION	1.67	210.0	
BROADIE IV, MOJANET JAMES; BROADIE, KELSEY D	34-12361	Decreed	4/1/1976	IRRIGATION	0.84	210.0	Yes
BROADIE, DEBORAH D; BROADIE, MOJANET J	34-2379A	Decreed	8/8/1960	IRRIGATION	1.63	125.0	
BROADIE, DEBORAH D; BROADIE, MOJANET J	34-2379B	Decreed	8/8/1960	IRRIGATION	0.68	125.0	
BROADIE, DEBORAH D; BROADIE, MOJANET J	34-13647	Decreed	4/9/1961	IRRIGATION	2.07	215.0	
BROADIE, DEBORAH D; BROADIE, MOJANET J	34-13648	Decreed	4/9/1961	IRRIGATION	2.07	214.0	
BROADIE, DEBORAH D; BROADIE, MOJANET J	34-13657	Decreed	11/19/1987	IRRIGATION	1.02	215.0	Yes
BROADIE, DEBORAH D; BROADIE, MOJANET J	34-13658	Decreed	11/19/1987	IRRIGATION	1.02	214.0	Yes
BROWER, AMANDA; BROWER, JASON	29-14460	Decreed	10/28/1953	IRRIGATION	0.04	4.6	
BROWER, AMANDA; BROWER, JASON	29-14440	Decreed	6/23/1977	IRRIGATION	0.04	4.6	
BROWN, BERTHA; BROWN, ROBERT L	29-2521	Decreed	5/27/1966	DOMESTIC, IRRIGATION	0.03	1.6	
BROWN, BERTHA; BROWN, ROBERT L	29-7428	Decreed	12/8/1977	DOMESTIC, IRRIGATION	0.29	8.8	
BROWN, GORDON; LAMCZYK, DANNY; LAMCZYK, JANE	27-7342	Decreed	2/16/1983	DOMESTIC, IRRIGATION	0.06	0.5	
BROWN, JAN A; BROWN, SID E; MOMBERGER, JESSE C	31-7510	License	11/14/1988	DOMESTIC, IRRIGATION, STOCKWATER	0.11	2.0	
BRP INC	25-7622	License	9/23/1998	DOMESTIC	0.23		
BRP INC	25-14504	Permit	10/12/2021	DOMESTIC	0.26		
BUCKWALTER, TRAVIS	34-2306	Decreed	7/22/1953	IRRIGATION	2.24	181.0	
BUCKWALTER, TRAVIS	34-7009	Decreed	7/8/1968	IRRIGATION	1.32	181.0	
BUCKWALTER, TRAVIS	34-10066	Decreed	5/1/1976	IRRIGATION	0.16	181.0	Yes

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BUNCE, MICHAEL F	29-7914	License	4/9/1990	DOMESTIC, IRRIGATION	0.09	6.0	
BURCHAM JR, J E; BURCHAM, BURVA J; BURCHAM, WESLEY E	29-7663A	Decreed	10/26/1982	DOMESTIC	0.10		
BURGESS SUBDIVISION WATER ASSN INC	25-7457	License	10/27/1988	DOMESTIC	0.11		
BURLEY HEALTHCARE HOLDING LLC	45-11194	Decreed	6/1/1960	DOMESTIC, IRRIGATION	0.15	5.5	
BURLEY IRRIGATION DISTRICT	45-7720	License	9/27/1993	DOMESTIC	0.09		
BURNETT, BOYD B	34-14167	Decreed	9/16/1960	IRRIGATION	1.10	69.0	
BURNETT, BOYD B	34-14169	Decreed	9/16/1972	IRRIGATION	0.22	69.0	Yes
BURNETT, BOYD B; BURNETT, SANDRA P	34-2328A	Decreed	4/29/1955	IRRIGATION	0.18	9.0	
BURNS CONCRETE INC	25-13982	License	12/18/2002	COMMERCIAL	3.53		
BURNS FAMILY TRUST	34-14845	Decreed	9/29/1966	IRRIGATION	0.16	9.8	
BURNS FAMILY TRUST	34-14848	Decreed	5/20/1984	IRRIGATION	0.03	9.8	Yes
BURNS, KIRK E; SZIMHARDT, LINDA J	25-7426	License	6/6/1988	IRRIGATION	0.08	5.6	
BURRELL, GEORGE W; BURRELL, LURANA J; KEETCH, SHYANN; KEETCH, STETSON	29-13900	License	4/3/2009	DOMESTIC	0.08		
BURRUP, JOHN R; BURRUP, JON R	25-13085	Decreed	7/6/1958	COMMERCIAL, STOCKWATER	0.12		
BUSH, KRISTINE; OETTING, JESSE	34-10324	Decreed	12/31/1962	IRRIGATION, STOCKWATER	0.10	4.0	
BUTTE COUNTY	34-14802	Decreed	2/24/1980	IRRIGATION	0.22	11.0	
BUTTE COUNTY	34-7226C	Decreed	2/24/1980	IRRIGATION	1.04	130.3	
BUTTE COUNTY CEMETERY MAINTENANCE DISTRICT	33-14955	Decreed	2/24/1980	IRRIGATION	0.06	4.0	
BUTTE COUNTY CEMETERY MAINTENANCE DISTRICT	34-14470	Decreed	2/24/1980	IRRIGATION	0.10	4.8	
BUTTE COUNTY CEMETERY MAINTENANCE DISTRICT	34-14485	Decreed	2/24/1980	IRRIGATION	0.10	4.9	
BUTTE COUNTY CEMETERY MAINTENANCE DISTRICT	33-7229	License	10/29/1999	IRRIGATION	0.03	4.0	
BUTTE COUNTY JOINT SCHOOL DISTRICT #111	33-10096	Decreed	4/1/1956	IRRIGATION	0.06	2.0	
BUTTE COUNTY JOINT SCHOOL DISTRICT #111	34-7252	Decreed	8/14/1980	IRRIGATION	0.20	10.0	
BUXTON, JILL D; BUXTON, TROY	34-2427	Decreed	6/15/1961	IRRIGATION	2.94	147.0	
CALDWELL, TED L	27-7117	Decreed	10/21/1977	DOMESTIC, IRRIGATION	0.25	24.0	
CALLISTER, DAVID R; CALLISTER, MAKAYLA R	33-14877	Decreed	4/15/1968	IRRIGATION	2.05	156.0	
CALLISTER, DAVID R; CALLISTER, MAKAYLA R	33-14879	Decreed	4/30/1976	IRRIGATION	0.96	156.0	
CALLISTER, DAVID R; CALLISTER, MAKAYLA R	33-14881	Decreed	7/15/1978	IRRIGATION	0.26	156.0	Yes
CALLISTER, DON O	33-2121	Decreed	7/9/1965	IRRIGATION	2.03	150.0	
CALLISTER, DON O	33-14907	Decreed	10/24/1974	IRRIGATION	0.74	156.0	
CAREY, MICHAEL; CAREY, SHELBI	34-7201B	Decreed	6/28/1977	IRRIGATION	0.02	2.0	
CARLSON, BRENT J	29-14446	Decreed	10/28/1953	IRRIGATION	0.01	1.3	
CARLSON, BRENT J	29-14426	Decreed	6/23/1977	IRRIGATION	0.01	1.3	
CARPENTER, BARBARA; CARPENTER, MAURICE	25-7193B	Decreed	4/30/1980	DOMESTIC, IRRIGATION, STOCKWATER	0.02	2.5	

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CARPENTER, CRYSTAL A; CARPENTER, NATHAN D	34-14168	Decreed	9/16/1960	IRRIGATION	2.90	181.0	
CARPENTER, CRYSTAL A; CARPENTER, NATHAN D	34-14170	Decreed	9/16/1972	IRRIGATION	0.58	181.0	Yes
CARROZZA, JACQUELYN; MATKIN, JEFFERY L	29-13974	Decreed	1/25/1962	IRRIGATION	0.09	46.7	
CARROZZA, JACQUELYN; MATKIN, JEFFERY L	29-2459B	Decreed	1/25/1962	IRRIGATION	0.12	46.7	
CARROZZA, JACQUELYN; MATKIN, JEFFERY L	29-13980	Decreed	1/27/1976	IRRIGATION	0.30	46.7	
CARROZZA, JACQUELYN; MATKIN, JEFFERY L	29-7386	Decreed	4/7/1977	IRRIGATION	0.21	46.7	
CARROZZA, JACQUELYN; MATKIN, JEFFERY L	29-13979	Decreed	10/31/1986	IRRIGATION	0.08	46.7	Yes
CARSTENS, JULIUS M J	25-7481	License	12/22/1988	IRRIGATION	0.04	1.4	
CARTER, HEATHER I; CARTER, VAL C	34-13901	Decreed	10/25/1965	IRRIGATION	4.27	239.0	
CARTER, TIERRA CANDICE; CARTER, WILSON ENGLAND	35-14932	Decreed	2/5/1981	IRRIGATION	0.65	36.0	
CASA DEL NORTE LP	37-7081	Decreed	12/8/1970	IRRIGATION	1.67	840.0	
CASSIA JOINT SCHOOL DISTRICT #151	45-14512	Decreed	3/15/1956	IRRIGATION	0.03	7.6	
CASSIA JOINT SCHOOL DISTRICT #151	45-14510	Decreed	12/19/1974	IRRIGATION	0.05	7.6	
CASSIA JOINT SCHOOL DISTRICT #151	45-14509	Decreed	3/22/1975	IRRIGATION	0.05	7.6	
CASSIA JOINT SCHOOL DISTRICT #151	45-14511	Decreed	4/28/1975	IRRIGATION	0.02	7.6	
CASSIDY, FRANCIS J; HOFFMAN, RICHARD P; MEYER, DAVID DANIEL; MEYER, JENNY CLUFF; TANNER, TOMMY C	25-7638	License	4/25/1995	DOMESTIC	0.10		
CASTRO JR, VICENTE; CASTRO, PATRICIA	36-17297	Decreed	2/4/1976	IRRIGATION	0.06	3.1	
CEYNAR, MARCENE; FANN, LAVEDA A; FANN, R E; FARNSWORTH, BETH; FARNSWORTH, JAY; PICKERING, CRAIG; PICKERING, VICKY	25-7272	Decreed	2/4/1982	DOMESTIC	0.10		
CHALCO LLC	25-14168	Decreed	12/10/1954	IRRIGATION	0.11	1876.1	
CHAMBERS, RALEIGH R	25-7343	License	6/27/1983	DOMESTIC	0.06		
CHAPMAN, GARY RAY; CHAPMAN, REBECCA LYNN	22-14405	Decreed	4/22/1979	IRRIGATION	0.04	2.0	
CHARLYNE KAULUKUKUI MCKNEELY TRUST	34-14656	Decreed	4/19/1960	IRRIGATION	0.05	7.4	
CHERRY, MARY ANN; CHERRY, ROBERT	25-14402	Decreed	7/19/1973	IRRIGATION	0.02	1.2	
CHERYL LYNN BLOUNT & STEVEN GUY HERICKS LIVING TRUST	37-23115	Decreed	9/20/1974	IRRIGATION	0.02	1.7	
CHILDERS, LINDA MARIE; CHILDERS, RODNEY DEAN	37-23116	Decreed	9/20/1974	IRRIGATION	0.03	2.7	
CHILDERS, LINDA MARIE; CHILDERS, RODNEY DEAN	37-23209	Decreed	9/20/1974	IRRIGATION	0.02	1.8	
CHRISTENSEN, ADAM W; NELSON, DIANE K	37-23133	Decreed	9/20/1974	IRRIGATION	0.02	0.8	
CHRISTENSEN, BRAD LEE	29-7706	License	5/21/1983	IRRIGATION	0.10	5.0	
CHRISTENSEN, BRAD LEE; CHRISTENSEN, KRISTI	29-7273	Decreed	7/3/1975	IRRIGATION	0.15	7.3	
CHRISTENSEN, LANCE ISAAC	25-7431	License	7/6/1988	DOMESTIC, IRRIGATION	0.09	1.6	
CHURCH OF JESUS CHRIST OF LATTER DAY SAINTS	45-13877	Decreed	10/1/1952	IRRIGATION	0.04	2.0	
CHURCH OF JESUS CHRIST OF LATTER DAY SAINTS	45-13878	Decreed	10/1/1952	IRRIGATION	0.04	2.0	
CHURCH OF JESUS CHRIST OF LATTER DAY SAINTS	34-13752	Decreed	1/30/1961	IRRIGATION	0.01	2.5	

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CHURCH OF JESUS CHRIST OF LATTER DAY SAINTS	34-13754	Decreed	8/31/1976	IRRIGATION	0.04	2.5	
CHURCH OF JESUS CHRIST OF LATTER DAY SAINTS	22-7438	Decreed	7/20/1983	DOMESTIC	0.28		
CITY OF ALAMEDA	29-2324	License	10/22/1952	MUNICIPAL	6.00		
CITY OF ARCO	34-10030	Decreed	6/1/1962	MUNICIPAL	2.12		
CITY OF ARCO	34-7454	License	1/27/1984	MUNICIPAL	0.80		
CITY OF ARCO	34-7547	License	10/25/1990	MUNICIPAL	1.81		
CITY OF BUTTE CITY	34-4027	Decreed	6/20/1960	FIRE PROTECTION, MUNICIPAL	0.23		
CITY OF CHUBBUCK	29-14012	Decreed	8/19/1952	MUNICIPAL	1.83		
CITY OF CHUBBUCK	29-14013	Decreed	8/19/1952	MUNICIPAL	2.25		
CITY OF CHUBBUCK	29-14058	Decreed	8/19/1952	MUNICIPAL	0.05		
CITY OF CHUBBUCK	29-14106	Decreed	8/18/1953	MUNICIPAL	0.93		
CITY OF CHUBBUCK	29-2385	Decreed	1/11/1957	MUNICIPAL	0.78		
CITY OF CHUBBUCK	29-2413	Decreed	6/25/1959	MUNICIPAL	1.10		
CITY OF CHUBBUCK	29-14055	Decreed	6/20/1961	MUNICIPAL	0.13		
CITY OF CHUBBUCK	29-14081	Decreed	6/20/1961	MUNICIPAL	0.03		
CITY OF CHUBBUCK	29-2469	Decreed	3/10/1963	MUNICIPAL	1.11		
CITY OF CHUBBUCK	29-14016	Decreed	1/17/1966	MITIGATION, MUNICIPAL	1.89		
CITY OF CHUBBUCK	29-14099	Decreed	5/2/1966	MUNICIPAL	2.52		
CITY OF CHUBBUCK	29-14056	Decreed	10/26/1966	MUNICIPAL	0.09		
CITY OF CHUBBUCK	29-14082	Decreed	10/26/1966	MUNICIPAL	0.02		
CITY OF CHUBBUCK	29-14096	Decreed	11/29/1971	MUNICIPAL	0.21		
CITY OF CHUBBUCK	29-14097	Decreed	11/29/1971	MUNICIPAL	0.02		
CITY OF CHUBBUCK	29-14054	Decreed	12/31/1974	MUNICIPAL	1.47		
CITY OF CHUBBUCK	29-14080	Decreed	12/31/1974	MUNICIPAL	0.27		
CITY OF CHUBBUCK	29-14107	Decreed	12/3/1980	MUNICIPAL	0.61		
CITY OF MACKAY	34-7073	Decreed	6/18/1974	MUNICIPAL	0.88		
CITY OF MACKAY	34-7505	Decreed	3/29/1988	WATER QUALITY IMPROVEMENT	0.18		
CITY OF MACKAY	34-7532	License	1/26/1990	MUNICIPAL	1.12		
CITY OF MACKAY	34-7572	License	8/29/2005	MUNICIPAL	0.94		
CITY OF MOORE	34-14817	Decreed	2/11/1955	IRRIGATION	0.28	208.0	
CLARKEROSA LLC	34-7193	Decreed	6/26/1978	IRRIGATION	2.31	139.3	
CLAYSON, CASEY; CLAYSON, SHANE	45-7496	Decreed	1/27/1982	DOMESTIC, IRRIGATION	0.06	0.7	
CLOSE, ROBERT; CLOSE, SALLY	25-11547	Decreed	1/31/1959	DOMESTIC, IRRIGATION	0.07	1.0	
COBURN, DEAN V	34-7040A	Decreed	7/2/1973	DOMESTIC, IRRIGATION	0.06	1.0	
COBURN, JODY K; COBURN, MARTY T	34-13791	License	3/11/2003	IRRIGATION	0.22	22.0	

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Owner	Water Right No.	Basis	Priority Date	Water Use List	Diversion Rate (cfs)	Total Acres	Enlargement
COLLEEN GRACE HOLLOWWA TESTAMENTARY TRUST	34-7195	Decreed	5/18/1977	IRRIGATION	0.40	20.0	
COLLINS JR, FLOYD L; COLLINS, LINDA M	34-7072	Decreed	5/22/1974	IRRIGATION	0.68	34.0	
COLLINS, CRAIG; COLLINS, LERRINA	34-13664	Decreed	4/6/1982	IRRIGATION	0.57	30.0	
COLSON, F SCOTT	34-2352	Decreed	4/15/1959	IRRIGATION	0.74	78.0	
COMORE DEVELOPMENT INC	25-14240	License	6/1/1989	IRRIGATION	2.10	2634.0	
COMORE DEVELOPMENT INC	25-14488	License	8/5/2020	DOMESTIC	0.27		
COMORE LOMA WATER CO INC	25-7040	Decreed	9/17/1973	DOMESTIC	0.20		
COMORE LOMA WATER CO INC	25-7042	Decreed	10/26/1973	DOMESTIC	0.08		
COMORE LOMA WATER CO INC	25-7161	Decreed	9/29/1978	DOMESTIC	0.98		
COMORE LOMA WATER CORP	25-14243	Decreed	5/6/1957	IRRIGATION	0.53	2634.0	
COMORE LOMA WATER CORP	25-12706	Decreed	7/1/1960	DOMESTIC, IRRIGATION	0.13	2634.0	
COMORE LOMA WATER CORP	25-14340	Decreed	3/20/1961	IRRIGATION	0.56	2634.0	
COMORE LOMA WATER CORP	25-14242	Decreed	5/1/1980	IRRIGATION	0.29	2634.0	Yes
COMORE LOMA WATER CORP	25-14487	License	6/1/1989	IRRIGATION	1.31	2634.0	
COMORE LOMA WATER CORP	25-14505	License	6/1/1989	IRRIGATION	0.42	2634.0	
COMORE LOMA WATER CORP	25-7578	Decreed	8/29/1990	DOMESTIC	0.30		
COMORE LOMA WATER CORP	25-7652	Decreed	12/11/1996	DOMESTIC	1.33		
COMORE LOMA WATER CORP	25-14166	License	3/28/2005	DOMESTIC	0.58		
COMORE LOMA WATER CORP	25-14167	License	4/12/2005	DOMESTIC	0.21		
COMORE LOMA WATER CORP	25-14183	License	4/29/2006	DOMESTIC	0.50		
COMORE LOMA WATER CORP	25-14484	License	4/17/2020	DOMESTIC	0.38		
COMORE LOMA WATER CORP	25-14506	License	8/5/2020	DOMESTIC	0.18		
CONSOLIDATED AG PROPERTIES LLC	45-2448B	Decreed	6/1/1953	STOCKWATER	0.17		
COOK, DANNY; COOK, DARRELL L	35-7979	License	5/5/1981	DOMESTIC	0.06		
COOK, DONALD J	35-7362	License	12/27/1973	DOMESTIC, STOCKWATER	0.05		
CORDES, RONALD A	25-7488	License	2/14/1989	DOMESTIC, IRRIGATION	0.10	3.0	
CORDON TRAILER COURT	25-10195	Decreed	3/11/1960	COMMERCIAL	0.13		
COTTRELL, BRYON G; COTTRELL, TIFFANI A	34-14081	Decreed	7/5/1960	IRRIGATION	0.12	11.0	
COTTRELL, BRYON G; COTTRELL, TIFFANI A	34-14083	Decreed	4/10/1961	IRRIGATION	0.10	11.0	
COUNTRY CLUB WATER	25-14447	Decreed	1/27/1976	IRRIGATION	0.03	18.7	
COUNTRY CLUB WATER	25-14448	Decreed	10/31/1986	IRRIGATION	0.01	18.7	Yes
COUNTY OF BANNOCK	29-13466	License	1/14/2003	COMMERCIAL	1.78		
COUNTY OF CUSTER FAIR BOARD	34-7539	Decreed	1/10/1990	COMMERCIAL	0.04		
COUNTY OF JEFFERSON	25-13985	License	5/13/2003	RECREATION STORAGE	0.00		
COX, ED; COX, PATRICIA	29-7903	License	4/17/1990	IRRIGATION	0.04	2.0	

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CRABTREE, DOUGLAS R; CRABTREE, SHAUNA S	25-14289	Decreed	8/10/1966	IRRIGATION	0.04	2.0	
CRAIG, JODI; GARRETT, MIKE; STEVENS, CHERYL	34-14644	Decreed	9/29/1966	IRRIGATION	0.13	8.1	
CRAIG, JODI; GARRETT, MIKE; STEVENS, CHERYL	34-14645	Decreed	5/20/1984	IRRIGATION	0.02	8.1	Yes
CRANDALL, JEFF; CRANDALL, SUSAN	35-8658	License	11/2/1985	DOMESTIC	0.06		
CRANE CROPS LLC	45-7303	Decreed	5/10/1977	IRRIGATION, STOCKWATER	1.28	62.0	
CRANE, KARI L; CRANE, TROY W	45-4067B	Decreed	8/1/1962	IRRIGATION	1.46	73.0	
CRANER, DAVID A; CRANER, HELEN B	45-7442	Decreed	4/4/1980	IRRIGATION	0.12	4.0	
CRANNEY LAND COMPANY LLC	45-2639	Decreed	2/20/1961	IRRIGATION	3.48	196.0	
CRAPO, JUDD; CRAPO, SUSAN	22-14340	License	4/10/2017	IRRIGATION	0.01	2.7	
CRARY INDUSTRIES INC	36-11369	Decreed	8/20/1959	COMMERCIAL	0.03		
CRAWFORD, GAYLE; CRAWFORD, JOHN S	36-17138	Decreed	3/7/1978	IRRIGATION	0.04	2.3	
CRAWFORD, HARRY J	34-2413A	Decreed	5/12/1961	IRRIGATION	1.67	148.0	
CRNICH, CHRIS; CRNICH, MELONIE	34-7288	Decreed	1/12/1981	IRRIGATION	0.11	5.0	
CROMWELL, VERNAL D	25-7446	License	10/21/1988	DOMESTIC	0.06		
CRONQUIST, CAMERON; CRONQUIST, LORI	35-14895	Decreed	8/19/1977	IRRIGATION	0.09	5.0	
CRONQUIST, JAMES; TURPIN, NATALIE	34-4083	Decreed	11/1/1959	IRRIGATION, STOCKWATER	0.11	5.0	
CROP PRODUCTION SERVICES	25-4250	Decreed	3/8/1963	COMMERCIAL	0.10		
CROTTS, RICHARD S; MC CONNELL, FRANCES L	37-23627	Decreed	9/20/1974	IRRIGATION	0.08	6.4	
CRUMP, ROBERT	34-14561	Decreed	6/17/1960	IRRIGATION	1.15	133.0	
CRUMP, ROBERT	34-14562	Decreed	6/17/1960	IRRIGATION	1.13	133.0	
CRUMP, ROBERT	34-14563	Decreed	8/15/1964	IRRIGATION	0.38	133.0	
CRUMP, ROBERT	34-7198	Decreed	6/13/1977	IRRIGATION	3.11	278.0	
CRYSTAL POND ANGLERS ASSN INC	22-7577	License	8/24/1988	RECREATION STORAGE	0.00		
CSJ FARMS LLC	22-14438	Decreed	12/29/1982	IRRIGATION	5.83	588.3	
CUNDICK, LARRY; CUNDICK, ROSALYNN	37-23213	Decreed	9/20/1974	IRRIGATION	0.02	1.6	
CUSHMAN, BRIAN; CUSHMAN, JENNIE JEAN	34-14625	Decreed	12/17/1961	IRRIGATION	0.09	4.7	
D & C PROPERTIES LLC	25-14596	Permit	8/4/2010	INDUSTRIAL	2.00		
D & L PARTNERSHIP; WILLIAMS JR, LOGAN ; WILLIAMS, LINDA C; WILLIAMS, MARCIE L	34-2316A	Decreed	12/24/1954	IRRIGATION	1.20	60.0	
D & M WATER ASSN	29-7281	Decreed	8/4/1975	DOMESTIC	0.26		
D & M WATER ASSN	29-7367	Decreed	2/7/1977	DOMESTIC	0.40		
D & M WATER ASSN	29-7912	License	4/2/1990	DOMESTIC	0.04		
DAINS, CLAUDIA LYNN; DAINS, RANDY MARK	34-14942	Decreed	7/2/1973	IRRIGATION	0.40	20.0	
DAINS, CLAUDIA LYNN; DAINS, RANDY MARK	34-7058	Decreed	1/10/1974	DOMESTIC, IRRIGATION, STOCKWATER	1.08	56.7	
DANIEL, BRENDA	25-7447	License	10/25/1988	IRRIGATION	0.02	1.0	

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DANIEL, BRENDA; DANIEL, DAVID S	25-7261	Decreed	10/8/1981	DOMESTIC, IRRIGATION, STOCKWATER	0.04	2.0	
DANIEL, MELVIN R JR	25-7538	License	9/19/1989	COMMERCIAL	0.07		
DASCANIO, ELIZABETH; DASCANIO, JUSTIN	35-14589	Decreed	9/28/1981	IRRIGATION	0.01	15.0	
DATRICE, JAMES	34-14949	Decreed	3/2/1961	IRRIGATION	0.30	15.0	
DAVID GREENE LIVING TRUST	37-23211	Decreed	9/20/1974	IRRIGATION	0.04	3.4	
DAVIS, BRIAN L	29-14462	Decreed	10/28/1953	IRRIGATION	0.01	1.5	
DAVIS, BRIAN L	29-14442	Decreed	6/23/1977	IRRIGATION	0.01	1.5	
DAVISON, NANCY; DAVISON, RANDY LEE	25-7017A	Decreed	3/20/1972	IRRIGATION	0.42	21.0	
DAW, ADELE S; DAW, TERRELL B	25-14255	Decreed	8/10/1966	IRRIGATION	0.02	1.2	
DE MOSS, GARY A; DE MOSS, HELEN	37-22168	Decreed	9/20/1974	IRRIGATION, STOCKWATER	1.61	802.0	
DEES, ELDON G; DEES, KATHALINE; DEES, RONALD K; DEES, SHIRLEY	25-7351	Decreed	6/24/1983	DOMESTIC, STOCKWATER	0.06		
DERBYHAWK LLC	25-7553	License	9/27/1989	DOMESTIC	0.11		
DIERS, NEDRA; DIERS, ROBERT K	34-10288	Decreed	5/1/1962	DOMESTIC, IRRIGATION	0.07	1.0	
DIRKS, SHANE LEE; DIRKS, TANYA MARIE	34-2379C	Decreed	8/8/1960	IRRIGATION	2.02	111.0	
DIRKS, SHANE LEE; DIRKS, TANYA MARIE	34-14960	Decreed	9/13/1961	IRRIGATION	1.88	109.0	
DIRKS, SHANE LEE; DIRKS, TANYA MARIE	34-2471	Decreed	10/29/1965	IRRIGATION	3.20	155.0	
DIRKS, SHANE LEE; DIRKS, TANYA MARIE	34-14961	Decreed	4/1/1977	IRRIGATION	0.30	109.0	Yes
DIXON, ANNIE; JAHN, ROBERT	35-7823	License	11/22/1978	DOMESTIC, STOCKWATER	0.05		
DOBSON RANCH	31-11429	Decreed	6/21/1957	DIVERSION TO STORAGE, IRRIGATION FROM STORAGE, IRRIGATION STORAGE	13.45	1561.6	
DOMINICK, TERESA	25-7073F	Decreed	8/1/1975	IRRIGATION	0.10	5.0	
DOUBLE EAGLE PROPERTIES LLLP	45-14462	Decreed	6/30/1985	IRRIGATION	0.08	21.8	
DOYLE, DACIA MITCHELL; MITCHELL, DUSTIN A; MITCHELL, HARRY T; MITCHELL, LOUANA LEMMON	34-14458	Decreed	6/1/1953	IRRIGATION	0.06	2.6	
DREW, STAN	29-8237	License	4/17/2000	DOMESTIC	0.11		
EAGLE CREEK NORTHWEST LLC	32-13237	Decreed	4/2/1964	IRRIGATION	1.96	134.0	
EAGLE CREEK NORTHWEST LLC	32-13277	Decreed	7/27/1979	IRRIGATION	2.25	132.0	
EAGLE CREEK NORTHWEST LLC	32-13279	Decreed	7/27/1979	IRRIGATION	2.25	132.0	
EAMES, LINDA J	25-7643	License	12/4/1995	DOMESTIC	0.18		
EAST FAIRVIEW WATER WELL CO	25-12791	Decreed	4/1/1961	DOMESTIC	0.11		
EATON, ISABEL L	34-14242	Decreed	4/29/1955	IRRIGATION	0.28	14.2	
EDEN, GARY; EDEN, GLENNA R	37-8363	License	8/6/1988	COMMERCIAL, DOMESTIC, STOCKWATER	0.05		
EDSTROM CONSTRUCTION PROPERTIES LLP	22-14542	Permit	3/27/2023	INDUSTRIAL STORAGE, INDUSTRIAL, RECREATION STORAGE	4.00		
EDWARDS, LA DONNA; EDWARDS, SAMUEL	35-8793	License	6/13/1989	DOMESTIC	0.04		
EGAN, BROCK; EGAN, KODI	32-13235	Decreed	6/13/1974	IRRIGATION	3.49	450.0	

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EGAN, BROCK; EGAN, KODI	32-7070	Decreed	2/7/1977	IRRIGATION	2.59	450.0	
EGAN, BROCK; EGAN, KODI	32-7085	Decreed	8/4/1977	IRRIGATION	4.98	450.0	
ELK RIDGE RV LLC	36-17282	Decreed	2/2/1954	COMMERCIAL	0.11		
ELK RIDGE RV LLC	36-17283	Decreed	3/1/1975	COMMERCIAL	0.03		Yes
ELK, DELYLA; ELK, DUSTIN	34-7040B	Decreed	7/2/1973	IRRIGATION	0.24	12.0	
ELLIOTT, DAVID S; ELLIOTT, JANICE	25-14314	Decreed	8/10/1966	IRRIGATION	0.02	1.0	
ELLIS, RANDY; HAINES, KENNETH; SIMMONS, LARRY W; SMITH, RICKY; SMITH, ROGER; WHEELER, BLISS	35-8821	License	9/13/1989	DOMESTIC	0.04		
ELLWEIN, MELVIN J; ELLWEIN, VIVIAN J	34-2323F	Decreed	2/11/1955	IRRIGATION	0.23	14.8	
ELLWEIN, MELVIN J; ELLWEIN, VIVIAN J	34-7197B	Decreed	6/10/1977	IRRIGATION	1.34	155.0	
EMPEY, BRUCE; EMPEY, JEANETTE C	25-7098	Decreed	8/5/1976	DOMESTIC, IRRIGATION	0.05	6.0	
ENSZ, MARK; ENSZ, MELANIE	34-2312	Decreed	7/17/1954	IRRIGATION	7.00	588.0	
ENSZ, MARK; ENSZ, MELANIE	34-13876	Decreed	1/30/1961	IRRIGATION	1.96	249.3	
ENSZ, MARK; ENSZ, MELANIE	34-14334	Decreed	1/30/1961	IRRIGATION	0.22	194.5	
ENSZ, MARK; ENSZ, MELANIE	34-10885	Decreed	4/1/1961	IRRIGATION, STOCKWATER	3.20	588.0	
ENSZ, MARK; ENSZ, MELANIE	34-7076	Decreed	10/16/1974	IRRIGATION	1.56	588.0	
ENSZ, MARK; ENSZ, MELANIE	34-14335	Decreed	8/31/1976	IRRIGATION	3.34	194.5	
ESTATE OF KAREN HARNEY	34-14086	Decreed	5/14/1977	IRRIGATION	1.47	76.1	
EVANS, LOIS C; EVANS, MYRON C	31-10061	Decreed	12/31/1976	DOMESTIC	0.04		
F & C TRUCKING LLC	36-17067	Decreed	9/8/1962	COMMERCIAL, STOCKWATER	0.09		
FALCON RIDGE HOA	25-14181	License	1/27/2006	DOMESTIC	0.31		
FALLING TREE WELL CO	35-8815	License	9/20/1989	DOMESTIC	0.04		
FALLS IRRIGATION DISTRICT / US BUREAU OF RECLAMATION	29-2614	Decreed	2/16/1953	IRRIGATION	1.52		
FARMERS MERCHANT INC	35-7723	Decreed	7/4/1977	DOMESTIC, INDUSTRIAL	0.04		
FEHRINGER, MARTIN	29-14051	Decreed	2/23/1966	IRRIGATION	0.02	1.5	
FELD, TODD	35-13284	Decreed	2/23/1972	COMMERCIAL, STOCKWATER	0.30		
FERRERA, ANGELA; FERRERA, DAVID	29-14459	Decreed	10/28/1953	IRRIGATION	0.01	1.8	
FERRERA, ANGELA; FERRERA, DAVID	29-14439	Decreed	6/23/1977	IRRIGATION	0.02	1.8	
FIELDS, KAREN C; FIELDS, VIRGIL	37-7699	Decreed	2/23/1978	DOMESTIC, STOCKWATER	0.20		
FINK, CONNIE LEE; FINK, DAN ROBERT	25-14260	Decreed	8/10/1966	IRRIGATION	0.03	1.4	
FONNESBECK, BAMBIE; FONNESBECK, EDWIN	34-10551	Decreed	8/28/1962	DOMESTIC, IRRIGATION, STOCKWATER	0.04	1.0	
FORBES, TAZARR E	34-14465	Decreed	8/1/1978	IRRIGATION	0.24	13.2	
FOUR SEASONS WATER CO	27-7351	License	4/20/1983	DOMESTIC	0.29		
FOUR SQUARE WATER WELL CORP	25-7327	Decreed	2/4/1985	DOMESTIC, IRRIGATION	0.16	3.0	
FREEMAN, MARK E	25-14306	Decreed	8/10/1966	IRRIGATION	0.02	2.0	

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FREEMAN, MARK E	25-14311	Decreed	8/10/1966	IRRIGATION	0.02	2.0	
FREEMAN, RICHARD T	34-2420	Decreed	6/21/1961	IRRIGATION	1.45	73.0	
FREMONT MADISON IRRIGATION DISTRICT	21-13261	License	4/23/1969	IRRIGATION	18.62		
FREMONT MADISON IRRIGATION DISTRICT	22-13506	License	4/23/1969	IRRIGATION	18.74		
FROMOVER 9 LLC; JUNIPER VIEW LLC; RGC FARMS LLC; UNIT 2 LLC	22-7648	License	4/6/1989	IRRIGATION	2.61	797.2	
FUGER, JASON CHRISTOPHER	33-2079	Decreed	11/16/1955	IRRIGATION	1.70	231.0	
FUGER, JASON CHRISTOPHER	33-2098	Decreed	3/27/1969	IRRIGATION	2.00	231.0	
FUGER, JASON CHRISTOPHER	33-7032	Decreed	4/3/1974	IRRIGATION	1.54	231.0	
FULLMER JR, ALBERT W; FULLMER, ELEANOR	34-2437A	Decreed	9/5/1961	IRRIGATION	0.02	1.5	
FULLMER, APRIL; FULLMER, NICHOLAS	25-4106	Decreed	4/1/1959	IRRIGATION	0.05	1.7	
FULLMER, BARBARA; FULLMER, PAUL	34-10205	Decreed	4/1/1960	IRRIGATION, STOCKWATER	0.06	2.0	
FUNK, BRENT; FUNK, CHALET	36-17181	Decreed	11/28/1977	IRRIGATION, MITIGATION BY NON-USE	2.14	104.7	
FUNK, LEROY; FUNK, RONDA	45-2672	Decreed	10/26/1961	IRRIGATION	1.00	71.0	
G & L METAL FAB INC	29-10882	Decreed	4/15/1961	COMMERCIAL	0.04		
G5 LAND COMPANY LLC	45-2688B	Decreed	10/17/1962	COMMERCIAL	0.04		
GABIOLA, JOSHUA B J FELTON	34-2324	Decreed	2/28/1955	IRRIGATION	2.44	173.0	
GABIOLA, JOSHUA B J FELTON	34-12356	Decreed	4/1/1966	IRRIGATION	0.25	173.0	Yes
GALKA, MAGDALENA B; WAS, ALEKSANDER P; WAS, PIOTR B	34-14622	Decreed	12/17/1961	IRRIGATION	0.03	1.7	
GAMETT, ALICE JUNE; GAMETT, FRANK L	34-14029	Decreed	10/29/1953	IRRIGATION	0.37	16.0	
GAMETT, CHANDOS; GAMETT, WESTON	34-14972	Decreed	12/31/1962	IRRIGATION	0.04	2.0	
GAMETT, KIM; GAMETT, RANDY	34-2432	Decreed	7/5/1961	IRRIGATION	0.12	6.0	
GARY & PAMELA ROGERS FAMILY TRUST	34-7118B	Decreed	11/24/1975	IRRIGATION	8.81	440.0	
GARY & PAMELA ROGERS FAMILY TRUST	34-14147	Decreed	6/2/1978	IRRIGATION	0.08	12.3	
GEHRING, JORDAN	35-12692	Decreed	6/1/1982	DOMESTIC	0.04		
GENERAL MILLS OPERATIONS INC	35-2857B	Decreed	1/16/1967	INDUSTRIAL	0.23		
GERRATT, LARRY	45-11613	Decreed	7/22/1955	IRRIGATION	0.60	151.0	
GERRATT, LARRY; GERRATT, REX	45-11441	Decreed	4/1/1960	COMMERCIAL, DOMESTIC, STOCKWATER	0.07		
GERRISH, AMBER; GERRISH, GALEN	34-2425F	Decreed	12/17/1961	IRRIGATION	0.10	5.2	
GIBBY, REED	45-13990	License	2/10/2006	DOMESTIC	0.09		
GIBEAULT, GERALD; GIBEAULT, GLORIA	34-14484	Decreed	4/2/1980	IRRIGATION	0.07	3.7	
GIESBRECHT, JANA; GIESBRECHT, JAYSON	34-2316B	Decreed	12/24/1954	IRRIGATION	0.40	23.0	
GIESBRECHT, JANA; GIESBRECHT, JAYSON	34-2361A	Decreed	4/19/1960	IRRIGATION	3.20	349.5	
GILBERT, GEORGE A; GILBERT, VERA JEAN	34-14146	Decreed	6/2/1978	IRRIGATION	0.12	18.7	
GILBERT, JUANITA F; GILBERT, ROBERT E	34-2431	Decreed	6/29/1961	IRRIGATION	2.67	156.0	
GILLEN, NORMAN	27-7585	License	4/20/1999	DOMESTIC	0.14		

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GLANBIA FOODS INC	36-16213	Decreed	11/11/1959	MITIGATION	2.60	400.0	
GLANBIA FOODS INC	36-16215	Decreed	11/15/1970	MITIGATION	3.90	410.0	
GLANBIA FOODS INC	36-16219	Decreed	5/26/1971	MITIGATION	0.33	400.0	Yes
GLANBIA FOODS INC	36-16217	Decreed	5/16/1980	MITIGATION	0.96	400.0	
GONZALES, FERNANDO B; GONZALES, IRENE H	29-7238	Decreed	10/31/1974	DOMESTIC, IRRIGATION	0.11	8.0	
GONZALES, FERNANDO B; GONZALES, IRENE H	29-7984	Decreed	4/23/1990	IRRIGATION	0.03	8.0	
GONZALEZ, LAURA; ORTIZ, JULIO	29-14346	Decreed	12/16/1963	IRRIGATION	0.03	2.0	
GOODLIFFE, ARNOLD J; GOODLIFFE, BECKY B	29-8044	License	4/2/1990	IRRIGATION	0.06	2.0	
GOODWIN EXCAVATING LLC; POCATELLO READY MIX	35-14326	Decreed	5/2/1977	INDUSTRIAL	0.10		
GOODY, BRYON; GOODY, RUTH	29-14183	Decreed	2/3/1961	IRRIGATION	0.06	3.0	
GOUGH, JONATHAN; GOUGH, MEMORI DEANN	37-23212	Decreed	9/20/1974	IRRIGATION	0.03	2.7	
GOUGH, SHAUN	37-23373	License	8/22/1988	IRRIGATION	0.03	1.5	
GRAEFE, MICHAEL ROBERT	33-7068	License	8/19/1979	DOMESTIC, IRRIGATION	0.05	2.0	
GRANITE TRUST ORGANIZATION	34-10272	Decreed	5/16/1960	IRRIGATION	3.38	237.5	
GRANITE TRUST ORGANIZATION	34-12433	Decreed	5/16/1960	IRRIGATION	1.25	213.0	
GRANITE TRUST ORGANIZATION	34-10939	Decreed	4/3/1968	IRRIGATION	0.59	211.0	Yes
GRANT US PEACE LLC	34-7139	Decreed	4/1/1976	IRRIGATION	0.13	7.0	
GRAVES, FRANCES M; GRAVES, RICHARD L	37-7371	Permit	7/31/1974	DOMESTIC, IRRIGATION, STOCKWATER	6.49	320.0	
GRAY, F SCOTT; HENRY, JOHN M; RODRIGUEZ, JAVIER P	25-7439	License	8/15/1988	DOMESTIC, IRRIGATION	0.09	1.0	
GRAYBEAL, EMILY; GRAYBEAL, JASON	37-4052	Decreed	4/1/1962	DOMESTIC, IRRIGATION	0.08	1.4	
GREAT WESTERN MALTING CO	29-7504	Decreed	9/20/1979	DOMESTIC, INDUSTRIAL	3.25		
GREGORY, CINDY LOU; GREGORY, JAMES S	34-14212	Decreed	6/29/1959	IRRIGATION	0.10	4.9	
GREGORY, CINDY LOU; GREGORY, JAMES S	34-14172	Decreed	11/18/1974	IRRIGATION	0.25	29.0	
GRIMMETT, GARY D	35-8179	Decreed	8/2/1983	DOMESTIC, IRRIGATION	0.10	3.0	
GRISENTI, CHEYANNA; GRISENTI, TYSON	36-17209	Decreed	6/21/1960	IRRIGATION	0.08	4.0	
GROVER, ALICE MAE; GROVER, MELVIN G	25-7480	License	1/9/1989	DOMESTIC, IRRIGATION, STOCKWATER	0.07	3.0	
GUNDERSON, ADEN	35-14178	Decreed	9/28/1981	IRRIGATION	0.01	20.0	
HALBERT, GILBERT L; HALBERT, KIM M	36-2371B	Decreed	12/31/1958	IRRIGATION	0.08	2.5	
HALE, ANGELA A; HALE, MICHAEL J	34-14101	License	5/21/2009	DOMESTIC, IRRIGATION	0.15	5.6	
HALE, LAUREN; HALE, NIC	29-14445	Decreed	10/28/1953	IRRIGATION	0.01	1.3	
HALE, LAUREN; HALE, NIC	29-14425	Decreed	6/23/1977	IRRIGATION	0.01	1.3	
HALL, BRIANNE; HALL, STEVEN	29-7628	Decreed	1/19/1982	IRRIGATION	0.12	7.6	
HALL, RUSSELL	21-13316	Decreed	4/24/1956	IRRIGATION	0.05	5.0	
HALL, RUSSELL	21-13315	Decreed	4/24/1962	IRRIGATION	0.05	5.0	

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HALLINAN, KAYE; JENSEN, GARY L; JENSEN, GORDON L; JENSEN, J LYLE; JENSEN, M LEROY; JENSEN, TERRY L	29-2419	Decreed	10/26/1959	IRRIGATION	1.32	104.6	
HAMILTON LAND & LIVESTOCK LTD	25-4022	Decreed	2/7/1957	IRRIGATION	0.09	4.5	
HAMMOND, LORNA O; THE SHELTERED TRUST	35-8016	License	1/18/1982	DOMESTIC, STOCKWATER	0.06		
HANCOCK, DEAN	25-14496	Decreed	4/22/1979	IRRIGATION	0.02	1.0	
HANEY FARMS LLC	34-2382B	Decreed	9/18/1960	IRRIGATION	2.07	249.0	
HANEY FARMS LLC	34-14877	Decreed	3/20/1961	IRRIGATION	0.20	249.0	
HANEY FARMS LLC	34-2423	Decreed	6/12/1961	IRRIGATION	2.36	249.0	
HANEY, KODY	34-12367	Decreed	3/20/1961	IRRIGATION	1.14	57.0	
HANSEN, MARC T; HANSEN, TEENA	34-14187	Decreed	4/20/1961	IRRIGATION	0.04	16.0	
HANSEN, MARC T; HANSEN, TEENA	34-14185	Decreed	5/29/1961	IRRIGATION	0.13	16.0	
HANSEN, VIRGINIA E	45-4125	Decreed	3/20/1962	DOMESTIC, IRRIGATION	0.04	0.7	
HANSEN, WILLIAM KORBY	25-7458	License	11/8/1988	DOMESTIC, IRRIGATION	0.09	1.7	
HARDIN, SIMONE	34-13740	Decreed	10/29/1953	IRRIGATION	0.65	28.0	
HARDIN, SIMONE	34-14878	Decreed	7/16/1963	IRRIGATION	0.13	24.0	
HARDIN, SIMONE	34-2447B	Decreed	7/16/1963	IRRIGATION	0.34	27.0	
HARDIN, SIMONE	34-10930B	Decreed	8/6/1987	IRRIGATION	0.19	27.0	Yes
HARDIN, SIMONE	34-14879	Decreed	8/6/1987	IRRIGATION	0.07	24.0	Yes
HARDING, GALE W	22-7568	License	9/1/1988	IRRIGATION, STOCKWATER	0.10	5.0	
HAROLD L RUPP SR TRUST; RUPP, VEDA J	29-13143	Decreed	6/2/1953	IRRIGATION	0.56	365.0	
HAROLD L RUPP SR TRUST; RUPP, VEDA J	29-13144	Decreed	6/9/1953	IRRIGATION	1.26	365.0	
HAROLDSEN, G ERIC; HAROLDSEN, GRANT O	25-7300	Decreed	1/5/1983	DOMESTIC, STOCKWATER	0.06		
HARRELL, BRIAN S; HARRELL, CAROLYN J	33-14888	Decreed	3/2/1961	IRRIGATION	0.60	139.1	
HARRELL, BRIAN S; HARRELL, ILENE	33-2077	Decreed	10/13/1955	IRRIGATION	2.20	262.7	
HARRELL, BRIAN S; HARRELL, ILENE	33-15093	Decreed	11/14/1955	IRRIGATION	0.11	262.7	
HARRELL, BRIAN S; HARRELL, ILENE	33-2078	Decreed	11/14/1955	IRRIGATION	1.55	143.5	
HARRELL, BRIAN S; HARRELL, ILENE	33-14951	Decreed	3/2/1961	IRRIGATION	0.58	143.0	
HARRELL, BRIAN S; HARRELL, ILENE	33-15094	Decreed	4/3/1961	IRRIGATION	0.11	262.7	
HARRELL, BRIAN S; HARRELL, ILENE	33-2100	Decreed	4/3/1961	IRRIGATION	1.44	143.5	
HARRELL, BRIAN S; HARRELL, ILENE	33-14884	Decreed	9/23/1965	IRRIGATION	0.04	139.1	
HARRELL, BRIAN S; HARRELL, ILENE	33-14953	Decreed	9/23/1965	IRRIGATION	0.04	143.0	
HARRELL, SANDRA L	33-14889	Decreed	3/2/1961	IRRIGATION	0.01	3.0	
HARRELL, SANDRA L	33-14885	Decreed	9/23/1965	IRRIGATION	0.00	3.0	
HARRIS, BILL B	25-7489	License	2/23/1989	DOMESTIC, STOCKWATER	0.06		
HARRIS, JON DALE; HARRIS, VANESSA	34-14659	Decreed	12/17/1961	IRRIGATION	0.09	4.6	

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HARRY, KIMBERLY A; HARRY, RICHARD C	34-2435A	Decreed	7/26/1961	IRRIGATION	1.54	71.0	
HART, DAVID J; HART, JAMES W	29-2395	Decreed	2/28/1958	IRRIGATION	2.11	215.2	
HART, ROBERT E	29-14263	Decreed	2/28/1958	IRRIGATION	0.70	71.8	
HARTLEY, CHARDON; HARTLEY, CRYSTAL	34-13911	Decreed	4/29/1955	IRRIGATION	0.14	6.9	
HARWOOD, DOROTHY; HARWOOD, JACQUELINE L; HARWOOD, KENTON L; HARWOOD, LEON W	34-7045B	Decreed	10/2/1973	IRRIGATION	0.68	39.0	
HARWOOD, DOROTHY; HARWOOD, JACQUELINE L; HARWOOD, KENTON L; HARWOOD, LEON W	34-7045C	Decreed	10/2/1973	IRRIGATION	1.56	89.0	
HARWOOD, DOROTHY; HARWOOD, JACQUELINE L; HARWOOD, KENTON L; HARWOOD, LEON W	34-10471B	Decreed	8/13/1974	IRRIGATION	0.06	39.0	Yes
HARWOOD, DOROTHY; HARWOOD, JACQUELINE L; HARWOOD, KENTON L; HARWOOD, LEON W	34-10471C	Decreed	8/13/1974	IRRIGATION	0.12	89.0	Yes
HASLAM, LAVORE	35-8629	License	4/8/1986	DOMESTIC, STOCKWATER	0.06		
HAWKER, KATHERINE	34-4089	Decreed	8/1/1961	IRRIGATION, STOCKWATER	0.32	18.0	
HAWKINS, PENNY R; JONES, PHYLLIS J	34-2409A	Decreed	4/6/1961	IRRIGATION	2.20	132.0	
HAWKINS, PENNY R; JONES, PHYLLIS J	34-12034A	Decreed	6/20/1972	IRRIGATION	0.37	132.0	Yes
HAWLEY, JEFF; HAWLEY, KATIE	33-2101A	Decreed	7/12/1961	IRRIGATION	3.58	862.3	
HAWLEY, JEFF; HAWLEY, KATIE	33-2101B	Decreed	7/12/1961	IRRIGATION	4.68	862.3	
HAYES, AMY; HAYES, DESTRY	35-14639	Decreed	9/28/1981	IRRIGATION	0.02	3.3	
HAYMAKER PARTNERS LLC	34-14894	Decreed	5/4/1960	IRRIGATION	2.29	365.4	
HAYMAKER PARTNERS LLC	34-14891	License	1/22/1980	IRRIGATION	1.80	365.4	
HEISE HOT SPRINGS INC	23-7016	Decreed	2/3/1976	IRRIGATION	0.36	14.5	
HEJTMANEK, WESTON	33-14917	Decreed	2/4/1977	IRRIGATION	0.09	76.0	
HELSLEY HENDRIX, JEANINE P; HELSLEY, BRIAN T	36-16561	Decreed	2/8/1971	IRRIGATION	0.03	3.0	
HENDRICKS, TERRY	22-13913	License	1/20/2009	DOMESTIC	0.17		
HENRIE, JAREM	25-7302	Decreed	1/25/1983	DOMESTIC, IRRIGATION, STOCKWATER	0.05	2.0	
HENSLEY, DEBORAH; HENSLEY, FLOYD EARL; LOCKES, BERNICE; REYNOLDS, LYNN; WESSEL, TERESA	25-7084	Decreed	1/28/1976	DOMESTIC	0.06		
HERITAGE DEVELOPMENT	29-8173	License	7/19/1996	DOMESTIC	0.27		
HERMELIA GONZALEZ FAMILY TRUST	29-14559	Decreed	2/4/1972	IRRIGATION	0.04	2.5	
HERRMANN, MELISSA; VAN DYCK, CAMERON	34-14816	Decreed	8/1/1961	IRRIGATION	0.06	4.6	
HIGBEE, BRIDGET L; HIGBEE, OTTO J	34-13938	Decreed	8/16/1966	IRRIGATION	0.19	9.5	
HIGHWAY ESTATES WATER USERS INC	25-7038	Decreed	9/20/1973	DOMESTIC	0.20		
HIGLEY DEVELOPMENTS LLC	25-14444	Decreed	10/28/1953	IRRIGATION	0.05	2.8	
HIHN, AMBER R; HIHN, THOMAS M	34-14296	Decreed	12/17/1961	IRRIGATION	0.09	4.6	
HILL, BRENT; LLOYD, LINDA; MC GARY, DEBRA; MC GARY, STEPHEN	22-7584	License	8/30/1988	DOMESTIC, IRRIGATION	0.10	2.0	

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HINCKLEY, LA PREAL	25-14005	License	10/12/2003	IRRIGATION	0.06	3.0	
HINTZE FARMS	34-10696	Decreed	4/26/1955	COMMERCIAL	0.04		
HINTZE, LIN F; HINTZE, S K	34-10702	Decreed	7/1/1955	COMMERCIAL	0.04		
HJELM, JAMIE; HJELM, KATHY	34-7019B	Decreed	4/28/1977	IRRIGATION	0.23	23.0	
HJELM, JAMIE; HJELM, KATHY	34-10056B	Decreed	8/5/1979	IRRIGATION	0.03	23.0	Yes
HK CONTRACTORS INC	25-14462	License	3/2/2018	INDUSTRIAL	1.05		
HOLDAWAY, CHAD	31-4069	Decreed	12/31/1961	DOMESTIC, STOCKWATER	0.16		
HOLLADAY, JAYSON C; HOLLADAY, RUTH R	29-2336	Decreed	7/1/1953	DOMESTIC, IRRIGATION	0.04	3.0	
HOLLAND, JOHN H; HOLLAND, JUDITH A	36-7112	Decreed	1/22/1970	IRRIGATION, STOCKWATER	0.84	40.0	
HOLMES, JENNIFER A; HOLMES, MARK E	34-7562	License	11/14/1994	DOMESTIC	0.10		
HOLT, CHRIS; HOLT, TINA	34-2374B	Decreed	7/11/1960	IRRIGATION	0.53	27.5	
HONDO, AKIYE I; HONDO, DANIEL A	45-2664	Decreed	8/30/1961	IRRIGATION	2.00	157.0	
HORSESHOE BEND LLC	25-14296	Decreed	2/7/1957	IRRIGATION	0.37	65.9	
HOWARD, DANIEL	34-14767	Decreed	9/29/1966	IRRIGATION	0.05	2.8	
HOWARD, DANIEL	34-14769	Decreed	5/20/1984	IRRIGATION	0.01	2.8	Yes
HOWE WATER DISTRICT	33-7067	Decreed	3/28/1979	DOMESTIC	0.70		
HUELSMAN, BARBARA; HUELSMAN, LONE JAMES	34-14497	Decreed	8/29/1960	IRRIGATION	0.04	2.0	
HUFFAKER, COLLEEN; HUFFAKER, DALE	34-13894	Decreed	8/1/1961	IRRIGATION	0.12	9.6	
HUFFAKER, COLLEEN; HUFFAKER, DALE	34-14871	Decreed	9/29/1966	IRRIGATION	0.02	1.2	
HUFFAKER, COLLEEN; HUFFAKER, DALE	34-14947	Decreed	9/29/1966	IRRIGATION	0.14	8.5	
HUFFAKER, COLLEEN; HUFFAKER, DALE	34-14872	Decreed	5/20/1984	IRRIGATION	0.01	1.2	Yes
HUFFAKER, COLLEEN; HUFFAKER, DALE	34-14948	Decreed	5/20/1984	IRRIGATION	0.02	8.5	Yes
HUGGINS, CHARLES D	34-13927	Decreed	6/10/1977	IRRIGATION	0.26	30.1	
HUGGINS, CHARLES D; HUGGINS, KAREN	34-2401E	Decreed	3/6/1961	IRRIGATION	0.16	8.0	
HUNSTMANS PROPERTIES	27-7511	License	4/20/1990	COMMERCIAL	0.33		
HUNTING, AUDREY	25-7453	License	10/28/1988	IRRIGATION	0.03	1.0	
HUTCHISON, JA NEAL; HUTCHISON, WINSTON	45-4218	Decreed	7/1/1958	IRRIGATION	0.05	1.5	
HYMAS, KIMBERLY; HYMAS, TORREY ERIC	29-14454	Decreed	10/28/1953	IRRIGATION	0.05	6.4	
HYMAS, KIMBERLY; HYMAS, TORREY ERIC	29-14434	Decreed	6/23/1977	IRRIGATION	0.06	6.4	
ID DEPARTMENT OF FISH AND GAME	29-13997	Decreed	1/21/1964	DIVERSION TO STORAGE, RECREATION STORAGE	0.12		
ID DEPARTMENT OF FISH AND GAME	29-13998	License	2/10/2011	RECREATION STORAGE	0.00		
ID DEPARTMENT OF JUVENILE CORRECTIONS	21-11971	Decreed	1/1/1956	COMMERCIAL	0.68		
ID DEPARTMENT OF PARKS AND RECREATION	36-17147	Decreed	8/7/1973	IRRIGATION	0.06	5.0	
ID DEPARTMENT OF TRANSPORTATION	37-20852	Decreed	9/20/1974	IRRIGATION	0.09		

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ID DEPARTMENT OF TRANSPORTATION	22-7317	Decreed	1/31/1980	COMMERCIAL, DOMESTIC	0.04		
ID DEPARTMENT OF TRANSPORTATION	31-7372	Decreed	1/28/1982	INDUSTRIAL	0.05		
ID FISH & GAME COMMISSION	35-8635A	Decreed	12/17/1986	FISH PROPAGATION	0.72		
ID FISH & GAME COMMISSION	35-8679	License	12/26/1988	COMMERCIAL	1.00		
IDAHO AGRI INVESTMENTS LLC	45-14533	Decreed	9/6/1967	COMMERCIAL, STOCKWATER	3.01		
IDAHO AGRI INVESTMENTS LLC	45-7237	License	5/2/1975	DOMESTIC, STOCKWATER	0.08		
IDAHO FALLS COUNTRY CLUB INC	25-13372	Decreed	12/31/1961	COMMERCIAL, IRRIGATION	0.67	132.0	
IDAHO POWER COMPANY	29-8126	Decreed	1/26/1959	INDUSTRIAL	2.68		
IDAHO POWER COMPANY	45-7669	License	1/9/1990	DOMESTIC	0.06		
IDAHO STATE UNIVERSITY	29-7289	Decreed	9/22/1975	HEATING	1.12		
IDAHO WATER CO LLC	36-16909	Decreed	9/12/1973	IRRIGATION	0.06	485.0	
IDAHO WATER CO LLC	36-16911	Decreed	9/12/1973	IRRIGATION	0.10	485.0	
IDAHO WATER COMPANY LLC	29-14366	Decreed	5/27/1974	IRRIGATION	0.10	20.0	
INTERSTATE MFG	36-8454	License	9/14/1989	COMMERCIAL	0.04		
ISAAK, LAMAR	29-14319	Decreed	2/28/1977	IRRIGATION	0.56	38.0	
ISAEFF, PATRICIA	25-10094	Decreed	10/31/1958	DOMESTIC, IRRIGATION, STOCKWATER	0.06	2.0	
ISHAM FARMS	33-2070A	Decreed	2/14/1953	IRRIGATION	1.68	145.0	
ISHAM FARMS	33-2070B	Decreed	2/14/1953	IRRIGATION	0.14	959.0	
ISHAM FARMS	33-2116	Decreed	5/31/1963	IRRIGATION	3.33	959.0	
ISHAM FARMS	33-7006B	Decreed	8/18/1966	IRRIGATION	0.24	959.0	
ISHAM FARMS	33-7057E	Decreed	7/20/1977	IRRIGATION	0.38	959.0	
J R SIMPLOT CO	33-2076A	Decreed	3/22/1955	IRRIGATION	7.50	3002.0	
J R SIMPLOT CO	33-2076B	Decreed	3/22/1955	IRRIGATION	6.80	3002.0	
J R SIMPLOT CO	33-10092	Decreed	11/1/1961	DOMESTIC, STOCKWATER	0.15		
J R SIMPLOT CO	29-2515	Decreed	1/5/1966	IRRIGATION	2.00	196.0	
J R SIMPLOT CO	29-7036	Decreed	9/10/1969	DOMESTIC, INDUSTRIAL	0.03		
J R SIMPLOT CO	29-7089	Decreed	6/9/1972	IRRIGATION	1.08	196.0	
JACK C BROWN LIVING TRUST; PATRICIA BROWN LIVING TRUST	35-9072	License	12/7/1998	DOMESTIC	0.18		
JACOB, JANET; JACOB, PAUL	34-14814	Decreed	5/14/1977	IRRIGATION	0.21	10.7	
JACOBS, GEORGE J	25-7321	License	5/9/1983	DOMESTIC, STOCKWATER	0.08		
JANSS FARMS	37-7351	Decreed	4/12/1974	STOCKWATER	0.14		
JARVIS, WADE DEE	29-14360	Decreed	2/10/1987	IRRIGATION	0.02	1.5	
JEFFERSON SCHOOL DISTRICT #251	35-8683	License	12/2/1988	INDUSTRIAL	0.02		
JEFFERSON SCHOOL DISTRICT #251	25-7472	License	1/23/1989	DOMESTIC	0.07		
JEFFRIES, DAVID A; JEFFRIES, SARA E	37-23214	Decreed	9/20/1974	IRRIGATION	0.02	2.0	

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JENSEN FAMILY CATTLE LLC	34-2340B	Decreed	1/8/1958	IRRIGATION	1.40	56.0	
JENSEN FAMILY CATTLE LLC	34-14753	Decreed	9/9/1960	IRRIGATION	0.56	95.0	
JENSEN FAMILY CATTLE LLC	34-7233	Decreed	3/6/1986	IRRIGATION	1.34	95.0	
JENSEN, CHRIS L	35-7411B	Decreed	4/3/1974	IRRIGATION	0.01	1.0	
JENSEN, CHRISTY; JENSEN, MARSHALL	34-14426	Decreed	5/14/1977	IRRIGATION	0.15	7.5	
JENSEN, DE ANN N; JENSEN, JAY	34-2357B	Decreed	3/31/1960	IRRIGATION	2.00	82.0	
JENSEN, DE ANN N; JENSEN, JAY	34-7055	Decreed	12/20/1973	IRRIGATION	4.80	307.0	
JENSEN, DE ANN N; JENSEN, JAY	34-10923	Decreed	4/12/1994	IRRIGATION	1.05	307.0	Yes
JENSEN, DREW CLINT; JENSEN, ERIN ELIZABETH	34-13671	Decreed	7/17/1962	IRRIGATION	0.74	37.0	
JENSEN, GARY; JENSEN, LARRY	34-2409B	Decreed	4/6/1961	IRRIGATION	2.20	172.0	
JENSEN, GARY; JENSEN, LARRY	34-12034B	Decreed	6/20/1972	IRRIGATION	0.53	172.0	Yes
JENSON, RONALD; JENSON, SHARON	25-10156	Decreed	10/1/1959	DOMESTIC, IRRIGATION, STOCKWATER	0.09	1.5	
JEROME CHEESE CO	35-14253	Decreed	8/19/1952	MITIGATION	0.06		
JEROME CHEESE CO	36-16380	Decreed	9/12/1973	MITIGATION	0.11		
JKC FARMS LLC	22-7649	License	4/10/2017	IRRIGATION	1.75	366.8	
JOHN L POWERS TRUST	34-14917	License	1/22/1980	IRRIGATION	0.03	5.3	
JOHN LEZAMIZ FAMILY LTD PARTNERSHIP	34-2350	Decreed	7/13/1959	IRRIGATION	1.60	490.9	
JOHN LEZAMIZ FAMILY LTD PARTNERSHIP	34-14808	Decreed	8/29/1960	DIVERSION TO STORAGE, IRRIGATION	0.27	13.5	
JOHN LEZAMIZ FAMILY LTD PARTNERSHIP	34-13890	Decreed	4/14/1961	IRRIGATION	2.31	248.1	
JOHN LEZAMIZ FAMILY LTD PARTNERSHIP	34-2418	Decreed	5/24/1961	IRRIGATION	1.26	490.9	
JOHN LEZAMIZ FAMILY LTD PARTNERSHIP	34-14621	Decreed	12/17/1961	IRRIGATION	0.10	186.0	
JOHN LEZAMIZ FAMILY LTD PARTNERSHIP	34-14623	Decreed	12/17/1961	IRRIGATION	0.24	186.0	
JOHN LEZAMIZ FAMILY LTD PARTNERSHIP	34-14674	Decreed	12/17/1961	IRRIGATION	0.07	186.0	
JOHN LEZAMIZ FAMILY LTD PARTNERSHIP	34-14678	Decreed	12/17/1961	IRRIGATION	0.10	186.0	
JOHNSON, DON A; JOHNSON, LAURIE	25-7493	License	3/8/1989	DOMESTIC	0.06		
JOHNSON, E BUD	25-4227	Decreed	10/31/1956	DOMESTIC, IRRIGATION	0.11	1.2	
JOHNSON, MELISSA	25-7455	License	10/21/1988	DOMESTIC, IRRIGATION	0.07	1.0	
JOHNSON, RODNEY M; JOHNSON, SHERRY L	36-17277	Decreed	11/28/1977	IRRIGATION	0.04	2.0	
JOLLEY, BRYAN D; JOLLEY, TAMERA	35-4227B	Decreed	5/1/1959	IRRIGATION	0.02	1.0	
JONES, HEATHER; JONES, JUSTIN	29-14452	Decreed	10/28/1953	IRRIGATION	0.06	8.0	
JONES, HEATHER; JONES, JUSTIN	29-14432	Decreed	6/23/1977	IRRIGATION	0.07	8.0	
JONES, JACOB; JONES, REBECCA	29-14457	Decreed	10/28/1953	IRRIGATION	0.02	2.0	
JONES, JACOB; JONES, REBECCA	29-14437	Decreed	6/23/1977	IRRIGATION	0.02	2.0	
JONES, ROSA GAY	29-7913	License	4/3/1990	DOMESTIC, IRRIGATION	0.06	5.0	
JORY, GRACE; JORY, GRIFFIN WHEELER	29-14140	Decreed	9/25/1957	DOMESTIC, IRRIGATION	0.02	0.5	

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Owner	Water Right No.	Basis	Priority Date	Water Use List	Diversion Rate (cfs)	Total Acres	Enlargement
JOURNEYS END HOMEOWNERS ASSN	35-13612	License	11/24/2003	DOMESTIC	0.40		
JOURNEYS END HOMEOWNERS ASSN	35-13611	License	1/13/2007	COMMERCIAL, DOMESTIC	0.11		
JUNIPER HILLS COUNTRY CLUB INC	29-13827	Decreed	1/29/1960	IRRIGATION	0.30	15.0	
JUNIPER HILLS COUNTRY CLUB INC	29-4433	Decreed	4/1/1960	IRRIGATION	2.27	113.3	
JUNIPER VIEW LLC	22-14339	License	4/10/2017	IRRIGATION	0.12	24.5	
KAREY LANE WELL ASSN	35-7698	Decreed	8/11/1983	DOMESTIC	0.14		
KAREY LANE WELL ASSN	35-8943	License	5/3/1991	DOMESTIC	0.09		
KAY, JUSTINE; KAY, THOMAS F; LEVESQUE, GLENDA R	34-2484	Decreed	8/12/1966	IRRIGATION	0.01	2.0	
KEISTER, ARLIE; KEISTER, VICKI	34-13672	Decreed	7/17/1962	IRRIGATION	0.40	20.0	
KELLER, JEANNE; KELLER, STEVE F	34-13785	Decreed	4/2/1980	IRRIGATION	0.08	4.4	
KELLER, STEVE F	34-13784	Decreed	4/2/1980	IRRIGATION	0.07	3.7	
KELLY, JAMIE; KELLY, MARCUS	34-2447C	Decreed	7/16/1963	IRRIGATION	0.50	40.0	
KELLY, JAMIE; KELLY, MARCUS	34-10930C	Decreed	8/6/1987	IRRIGATION	0.28	40.0	Yes
KENNY AND CHELSIE HILL LIVING TRUST	29-14456	Decreed	10/28/1953	IRRIGATION	0.02	2.1	
KENNY AND CHELSIE HILL LIVING TRUST	29-14436	Decreed	6/23/1977	IRRIGATION	0.02	2.1	
KEYBANK NATIONAL ASSOC	25-7517	License	8/24/1989	COMMERCIAL	0.50		
KING MOUNTAIN GLIDER PARK FOUNDATION INC	34-14672	Decreed	3/6/1961	IRRIGATION	0.36	17.3	
KING MOUNTAIN GLIDER PARK FOUNDATION INC	34-14926	Decreed	3/6/1961	IRRIGATION	0.01	0.4	
KING, ELVA S; KING, STEPHEN B	34-2388A	Decreed	9/16/1960	IRRIGATION	1.60	170.0	
KING, ELVA S; KING, STEPHEN B	34-13947	Decreed	2/21/1961	IRRIGATION	1.64	170.0	
KING, ELVA S; KING, STEPHEN B	34-7067A	Decreed	3/22/1974	IRRIGATION	0.91	170.0	
KING, LORI B; KING, STEPHEN K	34-2388C	Decreed	9/16/1960	IRRIGATION	0.45	25.0	
KING, LORI B; KING, STEPHEN K	34-2449B	Decreed	3/4/1963	IRRIGATION	2.40	187.0	
KING, LORI B; KING, STEPHEN K	34-7067C	Decreed	3/22/1974	IRRIGATION	0.11	25.0	
KING, LORI B; KING, STEPHEN K	34-12393	Decreed	5/1/1983	IRRIGATION	0.91	187.0	Yes
KING, ROBERT J; KING, SAMMI J	34-2406H	Decreed	3/20/1961	IRRIGATION	0.77	37.0	
KINGHORN, KARL	25-14338	Decreed	2/18/1958	IRRIGATION	1.37	47.9	
KIRBY, DORIS F; KIRBY, ELWOOD	35-7860	License	6/20/1979	DOMESTIC	0.08		
KIRKHAM JR, DALE B; KIRKHAM, DALE B	29-7941	License	3/31/1990	COMMERCIAL	0.08		
KNIFE RIVER CORPORATION MOUNTAIN WEST	25-14552	Permit	7/8/2024	DIVERSION TO STORAGE, INDUSTRIAL FROM STORAGE, INDUSTRIAL STORAGE, INDUSTRIAL	0.78		
KOCH MATERIALS CO	35-12087	Decreed	5/1/1962	COMMERCIAL, FIRE PROTECTION, INDUSTRIAL	0.11		
KOCH, DENNIS W; KOCH, DIANA E	45-13621	Decreed	7/14/1983	IRRIGATION	0.04	3.4	
KOON, JACK E	22-7751	License	9/18/1992	DOMESTIC	0.06		
KOPP, GWENDOLYN	25-7522	License	9/1/1989	DOMESTIC	0.04		

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KOYLE, JOHN DENNIS; KOYLE, SHANNA	37-2663	Decreed	5/31/1961	IRRIGATION	2.12	156.0	
KRISHNEK, RONALD	34-2477G	Decreed	6/13/1966	IRRIGATION	0.21	11.0	
KRUCKEBERG, ALEISHA; KRUCKEBERG, MATTHEW	35-14730	Decreed	9/28/1981	IRRIGATION	0.01	2.4	
KUBIAK, VERNON ROBERT	34-2366B	Decreed	5/12/1960	IRRIGATION	0.09	7.0	
KUBS, CHRISTOPHER; KUBS, LIANNE	34-7000	Decreed	6/20/1967	IRRIGATION	0.16	8.0	
KUGLER, DIANE K; KUGLER, JOHN B	35-8359	Permit	11/28/1984	IRRIGATION	6.00	313.0	
KULHANEK, DENNIS; KULHANEK, MAXINE	36-8503	License	2/21/1990	IRRIGATION	0.04	2.0	
L & S LAND HOLDINGS LLC	36-17189	Decreed	11/26/1956	COMMERCIAL, STOCKWATER	0.13		
L & S LAND HOLDINGS LLC	36-17188	Decreed	1/23/1973	COMMERCIAL, STOCKWATER	0.09		
L & S LAND HOLDINGS LLC	36-17242	Decreed	1/23/1973	COMMERCIAL, STOCKWATER	0.08		
L & S LAND HOLDINGS LLC	36-17190	Decreed	10/27/1973	COMMERCIAL, STOCKWATER	0.08		
L & S LAND HOLDINGS LLC	36-17187	License	9/24/1979	COMMERCIAL, STOCKWATER	0.20		
L2 LTD PARTNERSHIP; L3 LTD PARTNERSHIP	32-4058	Decreed	7/1/1953	DOMESTIC, STOCKWATER	0.16		
LAGOMARSINO, MATTHEW J; LAGOMARSINO, RAMONA; LAGOMARSINO, RICHARD A	33-2109	Decreed	1/29/1962	IRRIGATION	2.40	230.0	
LAGOMARSINO, MATTHEW J; LAGOMARSINO, RAMONA; LAGOMARSINO, RICHARD A	33-2118	Decreed	5/13/1964	IRRIGATION	3.49	278.0	
LAGOMARSINO, MATTHEW J; LAGOMARSINO, RAMONA; LAGOMARSINO, RICHARD A	33-2131	Decreed	12/5/1966	IRRIGATION	1.10	230.0	
LAGOMARSINO, MATTHEW J; LAGOMARSINO, RAMONA; LAGOMARSINO, RICHARD A	33-7002A	Decreed	4/19/1968	IRRIGATION	1.60	154.0	
LAGOMARSINO, MATTHEW J; LAGOMARSINO, RAMONA; LAGOMARSINO, RICHARD A	33-10029	Decreed	6/1/1968	IRRIGATION	0.87	230.0	Yes
LAGOMARSINO, MATTHEW J; LAGOMARSINO, RAMONA; LAGOMARSINO, RICHARD A	33-7005	Decreed	8/15/1968	IRRIGATION	5.12	313.0	
LAGOMARSINO, MATTHEW J; LAGOMARSINO, RAMONA; LAGOMARSINO, RICHARD A	33-7020	Decreed	2/1/1973	IRRIGATION	3.40	237.0	
LAMB WESTON INC	35-14786	Permit	4/29/2022	INDUSTRIAL	15.00		
LAMB, CORY W; LAMB, TERI G	29-10645	Decreed	5/15/1960	IRRIGATION	0.03	1.0	
LAMBERT, LYLE; LAMBERT, NADINE	29-7640	Decreed	5/17/1982	DOMESTIC, IRRIGATION, STOCKWATER	0.04	1.0	
LAMBSON, GARY G; LAMBSON, KATHLEEN K	34-2336C	Decreed	4/9/1956	IRRIGATION	0.08	4.0	
LAMBSON, GARY G; LAMBSON, KATHLEEN K	34-2336D	Decreed	4/9/1956	IRRIGATION	0.06	3.0	
LAMBSON, GARY G; LAMBSON, KATHLEEN K	34-7030	Decreed	2/9/1973	IRRIGATION	0.25	32.0	
LAMBSON, SHARLEECE; LAMBSON, WILLIAM JARED	34-2336B	Decreed	4/9/1956	IRRIGATION	0.40	20.0	
LAMBSON, SHARLEECE; LAMBSON, WILLIAM JARED	34-7222	Decreed	11/30/1978	IRRIGATION	0.02	1.0	
LANDON, JESSICA; LANDON, PAUL	25-14521	License	1/14/1983	IRRIGATION	0.11	10.0	
LANDON, JULIE; LANDON, KELLY	25-14475	Decreed	8/10/1966	IRRIGATION	0.04	2.0	

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LANE JR, DALLAS R; LANE, CRYSTAL L KANDERIS	29-14450	Decreed	10/28/1953	IRRIGATION	0.02	2.8	
LANE JR, DALLAS R; LANE, CRYSTAL L KANDERIS	29-14430	Decreed	6/23/1977	IRRIGATION	0.03	2.8	
LARSEN, BLAINE L; LARSEN, CONNIE L	31-12200	Decreed	2/17/1969	DOMESTIC	0.04		
LARSEN, HELEN	35-8127	License	4/28/1983	DOMESTIC, STOCKWATER	0.08		
LARSEN, JO ANN B	25-7315	Decreed	4/12/1983	COMMERCIAL, DOMESTIC, IRRIGATION	0.19	1.0	
LARSEN, PEGGY A; LARSEN, RICHARD J	31-7129	License	7/30/1974	DOMESTIC, STOCKWATER	0.08		
LARSON, BECKY J; LARSON, CHARLES W	45-4160	Decreed	3/15/1962	IRRIGATION	1.70	173.0	
LAZY EIGHT ESTATES DIVISION 2 HOMEOWNERS ASSN INC	25-14189	License	10/26/2006	DOMESTIC	0.50		
LAZY P FARMS; PAULS, DEBBRAH; PAULS, EMIL V; PAULS, RONALD	37-8147	License	6/27/1983	DOMESTIC, IRRIGATION, STOCKWATER	0.04	1.8	
LEAVELL, ALONZO B	37-11199	Decreed	4/1/1960	DOMESTIC	0.03		
LEAVITT, LANCE H; LEAVITT, STEPHANIE D	34-14433	Decreed	2/11/1955	IRRIGATION	0.07	4.2	
LEAVITT, LANCE H; LEAVITT, STEPHANIE D	34-2323E	Decreed	2/11/1955	IRRIGATION	0.06	4.1	
LEE, CAROLYN C; LEE, LARRY O	31-7166A	Permit	6/27/1975	IRRIGATION	3.20	160.0	
LEHMAN, CLAUDIA; LEHMAN, MORRIS	29-7333	Decreed	6/24/1976	DOMESTIC, IRRIGATION	0.16	4.0	
LEMMON, JOYCE; LEMMON, MELVIN C	34-10836	Decreed	6/1/1953	IRRIGATION	0.04	1.9	
LES SCHWAB TIRE CENTERS OF IDAHO	36-11803	Decreed	11/15/1958	COMMERCIAL	0.38		
LEZAMIZ, SID	37-10363	Decreed	9/1/1959	COMMERCIAL	0.11		
LIMA, GUADALUPE	36-17128	Decreed	9/20/1973	IRRIGATION	0.02	1.2	
LITTLE FARM LLC	34-13984	Decreed	3/6/1961	IRRIGATION	1.36	65.3	
LITTLE LOST DAIRY LLC	33-7013	Decreed	4/26/1972	IRRIGATION	2.74	206.2	
LITTLE LOST DAIRY LLC	33-7026	Decreed	10/30/1973	IRRIGATION	1.08	206.2	
LITTLE LOST RIVER LAND & CATTLE LTD	33-2064	Decreed	9/15/1952	IRRIGATION	2.60	156.0	
LITTLE LOST RIVER LAND & CATTLE LTD	33-7030	Decreed	1/17/1974	IRRIGATION	2.85	134.4	
LITTLE LOST RIVER LAND & CATTLE LTD	33-7072	Decreed	4/24/1980	IRRIGATION	0.60	156.0	
LITTLE LOST RIVER LAND & CATTLE LTD	33-7174	License	5/31/1985	IRRIGATION	2.77	150.0	
LITTLEFIELD, ALISA M; LITTLEFIELD, JED	34-14897	Decreed	9/29/1966	IRRIGATION	0.05	3.0	
LITTLEFIELD, ALISA M; LITTLEFIELD, JED	34-14898	Decreed	5/20/1984	IRRIGATION	0.01	3.0	Yes
LOFTUS, LARRY; LOFTUS, STACEY	34-2398	Decreed	2/20/1961	IRRIGATION	1.40	70.0	
LOGSDON, BRUCE; LOGSDON, TRACY	34-13931	Decreed	12/17/1961	IRRIGATION	0.09	4.6	
LOJA LLC	25-7424	License	4/1/1988	IRRIGATION	0.09	3.0	
LOMBARDI, DEAN; LOMBARDI, WANDAMAE	34-14104	Decreed	4/29/1955	IRRIGATION	0.39	201.6	
LOMBARDI, DEAN; LOMBARDI, WANDAMAE	34-13928	Decreed	6/10/1977	IRRIGATION	0.45	201.6	
LONG, DAVID JESSE; LONG, SYLVIA M	35-14908	Decreed	8/19/1977	IRRIGATION	0.11	6.5	
LOOP, JACQUELINE	25-14486	License	9/19/1989	DOMESTIC, IRRIGATION	0.06	0.7	
LOOSLI, S LYNN	21-13258	Decreed	7/14/1977	IRRIGATION	6.75	1651.5	

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LORD, CHRIS; LORD, TEENA	34-2467	Decreed	9/28/1965	IRRIGATION	1.82	91.0	
LORD, DONALD; LORD, JUDY	34-13719	Decreed	4/19/1960	IRRIGATION	0.10	16.0	
LORD, GRANT; LORD, JULIE	34-13844	Decreed	3/2/1961	IRRIGATION	0.08	4.3	
LORDS, DARRELL M	35-8778	License	5/31/1989	IRRIGATION	0.10	4.5	
LORDS, DUSTON; LORDS, HOLLY	34-4035A	Decreed	8/1/1960	IRRIGATION	0.17	8.5	
LOST RIVER FARMS	34-14346	Decreed	8/12/1966	IRRIGATION	0.38	177.0	
LOST RIVER FARMS	34-7205	Decreed	8/1/1977	IRRIGATION	4.62	177.0	
LOVELAND, ANN; LOVELAND, KEVIN	29-14295	Decreed	10/26/1959	IRRIGATION	1.63	128.4	
LOVELL, HOPE; LOVELL, JAMES R	25-7598	License	9/25/1991	IRRIGATION	0.03	1.9	
LYNCH, LESLIE R	36-7154	Decreed	1/25/1971	INDUSTRIAL	0.02		
M & N LAND LLC	45-14568	Decreed	2/1/1954	IRRIGATION	0.44	101.0	
M & N LAND LLC	45-14567	Decreed	12/10/1956	IRRIGATION	0.92	101.0	
MACKAY LAND CO	34-14042	Decreed	5/11/1960	IRRIGATION	0.71	75.0	
MACKAY LAND CO	34-14469	Decreed	5/11/1960	IRRIGATION	0.78	75.0	
MACKAY RV PARK LLC	34-14649	Decreed	9/29/1966	IRRIGATION	0.52	31.5	
MACKAY RV PARK LLC	34-14650	Decreed	5/20/1984	IRRIGATION	0.09	31.5	Yes
MACKAY SCHOOL DISTRICT #182	34-10942	Decreed	5/7/1954	IRRIGATION	0.28	20.0	
MADARIETA SOD FARM	33-14910	Decreed	5/25/1972	IRRIGATION	0.04	5.0	
MADARIETA SOD FARM	33-14912	Decreed	4/11/1973	IRRIGATION	0.03	5.0	
MADISON SCHOOL DISTRICT #321	22-14474	Permit	5/13/2022	DOMESTIC	0.26		
MAGEE FAMILY TRUST	34-13762	Decreed	11/28/1952	IRRIGATION	0.99	197.4	
MAGEE FAMILY TRUST	34-2399	Decreed	2/24/1961	IRRIGATION	1.52	197.4	
MAGEE FAMILY TRUST	34-14343	Decreed	4/1/1987	IRRIGATION	0.12	197.4	Yes
MAGEE GROUP INC	34-2384	Decreed	8/29/1960	IRRIGATION	1.12	58.0	
MAGEE GROUP INC	34-2464	Decreed	6/28/1965	IRRIGATION	2.13	115.6	
MAGIC VALLEY GROWERS LTD	37-20612	Decreed	6/1/1956	INDUSTRIAL	0.10		
MAGNIFY LAND CONSULTING LLC	36-17208	Decreed	4/13/1976	IRRIGATION	0.20	10.0	
MANGAN, LOUIS; MANGAN, ROBIN	34-14660	Decreed	12/17/1961	IRRIGATION	0.11	5.7	
MARLOWE, MARK; MARLOWE, MICHELLE	25-14319	Decreed	8/10/1966	IRRIGATION	0.02	1.0	
MARSHALL, BYRON GUY; MARSHALL, LORI ANN	29-14138	Decreed	2/10/1987	IRRIGATION	0.11	7.0	
MARSHALL, DON W	25-7462	License	11/10/1988	DOMESTIC, IRRIGATION	0.07	1.0	
MARTIAN, ERICA; MARTIAN, PETER	35-7855	Decreed	5/1/1979	COMMERCIAL, HEATING	0.04		
MARTIN, HAROLD D	35-13621	License	12/27/1989	DOMESTIC, IRRIGATION	0.04	0.8	
MASON, JOHN D; MASON, VALERIE	29-7294	Decreed	11/4/1975	DOMESTIC, IRRIGATION	0.12	8.0	
MAUGHAN, GAYLORD L	31-12220	Decreed	8/22/1955	IRRIGATION	0.07	3.5	

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MAUTHE, RICHARD E; MCCASLIN, NANCY J	34-4070	Decreed	8/1/1961	IRRIGATION, STOCKWATER	1.80	105.1	
MAUTHE, RICHARD E; MCCASLIN, NANCY J	34-7248	Decreed	7/8/1980	IRRIGATION, STOCKWATER	0.97	46.4	
MAXMILLION FARMS; SHRADER, MAXINE R	35-8224	Decreed	6/30/1983	DOMESTIC, IRRIGATION	0.04	1.0	
MAYS, DARRELL DEAN; MAYS, MARCHETA	33-2114	Decreed	2/13/1963	IRRIGATION	4.69	901.0	
MAYS, DARRELL DEAN; MAYS, MARCHETA	33-10057	Decreed	4/1/1963	IRRIGATION	4.69	901.0	
MAYS, DARRELL DEAN; MAYS, MARCHETA	33-7192	Decreed	2/12/1990	IRRIGATION	2.74	782.0	
MAYS, KAYALIN; MAYS, RUSSELL H	33-10081	Decreed	8/24/1962	IRRIGATION	8.40	621.5	
MAYS, KAYALIN; MAYS, RUSSELL H	33-7024	Decreed	10/15/1973	IRRIGATION	9.03	320.0	
MC AFFEE, ANGIE; MC AFFEE, RYE	34-7214	Decreed	5/21/1978	IRRIGATION	0.20	12.0	
MC AFFEE, GAIL; MC AFFEE, SCOTT L	34-2351	Decreed	7/20/1959	IRRIGATION	2.90	171.8	
MC AFFEE, GAIL; MC AFFEE, SCOTT L	34-7227	Decreed	5/3/1979	IRRIGATION	0.71	39.0	
MC AFFEE, PAIGE WOODIE	33-2084	Decreed	11/18/1957	IRRIGATION	1.16	260.0	
MC AFFEE, PAIGE WOODIE	33-2095	Decreed	8/30/1960	IRRIGATION	1.55	151.0	
MC AFFEE, PAIGE WOODIE	33-2136	Decreed	8/10/1966	IRRIGATION	1.83	260.0	
MC AFFEE, PAIGE WOODIE	33-7046	Decreed	7/12/1976	IRRIGATION	0.60	151.0	
MC AFFEE, RUTH G; MC AFFEE, RYAN G	34-10323	Decreed	4/18/1975	IRRIGATION	2.62	148.0	
MC BURNEY, CLORINDA M; MC BURNEY, TED L	34-2382A	Decreed	9/18/1960	DOMESTIC, IRRIGATION, STOCKWATER	0.20	9.0	
MC CALL OIL & CHEMICAL	25-7045	Decreed	2/25/1974	DOMESTIC, INDUSTRIAL	0.08		
MC CLYMONDS II, ROBERT C; MC CLYMONDS, KATHERINE A	34-7210B	Decreed	11/8/1977	IRRIGATION	0.21	14.0	
MC COWIN, BRENDA	25-7544	License	8/16/1989	DOMESTIC	0.07		
MC CRAY, JOHN A; MC CRAY, MATEA H	34-7066	Decreed	3/31/1974	IRRIGATION	1.18	60.0	
MC DANIEL, KELLY; MC DANIEL, KIM	34-14240	Decreed	6/13/1968	IRRIGATION	0.05	3.0	
MC DANIEL, WENDY M	25-14299	Decreed	8/10/1966	IRRIGATION	0.03	1.5	
MC DANIEL, ZEE M	25-14330	Decreed	8/10/1966	IRRIGATION	0.80	39.7	
MC DANIEL, ZEE M	25-14332	Decreed	7/27/1972	IRRIGATION	0.40	26.9	
MC DONALD, CHARLES H	33-14916	Decreed	2/4/1977	IRRIGATION	0.01	2.0	
MC DONALD, JAMES; MC DONALD, JESSICA	34-2438	Decreed	9/13/1961	IRRIGATION	0.57	33.0	
MC DONALD, JAMES; MC DONALD, JESSICA	34-10795	Decreed	4/1/1977	IRRIGATION	0.09	33.0	Yes
MC FAMILY REAL ESTATE LLC	34-10615	Decreed	10/17/1955	IRRIGATION	3.34	504.0	
MC FAMILY REAL ESTATE LLC	34-4136	Decreed	4/1/1956	IRRIGATION	3.02	151.0	
MC FAMILY REAL ESTATE LLC	34-14429	Decreed	4/21/1960	IRRIGATION	5.06	252.8	
MC FAMILY REAL ESTATE LLC	34-10617	Decreed	6/1/1961	IRRIGATION	2.18	504.0	
MC GARRY, BRANDON; MC GARRY, BRITTNI	35-14689	Decreed	4/7/1958	IRRIGATION	0.40	65.0	
MC GARRY, KATHLEEN; MC GARRY, TIM R	35-14688	Decreed	4/7/1958	IRRIGATION	0.77	124.0	
MC GARRY, LOGAN PHILLIPS; MC GARRY, WHITNEY DAWN	21-13309	Decreed	6/25/1960	IRRIGATION	0.03	1.5	

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MC HAN, CRYSTAL	45-14515	Decreed	7/15/1974	IRRIGATION	0.02	1.5	
MC KELVEY, JAMES P	34-2456C	Decreed	11/3/1964	IRRIGATION	0.25	10.0	
MC KELVEY, JOHN Q; MC KELVEY, MARGARET E	34-14862	Decreed	11/28/1952	IRRIGATION	0.01	3.5	
MC KELVEY, JOHN Q; MC KELVEY, MARGARET E	34-14861	Decreed	5/16/1977	IRRIGATION	0.06	3.5	
MC KELVEY, JOHN Q; MC KELVEY, MARGARET E	34-14863	Decreed	4/1/1987	IRRIGATION	0.01	3.5	Yes
MC KINNEY, MONICA; MC KINNEY, WILLIAM	37-23208	Decreed	9/20/1974	IRRIGATION	0.02	1.0	
MC KINNEY, MONICA; MC KINNEY, WILLIAM	37-23210	Decreed	9/20/1974	IRRIGATION	0.03	1.5	
MC KINNEY, MONICA; MC KINNEY, WILLIAM	37-23215	Decreed	9/20/1974	IRRIGATION	0.01	0.8	
MEAD, JOHN D; MEAD, LISA J	34-14813	Decreed	6/28/1977	IRRIGATION	0.39	19.0	
MEMMOTT, JENNIFER; MEMMOTT, JOHN C	25-7556	License	9/18/1989	DOMESTIC, IRRIGATION	0.08	1.2	
MENAN PRODUCE INC	25-12178	Decreed	11/1/1953	DOMESTIC, INDUSTRIAL	0.10		
MERLIN HOLDINGS LLC	25-14265	Decreed	8/10/1966	IRRIGATION	0.03	1.3	
MERRILL, CHRISTOPHER; MERRILL, CINDY	25-13580	Decreed	1/1/1963	DOMESTIC, IRRIGATION	0.14	5.0	
MERRILL, KENT	25-14364	License	2/28/1992	IRRIGATION	0.19	12.2	
MGR FARMS LLC	22-13515	Decreed	5/24/1960	IRRIGATION	0.06	3.6	
MICKELSEN PROPERTIES LLC	31-12553	Decreed	6/20/1969	IRRIGATION	0.11	8.5	
MICKELSEN PROPERTIES LLC	31-12554	Decreed	6/20/1969	IRRIGATION	1.61	121.3	
MIKESELL, ELEANOR	31-10268	Decreed	5/1/1957	COMMERCIAL, DOMESTIC	0.04		
MIKKOLA, ARTHUR; MIKKOLA, MARK	25-7389	Decreed	11/2/1983	DOMESTIC, STOCKWATER	0.06		
MILBERT, TIM	34-14211	Decreed	6/29/1959	IRRIGATION	0.05	2.3	
MILBERT, TIM	34-14171	Decreed	11/18/1974	DOMESTIC, IRRIGATION	0.06	2.0	
MILLER, CHARLES; MILLER, RACHEL	25-7442	License	9/8/1988	DOMESTIC, IRRIGATION	0.05	1.0	
MILLER, LYNETTE R; MILLER, MARVIN G	25-4194	Decreed	11/1/1960	IRRIGATION	0.13	7.0	
MILLERCOORS USA LLC	45-7641	License	6/8/1989	COMMERCIAL	0.04		
MINIDOKA IRRIGATION DISTRICT	36-13480	Decreed	5/31/1962	COMMERCIAL	0.04		
MINOR, JOSEPH W; MINOR, KATHLEEN D	34-14737	Decreed	9/29/1966	IRRIGATION	0.01	0.5	
MINOR, JOSEPH W; MINOR, KATHLEEN D	34-14738	Decreed	5/20/1984	IRRIGATION	0.01	0.5	Yes
MITCHELL, GREG J	34-13654	Decreed	6/13/1966	IRRIGATION	0.11	5.5	
MITCHELL, GREG J	34-2477E	Decreed	6/13/1966	IRRIGATION	0.19	10.0	
MITCHELL, RALPH M	45-7640	License	5/23/1989	DOMESTIC, IRRIGATION	0.07	1.5	
MODEL WATER USERS ASSN INC	35-7986	Decreed	6/1/1981	DOMESTIC	0.10		
MONCUR, DEAN	34-2368B	Decreed	5/16/1960	IRRIGATION	1.37	78.0	
MONCUR, DEAN	34-14241	Decreed	6/13/1968	IRRIGATION	0.56	32.0	
MONCUR, DEAN	34-14368	Decreed	6/13/1968	IRRIGATION	0.36	17.4	
MONCUR, DEAN	34-14779	Decreed	6/13/1968	IRRIGATION	0.02	1.0	

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MONCUR, DEAN	34-7019A	Decreed	4/28/1977	IRRIGATION	0.79	79.0	
MONCUR, DEAN	34-7208	Decreed	10/23/1977	IRRIGATION	1.40	183.0	
MONCUR, DEAN	34-10056A	Decreed	8/5/1979	IRRIGATION	0.08	79.0	Yes
MONCUR, WILLIAM	34-10860	Decreed	12/31/1962	IRRIGATION	0.13	6.5	
MONK, AUBRIE; MONK, STEVEN	35-14754	Decreed	4/23/1961	IRRIGATION	0.04	6.0	
MONTAGUE, FANNYE FLORENCE; MONTAGUE, JACK MICHAEL	29-7483	Decreed	2/10/1987	DOMESTIC, IRRIGATION	0.02	1.0	
MONTIERTH, GARY; MONTIERTH, NETTIE	34-13891	Decreed	4/14/1961	IRRIGATION	0.09	9.9	
MOO VIEW COW PALACE	45-13905	Decreed	11/16/1974	COMMERCIAL, STOCKWATER	0.30		
MOORE WATER & SEWER ASSN	34-14789	Decreed	2/11/1955	MUNICIPAL	0.49		
MOORE WATER & SEWER ASSN	34-7543	License	1/31/1990	MUNICIPAL	0.44		
MOORE, AARON R	37-23132	Decreed	9/23/1977	IRRIGATION	0.10	5.0	
MOORE, MEGAN; MOORE, SEAN	34-14849	Decreed	12/17/1961	IRRIGATION	0.08	4.1	
MORGAN II, RAYMOND R; MORGAN, LESLEY E	34-13720	Decreed	4/19/1960	IRRIGATION	0.05	6.5	
MORGAN, CHASE D; MORGAN, JENNY L	29-14449	Decreed	10/28/1953	IRRIGATION	0.01	1.8	
MORGAN, CHASE D; MORGAN, JENNY L	29-14429	Decreed	6/23/1977	IRRIGATION	0.02	1.8	
MORGAN, CODY G; MORGAN, KATHY	36-17092	Decreed	3/11/1954	COMMERCIAL, STOCKWATER	0.04		
MORGAN, CODY G; MORGAN, KATHY	36-17091	Decreed	2/6/1961	COMMERCIAL, STOCKWATER	0.02		
MORRISS, JUDITH L; MORRISS, VIRGIL R	25-7483	License	12/22/1988	DOMESTIC, IRRIGATION, STOCKWATER	0.04	3.0	
MOSS FARMS INC	34-2379F	Decreed	8/8/1960	IRRIGATION	2.11	112.0	
MOSS, CAROL C; MOSS, ROBERT K	34-2333A	Decreed	7/7/1955	IRRIGATION	0.06	7.0	
MOSS, CAROL C; MOSS, ROBERT K	34-2333B	Decreed	7/7/1955	IRRIGATION	1.86	93.0	
MOSS, DENNIS K	34-14525	Decreed	6/6/1961	IRRIGATION	0.64	32.0	
MOUNT MC CALEB INC	34-7512	Decreed	5/22/1989	DOMESTIC	0.04		
MOUNTAIN RIVER SPORTSMANS RV PARK & CAMP	25-14229	License	9/2/2008	COMMERCIAL	0.20		
MOUNTAIN VIEW COURT LLC	21-7428	License	3/23/1989	COMMERCIAL	0.09		
MOUNTAIN VIEW LAND LLC	36-17319	Decreed	9/24/1976	COMMERCIAL, STOCKWATER	0.20		
MOUNTAIN WEST BARK PRODUCTS INC	22-7573	License	8/8/1988	COMMERCIAL	0.08		
MOWREY, KRISTIE; MOWREY, RICK	29-7009	Decreed	3/22/1968	DOMESTIC, IRRIGATION, STOCKWATER	0.11	4.5	
MOYLE, KEVIN A; MOYLE, TAYLOR N	36-17240	License	3/16/1989	COMMERCIAL, DOMESTIC, STOCKWATER	0.33		
MOZES, BOB	34-2406G	Decreed	3/20/1961	IRRIGATION	0.29	14.0	
MULLENIX, PAUL	34-2331	Decreed	5/4/1955	IRRIGATION	1.48	77.0	
MURPHY, LA VERN A	36-10046	Decreed	3/1/1964	DOMESTIC	0.04		
MURRI BUILDERS LLC	25-14320	Decreed	8/10/1966	IRRIGATION	0.02	1.0	
MURRI BUILDERS LLC	25-14322	Decreed	7/27/1972	IRRIGATION	0.01	0.7	
NAPOLI, MARIA; ULIAN, PETER	34-7211	Decreed	1/6/1978	DOMESTIC, IRRIGATION	0.10	4.0	

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NATION, DUANE; NATION, LEAH	34-13783	Decreed	4/2/1980	IRRIGATION	0.04	2.6	
NATURAL GUARDIAN LLC	31-7419A	Decreed	4/11/1985	STOCKWATER	0.04		
NATURAL GUARDIAN LLC; STATE OF IDAHO	31-7419B	Decreed	4/11/1985	STOCKWATER	0.04		
NAYLOR, AUDREY; NAYLOR, LEIGH	25-7582	License	2/4/1991	DOMESTIC, IRRIGATION	0.09	3.0	
NEIBAUR, RYAN	25-7561	License	3/2/1990	IRRIGATION	4.00	360.5	
NELSEN DAIRY	36-8745	License	11/7/1995	COMMERCIAL, STOCKWATER	0.11		
NELSON MACKAY RANCH LLC	34-2325	Decreed	3/9/1955	IRRIGATION	6.50	482.0	
NELSON, DONALD	34-2481	Decreed	8/1/1966	IRRIGATION	1.87	84.0	
NELSON, G DAVID; NELSON, HEATHER M	34-2415	Decreed	5/15/1961	IRRIGATION	0.36	18.0	
NELSON, LAURENCE	29-7868	License	9/11/1989	DOMESTIC, IRRIGATION	0.17	15.0	
NEW PHASE INVESTMENTS LLC	25-14186	License	9/18/2006	COMMERCIAL	0.05		
NICHOLS LAND LLC; NICHOLS, ANGELA; NICHOLS, DEREK A; NICHOLS, PATRICK J	34-13902	Decreed	8/29/1960	IRRIGATION	2.27	426.6	
NICHOLS LAND LLC; NICHOLS, ANGELA; NICHOLS, DEREK A; NICHOLS, PATRICK J	34-13904	Decreed	12/17/1961	IRRIGATION	0.30	426.6	
NICHOLS LAND LLC; NICHOLS, ANGELA; NICHOLS, DEREK A; NICHOLS, PATRICK J	34-13906	Decreed	1/3/1975	IRRIGATION	1.16	426.6	
NICHOLS, ANGELA; NICHOLS, CHLOE; NICHOLS, DEREK A; NICHOLS, IRMA; NICHOLS, PATRICK J	34-14472	Decreed	7/11/1960	IRRIGATION	0.35	78.0	
NICHOLS, ANGELA; NICHOLS, CHLOE; NICHOLS, DEREK A; NICHOLS, IRMA; NICHOLS, PATRICK J	34-14482	Decreed	7/11/1960	IRRIGATION	0.09	78.0	
NICHOLS, ANGELA; NICHOLS, CHLOE; NICHOLS, DEREK A; NICHOLS, IRMA; NICHOLS, PATRICK J	34-14474	Decreed	2/7/1961	IRRIGATION	0.16	78.0	
NICHOLS, ANGELA; NICHOLS, CHLOE; NICHOLS, DEREK A; NICHOLS, IRMA; NICHOLS, PATRICK J	34-14475	Decreed	6/6/1961	IRRIGATION	0.18	78.0	
NICHOLS, ANGELA; NICHOLS, CHLOE; NICHOLS, DEREK A; NICHOLS, IRMA; NICHOLS, PATRICK J	34-2421	Decreed	6/6/1961	IRRIGATION	0.64	78.0	
NICHOLS, ANGELA; NICHOLS, CHLOE; NICHOLS, DEREK A; NICHOLS, IRMA; NICHOLS, PATRICK J	34-2421A	Decreed	6/6/1961	IRRIGATION	1.34	68.0	
NICHOLS, CHLOE; NICHOLS, DEREK	34-13843	Decreed	3/2/1961	IRRIGATION	1.72	87.7	
NICHOLS, CHLOE; NICHOLS, DEREK	34-2408A	Decreed	4/5/1961	IRRIGATION	2.33	112.0	
NICHOLS, CHLOE; NICHOLS, DEREK	34-2408B	Decreed	4/5/1961	IRRIGATION	1.54	77.0	
NICKELSON, DALENE C	25-7193A	Decreed	4/30/1980	DOMESTIC, IRRIGATION, STOCKWATER	0.02	2.9	
NICKERSON, KIRK	33-2039B	Decreed	2/23/1954	IRRIGATION	0.38	551.0	
NICKERSON, KIRK	33-2092	Decreed	5/12/1960	IRRIGATION	0.90	229.0	
NICKERSON, KIRK	33-7009	Decreed	4/1/1970	IRRIGATION	8.00	612.2	
NICKERSON, KIRK	33-7025	Decreed	10/30/1973	IRRIGATION	1.16	612.2	

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NICKERSON, KIRK	33-10837	Decreed	4/1/1976	IRRIGATION	0.12	551.0	Yes
NICKERSON, KIRK	33-2037A	Decreed	4/1/1976	IRRIGATION	1.44	551.0	
NICKERSON, KIRK	33-7062	Decreed	12/2/1977	IRRIGATION	1.64	229.0	
NICKERSON, KIRK	33-7065	Decreed	2/23/1979	IRRIGATION	1.45	612.2	
NICKERSON, KIRK; NICKERSON, YVONNE	33-14893	Decreed	2/4/1977	IRRIGATION	0.18	149.0	
NICKISCH, CRAIG W; NICKISCH, MARJORIE I	29-10731	Decreed	3/23/1959	IRRIGATION, STOCKWATER	0.10	4.1	
NIELSON, ADAM; NIELSON, KENDRA C	34-13983	Decreed	3/6/1961	IRRIGATION	0.31	15.0	
NIELSON, BENITA G; NIELSON, JACK W	29-7885	License	12/27/1989	IRRIGATION	0.11	5.0	
NIGHTENGALE, BRADLEY KEITH; NIGHTENGALE, ROSALYN ANN	34-2390A	Decreed	10/12/1960	IRRIGATION	2.02	429.0	
NIGHTENGALE, BRADLEY KEITH; NIGHTENGALE, ROSALYN ANN	34-2390B	Decreed	10/12/1960	IRRIGATION	0.12	429.0	
NIGHTENGALE, BRADLEY KEITH; NIGHTENGALE, ROSALYN ANN	34-4031	Decreed	8/1/1961	IRRIGATION	2.85	429.0	
NIGHTENGALE, BRADLEY KEITH; NIGHTENGALE, ROSALYN ANN	34-14756	Decreed	3/1/1965	DOMESTIC, STOCKWATER	0.16		
NIGHTENGALE, BRADLEY KEITH; NIGHTENGALE, ROSALYN ANN	34-7175	Decreed	4/4/1977	IRRIGATION	0.48	429.0	
NIGHTENGALE, BRADLEY KEITH; NIGHTENGALE, ROSALYN ANN	34-12364	Decreed	7/9/1979	IRRIGATION	0.71	429.0	Yes
NIGHTINGALE, JANIE R; NIGHTINGALE, KURT A	34-14741	Decreed	10/12/1960	IRRIGATION	1.32	281.0	
NIGHTINGALE, JANIE R; NIGHTINGALE, KURT A	34-14742	Decreed	10/12/1960	IRRIGATION	0.07	281.0	
NIGHTINGALE, JANIE R; NIGHTINGALE, KURT A	34-14745	Decreed	8/1/1961	IRRIGATION	1.87	281.0	
NIGHTINGALE, JANIE R; NIGHTINGALE, KURT A	34-14746	Decreed	4/4/1977	IRRIGATION	0.32	281.0	
NIGHTINGALE, JANIE R; NIGHTINGALE, KURT A	34-14750	Decreed	7/9/1979	IRRIGATION	0.47	281.0	Yes
NO TELLUM CREEK RANCH LLC	34-14043	Decreed	5/11/1960	IRRIGATION	2.58	130.0	
NO VIEW CALF RANCH LLC	36-7460AD	Decreed	3/25/1974	COMMERCIAL, STOCKWATER	0.06		
NO VIEW CALF RANCH LLC	36-8774	License	3/10/1998	DOMESTIC, STOCKWATER	0.13		
NOEL, DE ANN B; NOEL, WRIGHT R	22-7372	License	7/14/1981	DOMESTIC, STOCKWATER	0.07		
NOLAN SAYER FARMING & RANCHING	34-10150	Decreed	3/30/1955	IRRIGATION	5.40	165.0	
NORMAN & MARY SOWARDS LIVING TRUST	34-2302	Decreed	2/28/1953	IRRIGATION	3.14	232.0	
NORMAN & MARY SOWARDS LIVING TRUST	34-14502	Decreed	6/9/1961	IRRIGATION	0.48	232.0	
NORMAN & MARY SOWARDS LIVING TRUST	34-2422	Decreed	6/9/1961	IRRIGATION	1.92	105.0	
NORMAN & MARY SOWARDS LIVING TRUST	34-7228	Decreed	5/3/1979	IRRIGATION	0.98	232.0	
NORMAN & MARY SOWARDS LIVING TRUST	34-10871	Decreed	6/15/1980	IRRIGATION	0.16	105.0	Yes
NORMAN & MARY SOWARDS LIVING TRUST	34-14501	Decreed	6/15/1980	IRRIGATION	0.04	232.0	Yes
NORMAN E NEF & SONS INC	35-7962	Permit	6/1/1981	IRRIGATION	12.20	610.0	
NORMAN E NEF & SONS INC	35-7963	Permit	6/1/1981	IRRIGATION	6.40	320.0	
NORRIS, ROBERT J; NORRIS, SUZANNE W	33-2105	Decreed	7/28/1961	IRRIGATION	3.46	189.0	
NORTH RIM FAIRWAYS OWNERS ASSN INC	36-16406	License	2/24/2006	DOMESTIC	0.23		
NORTHROP, DONALD; NORTHROP, VICKIE	34-2366A	Decreed	5/12/1960	IRRIGATION	0.59	32.0	

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NORTHSIDE RANCH CO LLC	36-2318B	Decreed	2/28/1957	STOCKWATER	0.05		
NORTHWEST FARM CREDIT SERVICES FLCA; ROTH INVESTMENTS LLC	37-23157	License	9/20/1990	COMMERCIAL	0.50		
NORTHWEST PIPELINE CORP	29-2376	Decreed	7/6/1956	COMMERCIAL, IRRIGATION	0.08	4.1	
NORTHWEST PIPELINE CORP	45-2531	Decreed	7/6/1956	DOMESTIC, INDUSTRIAL	0.04		
NOTCH BUTTE FARMS LLC	34-14311	Decreed	8/29/1960	DIVERSION TO STORAGE, IRRIGATION, RECREATION STORAGE	3.90	194.0	
NOTCH BUTTE FARMS LLC	34-14312	Decreed	8/29/1960	IRRIGATION	0.38	490.9	
NUTTALL, ALIESHA DAWN; NUTTALL, JEFFREY DOUGLAS	25-7275	Decreed	2/8/1982	DOMESTIC, IRRIGATION, STOCKWATER	0.03	1.0	
OAKLEY VALLEY WATER CO	45-4273	Decreed	2/12/1954	MUNICIPAL	0.45		
OKELBERRY, TODD L	36-17355	Decreed	2/6/1953	IRRIGATION	0.07	10.0	
OKELBERRY, TODD L	36-17356	Decreed	2/6/1953	IRRIGATION	0.06	10.0	
OKELBERRY, TODD L	36-17357	Decreed	5/29/1956	IRRIGATION	0.07	10.0	
OKELBERRY, TODD L	36-17358	Decreed	6/24/1960	IRRIGATION	0.01	10.0	
OLSEN, GARY; OLSEN, PATRICIA	25-12353	Decreed	10/7/1953	COMMERCIAL, DOMESTIC	0.16		
ON TIME FINANCIAL LLC	22-14478	Permit	7/14/2022	COMMERCIAL, DOMESTIC	0.21		
ORTON, DEL; ORTON, SHARON	34-13913	Decreed	12/17/1961	IRRIGATION	0.11	5.7	
ORVILLE AND JENNIE MARIE SMITH FAMILY LIMITED PARTNERSHIP	34-2477A	Decreed	6/13/1966	IRRIGATION	3.41	466.0	
ORVILLE AND JENNIE MARIE SMITH FAMILY LIMITED PARTNERSHIP	34-12363A	Decreed	5/1/1978	IRRIGATION	2.89	466.0	Yes
OSTERHOUT, DANA; OSTERHOUT, GAYLEN; OSTERHOUT, LORRIE; OSTERHOUT, VIRGINIA M	45-10587	Decreed	6/30/1958	COMMERCIAL, DOMESTIC, IRRIGATION	0.08	0.5	
OSWALD, BRITTNEY; OSWALD, MATT	29-14171	Decreed	2/3/1961	IRRIGATION	0.06	3.0	
P U RANCH LTD C/O SCOTT SLOCUM	34-2512	Decreed	5/1/1984	IRRIGATION	4.40	535.0	
P U RANCH LTD C/O SCOTT SLOCUM	34-12396	Decreed	10/15/1984	STOCKWATER	0.36		Yes
PACIFICORP	25-7403	License	6/14/1985	WATER QUALITY IMPROVEMENT	0.45		
PACIFICORP	25-14431	License	2/19/2016	WATER QUALITY IMPROVEMENT	0.47		
PANCHERI BROTHERS LLC	33-15082	Decreed	2/13/1953	IRRIGATION	3.97	549.6	
PANCHERI BROTHERS LLC	33-15084	Decreed	5/1/1954	IRRIGATION	3.27	549.6	
PANCHERI BROTHERS LLC	33-15083	Decreed	5/1/1956	IRRIGATION	3.61	549.6	
PANCHERI BROTHERS LLC	33-15070	Decreed	3/3/1959	IRRIGATION	0.49	72.2	
PANCHERI BROTHERS LLC	33-2087B	Decreed	6/12/1959	IRRIGATION	0.84	268.0	
PANCHERI BROTHERS LLC	33-2104A	Decreed	7/21/1961	IRRIGATION	3.62	268.0	
PANCHERI BROTHERS LLC	33-2115	Decreed	2/20/1963	IRRIGATION	2.20	728.0	
PANCHERI BROTHERS LLC	33-15081	Decreed	5/7/1963	IRRIGATION	3.86	549.6	
PANCHERI BROTHERS LLC	33-14876	Decreed	4/15/1968	IRRIGATION	2.85	217.0	
PANCHERI BROTHERS LLC	33-14928	Decreed	5/25/1972	IRRIGATION	0.04	4.8	

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Owner	Water Right No.	Basis	Priority Date	Water Use List	Diversion Rate (cfs)	Total Acres	Enlargement
PANCHERI BROTHERS LLC	33-14929	Decreed	5/25/1972	IRRIGATION	0.56	221.8	
PANCHERI BROTHERS LLC	33-14949	Decreed	5/25/1972	IRRIGATION	0.16	221.8	
PANCHERI BROTHERS LLC	33-14904	Decreed	4/11/1973	IRRIGATION	0.85	221.8	
PANCHERI BROTHERS LLC	33-14930	Decreed	4/11/1973	IRRIGATION	0.03	4.8	
PANCHERI BROTHERS LLC	33-14931	Decreed	4/11/1973	IRRIGATION	0.46	221.8	
PANCHERI BROTHERS LLC	33-14950	Decreed	4/11/1973	IRRIGATION	0.13	221.8	
PANCHERI BROTHERS LLC	33-15068	Decreed	10/16/1975	IRRIGATION	0.83	72.2	
PANCHERI BROTHERS LLC	33-14878	Decreed	4/30/1976	IRRIGATION	1.34	217.0	
PANCHERI BROTHERS LLC	33-14880	Decreed	7/15/1978	IRRIGATION	0.36	217.0	Yes
PANCHERI BROTHERS LLC	33-15069	Decreed	4/2/1985	IRRIGATION	0.13	72.2	
PANCHERI INC	33-2068B	Decreed	1/14/1953	IRRIGATION	2.64	1209.0	
PANCHERI INC	33-2093	Decreed	7/27/1960	IRRIGATION	2.41	1209.0	
PANCHERI INC	33-2094	Decreed	9/11/1960	IRRIGATION	4.11	1209.0	
PANCHERI INC	33-2108A	Decreed	10/25/1961	IRRIGATION	1.60	1655.0	
PANCHERI INC	33-2108B	Decreed	10/25/1961	IRRIGATION	3.09	359.0	
PANCHERI INC	33-2113	Decreed	11/26/1962	IRRIGATION	2.52	1209.0	
PANCHERI INC	33-2126A	Decreed	11/26/1962	IRRIGATION	1.96	1209.0	
PANCHERI INC	33-2117A	Decreed	5/31/1963	IRRIGATION	1.86	1655.0	
PANCHERI INC	33-2117B	Decreed	5/31/1963	IRRIGATION	2.98	359.0	
PANCHERI INC	33-2126B	Decreed	7/22/1966	IRRIGATION	4.04	1209.0	
PANCHERI INC	33-7027	Decreed	11/6/1973	IRRIGATION	6.00	1655.0	
PANCHERI INC	33-7038	Decreed	2/3/1975	IRRIGATION	3.06	1209.0	
PANCHERI INC	33-10109	Decreed	5/1/1980	IRRIGATION	2.84	1655.0	Yes
PARKER, BECKY; PARKER, BRENT; PARKER, KEVIN; PARKER, MILISA	21-13319	License	3/21/1988	IRRIGATION	0.60	33.0	
PARKER, BRENT E; PARKER, KRISTINE	25-7073E	Decreed	8/1/1975	IRRIGATION	0.20	10.0	
PARKINSON FARMS	34-2497	Decreed	9/27/1966	IRRIGATION	0.57	480.0	
PARKINSON FARMS	34-2490	Decreed	10/25/1966	IRRIGATION	2.09	306.0	
PARKINSON FARMS	34-2506	Decreed	3/2/1967	IRRIGATION	1.17	480.0	
PARKINSON FARMS	34-2505	Decreed	3/3/1967	IRRIGATION	1.06	480.0	
PARKINSON FARMS	34-4008	Decreed	4/1/1967	IRRIGATION	2.60	480.0	
PARKINSON FARMS	34-10393	Decreed	5/1/1976	IRRIGATION	0.26	306.0	Yes
PARKINSON FARMS	34-7176	Decreed	5/29/1977	IRRIGATION	7.80	885.0	
PARKINSON FARMS	34-12368	Decreed	8/1/1985	IRRIGATION	3.75	885.0	Yes
PATRICK SEAN POWERS LIVING TRUST; POWERS, JOHN L	34-14914	Decreed	5/4/1960	IRRIGATION	0.03	5.3	
PATTCO LLLP	45-7603	License	7/9/1986	IRRIGATION	1.26	447.0	

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PATTON & LINTON INC	29-10994	Decreed	3/1/1956	INDUSTRIAL	0.13		
PEARSON, CHELSEA	34-2323C	Decreed	2/11/1955	IRRIGATION	0.04	2.0	
PEARSON, JAY F; PEARSON, SUSAN	34-2412A	Decreed	4/13/1961	IRRIGATION	0.04	2.0	
PEHRSON, ASHLEY LENAE; PEHRSON, CHANCE R	34-14776	Decreed	6/13/1966	IRRIGATION	1.18	59.0	
PEHRSON, BYRON; PEHRSON, LANA; PEHRSON, LOY; PEHRSON, TERRI	34-13829	Decreed	9/2/1961	IRRIGATION	3.19	221.1	
PEHRSON, BYRON; PEHRSON, LANA; PEHRSON, LOY; PEHRSON, TERRI	34-14827	Decreed	9/2/1961	IRRIGATION	0.45	59.6	
PEHRSON, BYRON; PEHRSON, LANA; PEHRSON, LOY; PEHRSON, TERRI	34-12378	Decreed	6/9/1966	IRRIGATION	0.90	221.1	Yes
PEHRSON, BYRON; PEHRSON, LANA; PEHRSON, LOY; PEHRSON, TERRI	34-14826	Decreed	6/9/1966	IRRIGATION	0.13	59.6	Yes
PEHRSON, BYRON; PEHRSON, LOY	34-14828	Decreed	8/1/1961	IRRIGATION	0.43	59.6	
PEHRSON, BYRON; PEHRSON, LOY	34-4010	Decreed	8/1/1961	IRRIGATION	2.98	150.0	
PEHRSON, BYRON; PEHRSON, LOY	34-7056	Decreed	1/20/1974	IRRIGATION	3.96	233.0	
PEHRSON, BYRON; PEHRSON, TERRI	34-14824	Decreed	5/18/1953	IRRIGATION	0.12	59.6	
PEHRSON, BYRON; PEHRSON, TERRI	34-2304	Decreed	5/18/1953	IRRIGATION	7.06	351.9	
PEHRSON, BYRON; PEHRSON, TERRI	34-2365	Decreed	5/4/1960	IRRIGATION	0.33	31.0	
PEHRSON, BYRON; PEHRSON, TERRI	34-14825	Decreed	5/5/1972	IRRIGATION	0.10	59.6	
PEHRSON, BYRON; PEHRSON, TERRI	34-7025	Decreed	5/5/1972	IRRIGATION	5.52	408.9	
PEHRSON, BYRON; PEHRSON, TERRI	34-7239A	License	1/22/1980	IRRIGATION	0.29	31.0	
PEHRSON, JOSH	34-2403	Decreed	3/31/1961	IRRIGATION	3.20	190.0	
PEHRSON, JOSH	34-12036	Decreed	4/15/1980	IRRIGATION	0.50	190.0	Yes
PEHRSON, MICHELLE; PEHRSON, TRAVIS	34-14423	Decreed	6/29/1959	IRRIGATION	2.03	101.8	
PEHRSON, MICHELLE; PEHRSON, TRAVIS	34-14422	Decreed	11/18/1974	IRRIGATION	0.06	7.0	
PEHRSON, PEGGY; PEHRSON, RANDY D	34-14391	Decreed	2/11/1955	IRRIGATION	0.63	39.4	
PEHRSON, PEGGY; PEHRSON, RANDY D	34-2380	Decreed	8/23/1960	IRRIGATION	3.89	203.0	
PEHRSON, PEGGY; PEHRSON, RANDY D	34-2407	Decreed	3/27/1961	IRRIGATION	3.33	568.4	
PEHRSON, PEGGY; PEHRSON, RANDY D	34-7182	Decreed	4/18/1977	IRRIGATION	3.68	313.0	
PEHRSON, PEGGY; PEHRSON, RANDY D	34-7160	Decreed	2/21/1981	IRRIGATION	1.92	568.4	
PERFORMIX NUTRITION SYSTEMS LLC	36-17196	Decreed	5/27/1974	COMMERCIAL	0.06		
PERKES, MARSHAL TODD	34-10369	Decreed	5/31/1960	IRRIGATION	2.06	115.0	
PETERSEN, KIMBERLY ANN; PETERSEN, RYAN CLAIR	34-7219	Decreed	7/4/1978	COMMERCIAL, HEATING, IRRIGATION, MITIGATION	0.92	69.8	
PETERSON, CHRISTOPHER; PETERSON, MICHELLE	34-7239B	License	1/22/1980	IRRIGATION	0.06	3.0	
PETTET, TERRY	34-4086	Decreed	6/9/1962	DOMESTIC, IRRIGATION, STOCKWATER	0.06	5.0	
PHINNEY, DAVID; RICHARDS, DEBORA	35-14870	Decreed	6/27/1983	DOMESTIC, IRRIGATION	0.02	0.5	
PILKINTON, C R; PILKINTON, THOMAS R	36-7650B	Decreed	7/30/1976	IRRIGATION	0.08	4.0	
PIONEER FARMS - KING MOUNTAIN RANCH	34-14254	Decreed	7/5/1960	IRRIGATION	2.99	275.0	

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PIONEER FARMS - KING MOUNTAIN RANCH	34-14256	Decreed	4/10/1961	IRRIGATION	2.59	275.0	
PIONEER FARMS - KING MOUNTAIN RANCH	34-14457	Decreed	4/2/1980	IRRIGATION	0.10	5.5	
PIONEER WATER USERS ASSN INC	35-7671	Decreed	2/7/1977	DOMESTIC	0.11		
PITCHER, BRANDT; PITCHER, JONI	34-7246	Decreed	5/14/1980	IRRIGATION	0.24	14.0	
PKD PROPERTIES LC; TLD PROPERTIES LLC	45-10761	Decreed	6/24/1957	COMMERCIAL, COOLING	0.02		
PLATT, AUSTIN; PLATT, MARIE	34-14016	Decreed	3/20/1961	IRRIGATION	0.10	5.0	
POLO CLUB ESTATES WATER ASSN	25-7705	License	6/28/2000	DOMESTIC, FIRE PROTECTION	0.68		
PONY ACRES WATER ASSN	29-7625	Decreed	12/15/1981	DOMESTIC, IRRIGATION	0.16	2.0	
POPE, CAROL C	34-4133	Decreed	5/1/1960	DOMESTIC, IRRIGATION	0.12	6.2	
PORT OF ENTRY TRAVEL CENTER LLC	31-11787	Decreed	9/7/1971	COMMERCIAL	0.12		
POVEY, ANDREW E	36-16625	Decreed	11/11/1959	MITIGATION	0.11		
POVEY, ANDREW E	36-16627	Decreed	11/15/1970	MITIGATION	0.16		
POVEY, ANDREW E	36-16631	Decreed	5/26/1971	MITIGATION	0.01		
POVEY, ANDREW E	36-16629	Decreed	5/16/1980	MITIGATION	0.04		
POWERS, ANDREW; POWERS, KARA	25-14267	Decreed	8/10/1966	IRRIGATION	0.02	1.1	
PREMIERE PARTNERS IV LP	34-2315	Decreed	1/7/1955	IRRIGATION	7.02	1750.7	
PREMIERE PARTNERS IV LP	34-2358A	Decreed	2/1/1961	IRRIGATION	5.60	1750.7	
PREMIERE PARTNERS IV LP	34-14188	Decreed	4/20/1961	IRRIGATION	0.60	213.0	
PREMIERE PARTNERS IV LP	34-14186	Decreed	5/29/1961	IRRIGATION	1.66	213.0	
PREMIERE PARTNERS IV LP	34-2429B	Decreed	6/22/1961	IRRIGATION	2.78	1750.7	
PREMIERE PARTNERS IV LP	34-2472A	Decreed	12/29/1965	IRRIGATION	6.82	1750.7	
PREMIERE PARTNERS IV LP	34-7039	Decreed	6/25/1973	IRRIGATION	9.73	345.0	
PREMIERE PARTNERS IV LP	34-7059C	Decreed	1/15/1974	IRRIGATION	2.64	173.6	
PREMIERE PARTNERS IV LP	34-7080A	Decreed	9/23/1974	IRRIGATION	2.67	160.0	
PREMIERE PARTNERS IV LP	34-7122B	Decreed	1/16/1976	IRRIGATION	4.31	714.6	
PREMIERE PARTNERS IV LP	34-7136	Decreed	3/26/1976	IRRIGATION	5.50	160.0	
PREMIERE PARTNERS IV LP	34-7169	Decreed	1/6/1977	IRRIGATION	4.48	160.0	
PREMIERE PARTNERS IV LP	34-12419	Decreed	5/1/1980	IRRIGATION	9.31	1750.7	Yes
PREMIERE PARTNERS IV LP	34-2417A	Decreed	5/1/1983	IRRIGATION	2.67	1750.7	
PREMIERE PARTNERS IV LP	34-2419A	Decreed	5/1/1984	IRRIGATION	2.01	1750.7	
PRICE, MARJORIE	22-14447	Permit	2/16/2022	COMMERCIAL	0.02		
PRINCE, CARI L; PRINCE, JAMES J	36-16101	License	5/9/1988	DOMESTIC	0.04		
PROBART, LEWIS L	29-7067	Decreed	8/3/1971	DOMESTIC, IRRIGATION, STOCKWATER	0.14	7.0	
PURSER, MICHELLE; PURSER, RANDY R	34-2347	Decreed	1/20/1959	IRRIGATION	2.00	785.0	
PURSER, MICHELLE; PURSER, RANDY R	34-2348A	Decreed	5/8/1959	IRRIGATION	0.46	785.0	

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PURSER, MICHELLE; PURSER, RANDY R	34-2348B	Decreed	5/8/1959	IRRIGATION	1.54	785.0	
PURSER, MICHELLE; PURSER, RANDY R	34-14385	Decreed	8/1/1961	IRRIGATION	2.88	223.4	
PURSER, MICHELLE; PURSER, RANDY R	34-2441A	Decreed	2/14/1962	IRRIGATION	1.60	785.0	
PURSER, MICHELLE; PURSER, RANDY R	34-2441B	Decreed	2/14/1962	IRRIGATION	0.84	785.0	
PURSER, MICHELLE; PURSER, RANDY R	34-7045D	Decreed	10/2/1973	IRRIGATION	2.54	148.0	
PURSER, MICHELLE; PURSER, RANDY R	34-10471D	Decreed	8/13/1974	IRRIGATION	0.22	148.0	Yes
PURSER, MICHELLE; PURSER, RANDY R	34-7098A	Decreed	2/3/1975	IRRIGATION	3.58	785.0	
PURSER, MICHELLE; PURSER, RANDY R	34-7098B	Decreed	2/3/1975	IRRIGATION	2.42	785.0	
PURSER, RANDY R	34-2447A	Decreed	7/16/1963	IRRIGATION	2.67	785.0	
PURSER, RANDY R	34-10930A	Decreed	8/6/1987	IRRIGATION	0.62	785.0	Yes
PUTNAM, JANET D; PUTNAM, LAWRENCE D	27-12280	License	5/31/1989	DOMESTIC, IRRIGATION	0.04	1.0	
QUIST, LARRY	34-7075	Decreed	8/18/1974	IRRIGATION	0.21	11.0	
QUIST, LARRY	34-7181	Decreed	4/19/1977	IRRIGATION	7.07	392.0	
R C WILLEY HOME FURNISHINGS	35-14596	Permit	5/25/2018	COMMERCIAL	0.78		
RABURN, JAYNEE N; RABURN, LENARD H	29-7143B	Decreed	7/2/1973	DOMESTIC, IRRIGATION	0.03	1.0	
RAFTER J LLC	34-14612	Decreed	8/29/1960	IRRIGATION	0.14	40.0	
RAFTER J LLC	34-14613	Decreed	6/28/1965	IRRIGATION	0.15	40.0	
RAFTER J LLC	34-14856	Decreed	6/13/1966	IRRIGATION	2.60	327.0	
RAFTER J LLC	34-13939	Decreed	8/16/1966	IRRIGATION	2.35	117.5	
RAFTER J LLC	34-14618	Decreed	8/16/1966	IRRIGATION	0.50	40.0	
RAMSHORN GRAZING ASSN INC	34-2479	Decreed	7/27/1966	IRRIGATION	4.58	410.0	
RANCHO VIA WELL USERS ASSN	25-7404	License	6/28/1985	DOMESTIC, IRRIGATION	0.31	6.0	
RANSOM, ELLEN; RANSOM, KARL	25-14262	Decreed	8/10/1966	IRRIGATION	0.02	1.1	
RASMUSSEN, JEFFREY R; RASMUSSEN, SHAWNA L	45-14534	Decreed	1/19/1978	IRRIGATION	0.01	1.5	
RASMUSSEN, JEFFREY R; RASMUSSEN, SHAWNA L	45-14535	License	2/12/1996	IRRIGATION	0.02	1.5	
RAYMOND, W CRAIG	25-13401	Decreed	6/28/1954	IRRIGATION, STOCKWATER	0.09	3.5	
READING, DESIREE V; READING, JASON; READING, JEFF; READING, MICHELLE	34-14047	Decreed	4/29/1955	IRRIGATION	0.38	19.0	
REED, CHARLES LE ROY	35-12258	Decreed	6/1/1955	COMMERCIAL, DOMESTIC, STOCKWATER	0.09		
REED, RICKIE	34-7178	Decreed	4/12/1977	IRRIGATION	0.20	10.0	
REES, CARL C; REES, PATRICIA	29-7240	Decreed	11/29/1974	DOMESTIC, IRRIGATION, STOCKWATER	0.09	1.3	
REVA W WALKER TRUST	34-2389	Decreed	10/6/1960	IRRIGATION	2.54	119.0	
REYNOLDS, ALISA; REYNOLDS, NICOLAS	34-14928	Decreed	9/30/1966	IRRIGATION	0.04	4.0	
REYNOLDS, CRYSTAL ANN; REYNOLDS, KELLEN JOSHUA	34-2452	Decreed	8/1/1961	IRRIGATION	1.68	67.0	
REYNOLDS, HANNAH; REYNOLDS, VANCE	34-10552	Decreed	6/17/1960	IRRIGATION	0.41	49.0	

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REYNOLDS, HANNAH; REYNOLDS, VANCE	34-2372	Decreed	6/17/1960	IRRIGATION	0.43	49.0	
REYNOLDS, HANNAH; REYNOLDS, VANCE	34-13415	Decreed	8/15/1964	IRRIGATION	0.14	49.0	
REYNOLDS, JACQUELINE; REYNOLDS, RICHARD	34-2496	Decreed	9/30/1966	IRRIGATION	0.10	100.0	
RGC FARMS LLC	22-14338	License	4/10/2017	IRRIGATION	0.18	39.0	
RHODEHOUSE, KEVIN	35-2924	Decreed	7/21/1965	INDUSTRIAL, STOCKWATER	1.11		
RHODEHOUSE, KEVIN	35-8659	License	10/15/1987	COMMERCIAL, STOCKWATER	0.15		
RICHARDS, DENICE	27-7343	Decreed	3/2/1983	DOMESTIC, IRRIGATION	0.08	5.0	
RICKS, CONNIE	25-7183	Decreed	1/14/1980	DOMESTIC, STOCKWATER	0.06		
RIDDLE, CATHERINE; RIDDLE, GLEN	25-14317	Decreed	8/10/1966	IRRIGATION	0.02	1.0	
RIGBY AIR VILLAGE LLC	25-14182	License	3/24/2006	COMMERCIAL	0.20		
RINDFLEISCH, JAMES A	34-7511	Permit	6/12/1989	IRRIGATION	1.85	92.4	
RINGEL, LORI; RINGEL, MERLYN R	35-14630	Decreed	9/28/1981	IRRIGATION	0.01	4.7	
RITCHIE, JOHN M; RITCHIE, KAYE	35-13993	Decreed	7/13/1954	IRRIGATION	0.20	34.4	
RITCHIE, JOHN M; RITCHIE, KAYE	35-13999	Decreed	4/1/1966	IRRIGATION	0.15	48.4	Yes
RITCHIE, JOHN M; RITCHIE, KAYE	35-13995	Decreed	11/12/1975	IRRIGATION	0.42	34.4	
RIVER PARK GOLF COURSE & CAMPGROUND LLC	34-7089	Decreed	1/3/1975	IRRIGATION	0.19	20.5	
RIVERBEND ESTATES	29-8015	License	6/22/1990	DOMESTIC	0.25		
RIVERSIDE DAIRY INC	36-4235	Decreed	1/1/1954	COMMERCIAL, DOMESTIC, STOCKWATER	0.21		
RIVERVIEW ACRES #2 WATER CORP	35-11348	Decreed	6/1/1960	DOMESTIC	0.16		
ROBERTSON, CHARLOTTE; ROBERTSON, KIRK	34-2386	Decreed	9/9/1960	IRRIGATION	1.10	55.0	
ROBERTSON, CHARLOTTE; ROBERTSON, KIRK	34-13559	Decreed	5/1/1962	IRRIGATION	0.16	7.8	
ROBINSON BROS LAND LLC	45-12909B	Decreed	4/1/1961	COMMERCIAL, STOCKWATER	0.04		
ROBINSON, LOGAN D; ROBINSON, RICKY	29-4393	Decreed	3/1/1963	DOMESTIC, IRRIGATION	0.07	3.3	
ROBINSON, PAXTON	45-14566	Decreed	2/1/1954	IRRIGATION	0.14	33.0	
ROBINSON, PAXTON	45-14565	Decreed	12/10/1956	IRRIGATION	0.30	33.0	
ROCKING D ENTERPRISES LLC	34-13915	Decreed	5/20/1958	INDUSTRIAL	0.04		
ROCKY HILLS ENTERPRISES LLC	25-14600	Permit	6/5/2025	DOMESTIC	0.18		
RODRIGUEZ, ALFREDO; RODRIGUEZ, KOURTNEY L	34-14103	Decreed	4/29/1955	IRRIGATION	0.35	17.5	
ROEDER, JAMES L; ROEDER, JOHN	29-7177	License	3/4/1974	DOMESTIC, STOCKWATER	0.08		
ROGERS, DANIEL; ROGERS, SUSAN	34-10378	Decreed	4/1/1956	DOMESTIC, IRRIGATION, STOCKWATER	0.18	7.0	
ROGERS, GARY	34-13738	Decreed	9/5/1961	IRRIGATION	0.08	109.0	
ROGERS, GARY	34-14373	Decreed	9/5/1961	IRRIGATION	0.03	109.0	
ROGERS, GARY	34-14374	Decreed	9/5/1961	IRRIGATION	0.03	109.0	
ROGERS, GARY	34-14375	Decreed	9/5/1961	IRRIGATION	0.07	109.0	
ROGERS, W GARY	34-14394	Decreed	11/24/1975	IRRIGATION	1.80	109.0	

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ROMRELL PROPERTIES LLC	33-2082C	Decreed	2/19/1957	IRRIGATION	1.60	156.0	
ROMRELL PROPERTIES LLC	33-2120	Decreed	7/9/1965	IRRIGATION	3.39	388.0	
ROMRELL PROPERTIES LLC	33-10033	Decreed	8/23/1977	IRRIGATION	0.61	268.0	Yes
ROMRELL PROPERTIES LLC	33-7064	Decreed	7/15/1979	IRRIGATION	0.75	156.0	
ROMRELL PROPERTIES LLC	33-7189	License	7/31/1989	IRRIGATION	0.80	295.0	
ROMRELL PROPERTIES LLC	33-14854	License	1/4/1990	IRRIGATION	1.72	132.0	
ROMRELL, OWEN A	33-10988	Decreed	8/17/1957	IRRIGATION	0.73	268.0	
ROMRELL, OWEN A	33-2137	Decreed	3/3/1958	IRRIGATION	2.10	165.0	
ROMRELL, OWEN A	33-7028	Decreed	12/10/1973	IRRIGATION	2.03	132.0	
ROMRELL, OWEN A	33-14908	Decreed	10/24/1974	IRRIGATION	0.02	153.0	
ROMRELL, OWEN A	33-7071	Decreed	1/8/1980	IRRIGATION	1.52	309.0	
ROMRELL, OWEN A	33-10936	Decreed	12/31/1981	IRRIGATION	0.50	309.0	Yes
ROMRELL, OWEN A; ROMRELL, VELLA JEAN	33-7190	License	12/12/1989	IRRIGATION	0.12	295.0	
ROSE, JUSTIN ALLEN; ROSE, KELSEY BEAL	34-14932	Decreed	2/20/1961	IRRIGATION	0.04	2.0	
ROSENKRANCE, HOWARD; ROSENKRANCE, LAVON	34-4035E	Decreed	8/1/1960	IRRIGATION	0.02	1.0	
ROSENKRANCE, LESTER K; ROSENKRANCE, LOWAYNE K	34-4035B	Decreed	8/1/1960	IRRIGATION	0.28	14.0	
ROSENKRANCE, LESTER K; ROSENKRANCE, LOWAYNE K	34-4035F	Decreed	8/1/1960	IRRIGATION	0.16	8.0	
ROSENKRANCE, MIMI L G; ROSENKRANCE, SHANE D	34-14407	Decreed	1/3/1975	IRRIGATION	0.26	39.5	
ROSENKRANCE, MIMI L G; ROSENKRANCE, SHANE D	34-7090A	Decreed	1/3/1975	IRRIGATION	1.22	112.0	
ROTHWELL, ARVELLA I; ROTHWELL, LYNN O	34-13877	Decreed	1/30/1961	IRRIGATION	0.02	1.7	
ROWE, RANDY; ROWE, SUE-LYNE	34-14820	Decreed	9/29/1966	IRRIGATION	0.16	9.8	
ROWE, RANDY; ROWE, SUE-LYNE	34-14821	Decreed	5/20/1984	IRRIGATION	0.03	9.8	Yes
ROWLAN, BRIAN; ROWLAN, JESSICA	35-14923	Decreed	11/3/1952	IRRIGATION	1.46	138.0	
ROWLAND, ROBERT	29-13892	Decreed	10/28/1953	IRRIGATION, STOCKWATER	2.12	117.6	
ROWLAND, ROBERT	29-14443	Decreed	10/28/1953	IRRIGATION	0.01	0.9	
ROWLAND, ROBERT	29-14444	Decreed	10/28/1953	IRRIGATION	0.01	1.3	
ROWLAND, ROBERT	29-14447	Decreed	10/28/1953	IRRIGATION	0.01	0.3	
ROWLAND, ROBERT	29-14455	Decreed	10/28/1953	IRRIGATION	0.03	3.4	
RTG FARMS LLC	22-14335	Decreed	10/30/1963	IRRIGATION	1.29	95.0	
RUDDELL, DANIEL A; RUDDELL, VICKI L	25-14318	Decreed	8/10/1966	IRRIGATION	0.02	1.2	
RUDY, THOMAS A	45-7278	Decreed	12/6/1976	DOMESTIC	0.24		
RUFF, DOUGLAS L; RUFF, JENNIFER	25-7382	License	6/29/1983	IRRIGATION	0.10	5.0	
RUNHARD LLC	22-7293	Decreed	5/24/1979	COOLING, HEATING	0.15		
RV RICKS FARMS LLC	22-13514	Decreed	5/24/1960	IRRIGATION	1.77	115.8	
SACHER, ANTHONY; SACHER, MARY	34-14108	Decreed	9/5/1961	IRRIGATION	0.06	5.2	

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SADDLE MOUNTAIN RANCH	33-7029	Decreed	1/9/1974	IRRIGATION	1.97	156.0	
SAGE HOLLOW WATER USERS ASSOC	29-2438A	Decreed	2/3/1961	IRRIGATION	2.24	112.0	
SAGE, WILLIAM	34-10004	Decreed	12/31/1952	IRRIGATION	0.03	1.0	
SAND BOX RV LLC	21-13334	Decreed	2/24/1953	COMMERCIAL	0.03		
SAND BOX RV LLC	21-13335	Decreed	6/7/1957	COMMERCIAL	0.02		
SAND BOX RV LLC	21-13333	Decreed	8/4/1979	COMMERCIAL	0.03		
SAND SPRINGS LP	36-17052	License	7/15/2015	DIVERSION TO STORAGE, WILDLIFE STORAGE	2.43		
SANT, CARMA; SANT, WILLIAM L	29-11015	Decreed	3/1/1956	COMMERCIAL, DOMESTIC, STOCKWATER	0.08		
SAYER, BIRGITTA; SAYER, ROGER	34-13778	Decreed	5/6/1954	IRRIGATION	0.15	5.0	
SAYER, EVAN KENT	34-2369B	Decreed	5/11/1960	IRRIGATION	1.34	68.0	
SCC PROPERTIES LLC	37-23469	Decreed	11/25/1962	IRRIGATION	0.38	19.0	
SCENIC FALLS FEDERAL CREDIT UNION	25-14276	Decreed	8/10/1966	IRRIGATION	0.03	1.3	
SCHAAT, BETTY M; SCHAAT, LARRY C	25-14257	Decreed	8/10/1966	IRRIGATION	0.02	1.2	
SCHEUERMANN, KEITH W	25-7547	License	8/25/1989	IRRIGATION	0.15	15.0	
SCHMIDT, CHRISTOPHER; SCHMIDT, STACEY	34-2374A	Decreed	7/11/1960	IRRIGATION	5.03	278.5	
SCHMIDT, CHRISTOPHER; SCHMIDT, STACEY	34-2394	Decreed	2/7/1961	IRRIGATION	3.60	180.0	
SCHMIDT, CHRISTOPHER; SCHMIDT, STACEY	34-2442	Decreed	2/13/1962	IRRIGATION	2.00	179.0	
SCHMIDT, CHRISTOPHER; SCHMIDT, STACEY	34-10736	Decreed	4/1/1978	IRRIGATION	0.65	179.0	Yes
SCHMUCK, CATHY; SCHMUCK, GREG	34-14417	Decreed	4/19/1960	IRRIGATION	0.05	8.1	
SCHOLZ-ALVAREZ, INGRID K	34-7253	Decreed	9/22/1980	DOMESTIC, IRRIGATION	0.15	15.0	
SCHREINER FARMS IDAHO LLC	35-2488	Decreed	1/10/1957	IRRIGATION	0.02	2.0	
SCHREINER FARMS IDAHO LLC	35-2922	Decreed	4/7/1958	IRRIGATION	0.01	2.0	
SCHREINER FARMS IDAHO LLC	35-8951	License	7/29/1991	IRRIGATION	0.88	44.0	
SCHROCK, MICHAEL LANE; SCHROCK, NADA MARIE	34-2376	Decreed	7/20/1960	IRRIGATION	2.30	115.0	
SCHROCK, MICHAEL LANE; SCHROCK, NADA MARIE	34-2430	Decreed	6/23/1961	IRRIGATION	2.00	191.0	
SCHROEDER, MICHELLE; SCHROEDER, NATHAN	29-4104	Decreed	7/28/1955	IRRIGATION	3.00	150.0	
SCOTT, LAMOND; SCOTT, RUTH	35-10855	Decreed	1/4/1954	COMMERCIAL, DOMESTIC	0.04		
SCOTT, STANLEY K	31-7512	License	11/30/1988	DOMESTIC, STOCKWATER	0.19		
SCOTT, STANLEY K	31-7514	License	11/30/1988	DOMESTIC	0.04		
SCOUTEN, JIM L; SCOUTEN, LINDA	34-7201A	Decreed	6/28/1977	IRRIGATION	0.21	10.2	
SCROGGINS, DAVID; SCROGGINS, LOLA	34-14636	Decreed	11/30/1954	IRRIGATION	0.10	13.5	
SCROGGINS, DAVID; SCROGGINS, LOLA	34-14637	Decreed	5/1/1961	IRRIGATION	0.06	13.5	
SCROGGINS, DAVID; SCROGGINS, LOLA	34-14638	Decreed	12/19/1967	IRRIGATION	0.08	13.5	
SCROGGINS, DAVID; SCROGGINS, LOLA	34-14639	Decreed	6/29/1972	IRRIGATION	0.01	13.5	
SCROGGINS, DAVID; SCROGGINS, LOLA	34-14641	Decreed	12/31/1976	IRRIGATION	0.03	13.5	Yes

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SEARLE BROTHERS LAND & LIVESTOCK LLC	45-13986	Decreed	11/11/1959	COMMERCIAL, STOCKWATER	0.08		
SEARLE BROTHERS LAND & LIVESTOCK LLC	45-13987	Decreed	11/15/1970	COMMERCIAL, STOCKWATER	0.13		
SEARLE BROTHERS LAND & LIVESTOCK LLC	45-13989	Decreed	5/26/1971	COMMERCIAL, STOCKWATER	0.01		Yes
SEARLE BROTHERS LAND & LIVESTOCK LLC	45-13988	Decreed	5/16/1980	COMMERCIAL, STOCKWATER	0.03		
SECRIST, DREW; SECRIST, KAYLA	35-14865	Decreed	9/8/1961	IRRIGATION	0.16	4.0	
SEEFRIED RANCH LLC	34-14832	Decreed	3/24/1960	IRRIGATION	0.22	208.0	
SEEFRIED RANCH LLC	34-2356	Decreed	3/24/1960	IRRIGATION	2.98	149.0	
SEEFRIED RANCH LLC	34-7171	Decreed	3/9/1977	IRRIGATION	3.78	208.0	
SERMON, ROY L	33-14855	License	1/4/1990	IRRIGATION	0.37	28.0	
SERR, DALLAS	36-2730	Decreed	7/30/1954	IRRIGATION	1.00	50.0	
SESSIONS, JUDITH NORTON; SESSIONS, WILLIAM H; WAPITI CROW FARMS LLC	34-2487	Decreed	8/16/1966	IRRIGATION	2.51	294.0	
SHAW, SHELLEE	37-23207	Decreed	9/20/1974	IRRIGATION	0.03	2.2	
SHOSHONE BANNOCK AGRI BUSINESS CORPORTION	29-13940	Decreed	10/3/1977	IRRIGATION	0.13	7.5	
SHOSHONE BANNOCK TRIBES	27-7000	Decreed	7/27/1967	MUNICIPAL	0.50		
SHOSHONE BANNOCK TRIBES	29-7326	Decreed	4/28/1976	IRRIGATION	2.53	160.0	
SHOSHONE BANNOCK TRIBES	29-13941	Decreed	10/3/1977	IRRIGATION	0.18	10.5	
SHURTLIFF, ALICE R; SHURTLIFF, REX S	25-13026	Decreed	12/31/1957	COMMERCIAL	0.04		
SHURTLIFF, MERLENE; SHURTLIFF, RODNEY	35-8855	License	9/7/1989	DOMESTIC, STOCKWATER	0.08		
SIDDOWAY, DEAN; SIDDOWAY, GAYLE	34-2406F	Decreed	3/20/1961	IRRIGATION	0.29	14.0	
SILER, DANIEL; SILER, NATALIE	34-10329	Decreed	12/31/1955	IRRIGATION	0.02	1.0	
SIMPER, HAIZER ONEAL; SIMPER, JENSEN BRYN	35-14901	Decreed	8/19/1977	IRRIGATION	0.11	6.0	
SIMPSON, JEFFREY; SIMPSON, LISA	34-7250	Decreed	8/26/1980	DOMESTIC, IRRIGATION	0.11	10.0	
SINGLE WING RANCH LLC	34-14701	Decreed	11/28/1952	IRRIGATION	0.17	151.6	
SINGLE WING RANCH LLC	34-14700	Decreed	5/16/1977	IRRIGATION	2.81	151.6	
SINGLE WING RANCH LLC	34-14702	Decreed	4/1/1987	IRRIGATION	0.01	151.6	Yes
SIX FLAGS INC	34-13900	Decreed	10/25/1965	IRRIGATION	0.29	16.0	
SMITH, DALE E	34-2404	Decreed	3/1/1961	IRRIGATION, STOCKWATER	1.40	66.0	
SMITH, DANIELLE LYNN; SMITH, DOUGLAS BRANDON	34-14411	Decreed	11/30/1954	IRRIGATION	4.14	541.0	
SMITH, DANIELLE LYNN; SMITH, DOUGLAS BRANDON	34-14412	Decreed	5/1/1961	IRRIGATION	2.58	541.0	
SMITH, DANIELLE LYNN; SMITH, DOUGLAS BRANDON	34-14413	Decreed	12/19/1967	IRRIGATION	3.31	541.0	
SMITH, DANIELLE LYNN; SMITH, DOUGLAS BRANDON	34-14414	Decreed	6/29/1972	IRRIGATION	0.37	541.0	
SMITH, DANIELLE LYNN; SMITH, DOUGLAS BRANDON	34-14408	Decreed	12/31/1976	IRRIGATION	1.31	541.0	Yes
SMITH, JENNIE MARIE; SMITH, ORVILLE E	34-2477B	Decreed	6/13/1966	IRRIGATION	2.00	250.0	
SMITH, JENNIE MARIE; SMITH, ORVILLE E	34-12363B	Decreed	5/1/1978	IRRIGATION	0.76	250.0	Yes

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SMITH, JOAN; SMITH, SCOTT	34-14313	License	7/8/1992	IRRIGATION	0.01	1.0	
SMITH, LESLIE DALE; SMITH, SANDRA LEE	34-14734	Decreed	4/20/1961	IRRIGATION	0.23	22.0	
SMITH, LLOYD L; SMITH, RULLA H	34-13653	Decreed	6/13/1966	IRRIGATION	0.46	23.0	
SMITH, MARY LOU; SMITH, SCOTT	34-14620	Decreed	12/17/1961	IRRIGATION	0.03	1.4	
SMITH, MICHAEL S; SMITH, SANDIE L	34-13614	Decreed	8/1/1961	IRRIGATION	0.50	35.6	
SMITH, NORBERT DARRELL	29-7171	Decreed	2/4/1974	DOMESTIC	0.16		
SMITH, RANDY L; SMITH, SALLY R	29-8004	License	4/13/1990	DOMESTIC, IRRIGATION	0.04	3.0	
SMITH, RICHARD F	22-14612	Decreed	7/5/1973	MUNICIPAL	0.25		
SMITH, STANLEY P	25-14169	Decreed	12/10/1954	IRRIGATION	0.03	1.7	
SMOOT, JASON; SMOOT, STARLA	34-13854	Decreed	12/17/1961	IRRIGATION	0.09	5.7	
SNAKE RIVER BUSINESS PARK BLDG #1 LLC	35-14787	Permit	8/19/2022	COMMERCIAL	0.20		
SNELL, MARK	29-7696	License	3/16/1983	DOMESTIC, IRRIGATION	0.08	2.0	
SOHN, EDNA G; SOHN, HERBERT F; SOHNS INC	35-8333	Decreed	12/12/1983	COMMERCIAL, DOMESTIC	0.08		
SOLLENDER, JERRY B; SOLLENDER, SANDRA	34-14677	Decreed	12/17/1961	IRRIGATION	0.12	6.0	
SORENSEN, ELAINE R	34-2332	Decreed	5/6/1955	IRRIGATION	2.90	2478.0	
SORENSEN, ELAINE R	34-2424B	Decreed	6/13/1961	IRRIGATION	2.27	106.0	
SORENSEN, ELAINE R	34-7052	Decreed	11/13/1973	IRRIGATION	6.00	2478.0	
SORENSEN, ELAINE R	34-13841	Decreed	12/17/1975	IRRIGATION	0.80	2478.0	
SORENSEN, ELAINE R	34-7079	Decreed	9/17/1979	IRRIGATION	2.76	2478.0	
SORENSEN, ELAINE R	34-12416	Decreed	5/1/1982	IRRIGATION	3.85	2478.0	Yes
SORENSEN, ELAINE R; SORENSEN, MITCHELL D	34-14030	Decreed	10/29/1953	IRRIGATION	2.51	108.0	
SORENSEN, ELAINE R; SORENSEN, MITCHELL D	34-14496	Decreed	10/29/1953	IRRIGATION	0.23	10.0	
SORENSEN, MITCHELL D	34-7035B	Decreed	4/12/1973	IRRIGATION	4.98	2478.0	
SORENSEN, MITCHELL D	34-7215A	Decreed	4/14/1978	IRRIGATION	0.14	26.5	
SORENSEN, MITCHELL D	34-2428	Decreed	4/1/1979	IRRIGATION	3.85	2478.0	
SORENSEN, MITCHELL D	34-7236	Permit	9/11/1979	IRRIGATION	6.00	300.0	
SORENSEN, MITCHELL D	34-7247	License	5/30/1980	IRRIGATION	4.38	945.0	
SOUTH INTERCHANGE PROPERTIES LLC	35-14701	Decreed	5/27/1974	IRRIGATION	0.07	23.8	
SOUTH RIDGE LAND LLC	45-14061	Decreed	12/3/1971	COMMERCIAL, DOMESTIC, STOCKWATER	1.01		
SOUTH, BARRY; SOUTH, ELINOR	35-14618	Decreed	9/28/1981	IRRIGATION	0.01	3.3	
SOUTHFIELD LAND & LIVESTOCK LLC	36-7295C	Decreed	12/11/1973	COMMERCIAL, STOCKWATER	0.32		
SPENCER, DAVID RANDY; SPENCER, MICHELLE	31-11946	Decreed	6/22/1953	COMMERCIAL, STOCKWATER	0.12		
SPENCER, DAVID RANDY; SPENCER, MICHELLE	31-12561	Decreed	6/22/1953	IRRIGATION	0.09	10.0	
SPENCER, DAVID RANDY; SPENCER, MICHELLE	31-11942	Decreed	7/25/1955	COMMERCIAL, STOCKWATER	0.03		
SPENCER, DAVID RANDY; SPENCER, MICHELLE	31-12559	Decreed	7/25/1955	IRRIGATION	0.02	10.0	

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SPENCER, DAVID RANDY; SPENCER, MICHELLE	31-11944	Decreed	7/26/1961	COMMERCIAL, STOCKWATER	0.02		
SPENCER, DAVID RANDY; SPENCER, MICHELLE	31-12560	Decreed	7/26/1961	IRRIGATION	0.01	10.0	
SPENCER, DAVID RANDY; SPENCER, MICHELLE	31-12558	Decreed	8/7/1962	IRRIGATION	0.06	10.0	
SPWF HOLDINGS LLC	34-14727	Decreed	12/14/1976	IRRIGATION	2.16	215.7	
SPWF HOLDINGS LLC	34-14728	Decreed	5/1/1981	IRRIGATION	0.56	215.7	Yes
STALEY, RONALD SCOTT; STALEY, TEKLA A	34-2357A	Decreed	4/1/1979	IRRIGATION	2.06	201.0	
STAMOS, CAMERON; STAMOS, CHRIS	34-14853	Decreed	1/8/1958	IRRIGATION	0.10	5.0	
STANDLEE FAMILY LIMITED PARTNERSHIP	34-2509	Decreed	10/5/1960	IRRIGATION	4.68	295.0	
STANDLEE FAMILY LIMITED PARTNERSHIP	34-14180	Decreed	4/20/1961	IRRIGATION	1.89	185.6	
STANDLEE FAMILY LIMITED PARTNERSHIP	34-7028A	Decreed	8/1/1972	IRRIGATION	4.30	224.0	
STANDLEE FAMILY LIMITED PARTNERSHIP	34-7154	Decreed	1/16/1976	IRRIGATION	6.19	714.6	
STANDLEE FAMILY LIMITED PARTNERSHIP	34-7234	Decreed	8/15/1979	IRRIGATION	1.66	82.0	
STANDLEE FAMILY LIMITED PARTNERSHIP	34-7226B	Decreed	2/24/1980	IRRIGATION	1.52	76.0	
STANDLEE FAMILY LIMITED PARTNERSHIP	34-2480A	Decreed	5/1/1986	IRRIGATION	0.79	224.0	
STANDLEY LAND & INVESTMENTS LLC	36-17148	Decreed	4/13/1976	IRRIGATION	0.15	7.7	
STANGER, KARA; STANGER, SPENCER	35-14729	Decreed	9/28/1981	IRRIGATION	0.01	5.2	
STARMARC LLC	36-12462	Decreed	12/31/1958	COMMERCIAL	0.07		
STAV, ANDREW G; STAV, E ELAINE	34-2406E	Decreed	3/20/1961	IRRIGATION	0.73	36.5	
STAVAST, CHATELAINE FMS; STAVAST, LANSON J	34-14710	Decreed	11/28/1952	IRRIGATION	0.01	6.0	
STAVAST, CHATELAINE FMS; STAVAST, LANSON J	34-14708	Decreed	5/16/1977	IRRIGATION	0.11	6.0	
STAVAST, CHATELAINE FMS; STAVAST, LANSON J	34-14711	Decreed	4/1/1987	IRRIGATION	0.01	6.0	Yes
STEELE LAND HOLDINGS LLC	35-14927	Decreed	2/6/1963	IRRIGATION	0.21	12.0	
STEINER, LEONARD; STEINER, RAYANNE	34-2393	Decreed	2/2/1961	IRRIGATION	3.20	160.0	
STEVENSON, JUNE	34-2317	Decreed	11/30/1954	DOMESTIC, IRRIGATION	3.40	169.0	
STEVENSON, JUNE	34-2363	Decreed	4/25/1960	IRRIGATION	2.77	135.0	
STEVENSON, JUNE	34-14519	Decreed	8/29/1960	IRRIGATION	2.28	111.0	
STEVENSON, JUNE	34-2383	Decreed	8/30/1960	IRRIGATION	0.80	134.1	
STEVENSON, JUNE	34-7068	Decreed	3/22/1974	IRRIGATION	1.85	135.0	
STEVENSON, JUNE	34-7118A	Decreed	11/24/1975	IRRIGATION	5.29	264.0	
STEWART, G CRAIG; STEWART, JACKIE	34-2419B	Decreed	6/5/1961	IRRIGATION	1.96	146.0	
STEWART, G CRAIG; STEWART, JACKIE	34-12391	Decreed	5/2/1984	IRRIGATION	0.98	146.0	Yes
STEWART, WILLIAM SETH	34-2309	Decreed	10/2/1953	IRRIGATION	2.00	634.0	
STEWART, WILLIAM SETH	34-2358F	Decreed	4/20/1961	IRRIGATION	1.26	634.0	
STEWART, WILLIAM SETH	34-7059B	Decreed	1/15/1974	IRRIGATION	10.44	634.0	
STEWART, WILLIAM SETH	34-7059D	Decreed	1/15/1974	IRRIGATION	3.50	264.0	

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STEWART, WILLIAM SETH	34-12381	Decreed	5/1/1983	IRRIGATION	1.19	264.0	Yes
STONE, CATHERINE	34-7174	Decreed	3/28/1977	IRRIGATION	0.06	2.0	
SUMMIT TRUSTEES PLLC	25-14310	Decreed	8/10/1966	IRRIGATION	0.02	0.9	
SUNROC CORPORATION	29-13891	Decreed	10/28/1953	IRRIGATION, STOCKWATER	0.90	48.0	
SUNROC CORPORATION	29-7754	License	6/17/1983	COMMERCIAL	0.81		
SUNROC HOLDINGS	34-2318	Decreed	11/30/1954	IRRIGATION	0.26	33.5	
SUNROC HOLDINGS	34-2414	Decreed	5/1/1961	IRRIGATION	0.16	33.5	
SUNROC HOLDINGS	34-2503	Decreed	12/19/1967	IRRIGATION	0.21	33.5	
SUNROC HOLDINGS	34-7027	Decreed	6/29/1972	IRRIGATION	0.02	33.5	
SUNROC HOLDINGS	34-12053	Decreed	12/31/1976	IRRIGATION	0.08	33.5	Yes
SUNSET FARM & RANCH LLC	34-2480B	Decreed	9/11/1966	IRRIGATION	2.00	728.4	
SUNSET FARM & RANCH LLC	34-14772	Decreed	8/18/1974	IRRIGATION	6.86	728.4	
SWANSON, BRIAN RUSSELL; SWANSON, JULIE BELLE	34-14255	Decreed	7/5/1960	IRRIGATION	0.20	18.0	
SWANSON, BRIAN RUSSELL; SWANSON, JULIE BELLE	34-14257	Decreed	4/10/1961	IRRIGATION	0.17	18.0	
TABER, DONALD E	37-10161	Decreed	4/1/1955	COMMERCIAL	0.04		
TABLE ROCK HOLDINGS	35-13320	License	8/7/2001	DOMESTIC	0.10		
TANNER JR, WILLIAM L; TANNER, KIMBERLY	22-14634	Decreed	4/26/1961	IRRIGATION	0.03	2.0	
TANNER JR, WILLIAM L; TANNER, KIMBERLY	22-14636	Decreed	5/1/1968	IRRIGATION	0.01	2.0	Yes
TANNER, JESSICA	22-14635	Decreed	4/26/1961	IRRIGATION	0.03	2.0	
TANNER, JESSICA	22-14637	Decreed	5/1/1968	IRRIGATION	0.01	2.0	Yes
TANNER, KATHY; TANNER, REYNOLD	25-2139	Decreed	10/30/1961	IRRIGATION	1.54	38.0	
TAUSCHER, KATHY; TAUSCHER, LARRY	34-14766	Decreed	9/29/1966	IRRIGATION	0.05	3.0	
TAUSCHER, KATHY; TAUSCHER, LARRY	34-14768	Decreed	5/20/1984	IRRIGATION	0.01	3.0	Yes
TAYLOR, E MARK; TAYLOR, RUBY	34-14038	Decreed	5/14/1977	IRRIGATION	0.16	8.1	
TAYLOR, LOIS; TAYLOR, LYLE D	25-7110	Decreed	5/9/1977	IRRIGATION	1.30	65.0	
TAYLOR, VIVA	34-4128	Decreed	4/1/1955	IRRIGATION, STOCKWATER	0.74	36.0	
TAYLOR, VIVA	34-2375	Decreed	7/13/1960	IRRIGATION	1.40	70.0	
TEA, RANDALL C	34-7054B	Decreed	12/10/1973	IRRIGATION	0.14	9.4	
TELFORD LANDS LLC	34-13946	Decreed	2/21/1961	IRRIGATION	1.56	78.0	
TELFORD LANDS LLC	34-10028	Decreed	4/1/1961	IRRIGATION	4.36	239.0	
TELFORD LANDS LLC	34-2459	Decreed	4/19/1965	IRRIGATION	4.17	2223.8	
TELFORD LANDS LLC	34-2460	Decreed	4/19/1965	IRRIGATION	4.17	2223.8	
TELFORD LANDS LLC	34-2461	Decreed	5/3/1965	IRRIGATION	2.08	2223.8	
TELFORD LANDS LLC	34-2462	Decreed	5/3/1965	IRRIGATION	2.08	2223.8	
TELFORD LANDS LLC	34-7037	Decreed	5/4/1973	IRRIGATION	12.00	2223.8	

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TELFORD LANDS LLC	34-7077	Decreed	9/5/1974	IRRIGATION	8.00	2124.0	
TELFORD LANDS LLC	34-7080B	Decreed	9/23/1974	IRRIGATION	5.33	2124.0	
TELFORD LANDS LLC	34-7092	Decreed	1/14/1975	IRRIGATION	12.00	2124.0	
TELFORD LANDS LLC	34-10246	Decreed	5/1/1975	IRRIGATION	0.17	75.0	Yes
TELFORD LANDS LLC	34-13842	Decreed	12/17/1975	IRRIGATION	0.46	2124.0	
TELFORD LANDS LLC	34-7121A	Decreed	1/9/1976	IRRIGATION	0.46	2124.0	
TELFORD LANDS LLC	34-7121B	Decreed	1/9/1976	IRRIGATION	3.74	2124.0	
TELFORD LANDS LLC	34-12376	Decreed	6/1/1977	IRRIGATION	1.25	2124.0	
TELFORD LANDS LLC	34-2330B	Decreed	6/1/1977	IRRIGATION	1.75	2124.0	
TELFORD LANDS LLC	34-13840	Decreed	4/6/1982	IRRIGATION	1.26	2124.0	
TELFORD LANDS LLC	34-7179	Decreed	4/6/1982	IRRIGATION	2.78	2124.0	
TELFORD LANDS LLC	34-10925	Decreed	5/1/1982	IRRIGATION	7.60	2223.8	Yes
TELFORD LANDS LLC	34-10896	Decreed	4/1/1983	IRRIGATION	0.38	239.0	Yes
TELFORD, AARON; TELFORD, DESAREE	34-7100	Decreed	2/6/1975	IRRIGATION	2.72	136.0	
TELFORD, MARK	34-2486	License	6/7/2002	IRRIGATION	3.76	188.0	
TELFORD, MARK; TELFORD, PAIGE	34-4132	Decreed	6/1/1955	IRRIGATION	2.00	480.0	
TELFORD, MARK; TELFORD, PAIGE	34-10058	Decreed	7/7/1955	IRRIGATION	1.67	480.0	
TELFORD, MARK; TELFORD, PAIGE	34-2340A	Decreed	1/8/1958	IRRIGATION	2.96	147.0	
TELFORD, MARK; TELFORD, PAIGE	34-14759	Decreed	9/16/1960	IRRIGATION	0.80	44.0	
TELFORD, MARK; TELFORD, PAIGE	34-2388D	Decreed	9/16/1960	IRRIGATION	0.45	25.0	
TELFORD, MARK; TELFORD, PAIGE	34-7035A	Decreed	4/12/1973	IRRIGATION	0.64	620.0	
TELFORD, MARK; TELFORD, PAIGE	34-14760	Decreed	3/22/1974	IRRIGATION	0.18	44.0	
TELFORD, MARK; TELFORD, PAIGE	34-7067D	Decreed	3/22/1974	IRRIGATION	0.10	25.0	
TELFORD, MARK; TELFORD, PAIGE	34-7096A	Decreed	1/31/1975	IRRIGATION	1.84	620.0	
TELFORD, MARK; TELFORD, PAIGE	34-7097A	Decreed	1/31/1975	IRRIGATION	1.58	620.0	
TELFORD, MARK; TELFORD, PAIGE	34-7122A	Decreed	1/16/1976	IRRIGATION	4.31	620.0	
TELFORD, MARK; TELFORD, PAIGE	34-7223	Decreed	4/16/1979	IRRIGATION	1.58	620.0	
TELFORD, MICHAEL S; TELFORD, SHANNON J	34-2401A	Decreed	9/1/1961	IRRIGATION	3.70	2223.8	
TELFORD, MICHAEL S; TELFORD, SHANNON J	34-4015	Decreed	9/1/1961	IRRIGATION	1.64	2223.8	
TERNUS, BRENDA; TERNUS, GARY A	35-13858	Decreed	4/27/1964	IRRIGATION	0.32	8.0	
TERRETON TRACTOR INC	31-7346	Decreed	12/2/1980	COMMERCIAL, DOMESTIC	0.04		
TETON NEWDALE CEMETERY DISTRICT	22-2147	Decreed	1/7/1953	IRRIGATION	0.16	8.0	
TETON PIPELINE ASSN INC	22-7188	Decreed	7/6/1976	IRRIGATION	3.37		
TETON PIPELINE ASSN INC	22-7216	Decreed	3/4/1977	IRRIGATION	4.00		
TETON PIPELINE ASSN INC	22-7223	Decreed	4/5/1977	IRRIGATION	7.00		

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TETON PIPELINE ASSN INC	22-7235	Decreed	6/7/1977	IRRIGATION	6.00		
TETON PIPELINE ASSN INC	22-7360	Decreed	4/14/1981	IRRIGATION	2.00		
TETON PIPELINE ASSN INC	22-7375A	Decreed	8/17/1981	IRRIGATION	6.72		
TETON PIPELINE ASSN INC	22-7375B	Decreed	8/17/1981	IRRIGATION	5.72		
TETON PIPELINE ASSN INC	22-7504	License	7/1/1985	IRRIGATION	6.30		
TEUSCHER, DENNIS	29-7853	License	8/3/1988	IRRIGATION	0.09	3.0	
THE ALEXANDER C CREEK TRUST	34-14039	Decreed	5/14/1977	IRRIGATION	0.29	15.2	
THE DAMIANA REVOCABLE TRUST	34-14250	Decreed	7/5/1960	IRRIGATION	0.09	18.0	
THE DAMIANA REVOCABLE TRUST	34-14252	Decreed	4/10/1961	IRRIGATION	0.08	18.0	
THE DAMIANA REVOCABLE TRUST	34-14328	Decreed	9/5/1961	IRRIGATION	0.11	18.0	
THE G & L KIMBALL FAMILY ESTATE TRUST	34-14866	Decreed	6/28/1965	IRRIGATION	0.08	4.4	
THE G & L KIMBALL FAMILY ESTATE TRUST	34-7207	Decreed	9/19/1977	IRRIGATION	0.27	17.0	
THE LOVELAND FAMILY TRUST	27-7069	Decreed	12/3/1976	IRRIGATION	3.42	171.0	
THOMAS, CATHERINE F; THOMAS, KEVIN E	25-14303	Decreed	8/10/1966	IRRIGATION	0.02	0.9	
THOMAS, TONI L; THOMAS, WILLIAM H	34-14046	Decreed	4/29/1955	IRRIGATION	0.13	6.4	
THOMPSON, BETTY L; THOMPSON, LYNN	29-7075A	Decreed	2/4/1972	IRRIGATION	0.06	3.1	
THOMPSON, HOWARD M	25-7508	License	6/19/1989	DOMESTIC, STOCKWATER	0.11		
THOMPSON, JAMES R	22-7453	License	6/24/1983	DOMESTIC	0.04		
THOMPSON, KRISTEN R	34-14888	Decreed	11/28/1952	IRRIGATION	0.01	2.3	
THOMPSON, KRISTEN R	34-14887	Decreed	5/16/1977	IRRIGATION	0.04	2.3	
THOMPSON, KRISTEN R	34-14889	Decreed	4/1/1987	IRRIGATION	0.01	2.3	Yes
THURBER, NIQUEL M	34-14624	Decreed	12/17/1961	IRRIGATION	0.10	4.8	
TOMLIN, STEPHEN	29-13730	License	6/7/1983	IRRIGATION	0.01	0.5	
TOWN & COUNTRY MOBILE HOME PARK LLC	35-4258	Decreed	6/1/1962	DOMESTIC	0.22		
TRACY, JACOB	34-13761	Decreed	11/28/1952	DIVERSION TO STORAGE, FISH PROPAGATION STORAGE, IRRIGATION, RECREATION STORAGE	0.03	5.2	
TRACY, JACOB	34-7194	Decreed	5/16/1977	IRRIGATION	0.10	5.2	
TRACY, JACOB	34-14342	Decreed	4/1/1987	IRRIGATION	0.01	5.2	Yes
TRAINOR, LISA; TRAINOR, MARK	25-7392A	License	12/16/1983	IRRIGATION	0.14	7.0	
TRAUGHBER, PHILLIP	34-7107	Decreed	4/2/1975	IRRIGATION	0.32	16.0	
TRAUGHBER, SHERLENE	34-7220	Decreed	8/1/1978	IRRIGATION	0.03	1.8	
TRUST FBO MICHAEL SCOTT HICKERSON	34-13914	Decreed	12/17/1961	IRRIGATION	0.09	4.6	
TRUST FBO MICHAEL SCOTT HICKERSON	34-2425D	Decreed	12/17/1961	IRRIGATION	0.21	10.4	
TURNER WELL ASSN	29-7700	License	4/27/1983	IRRIGATION	0.40	19.9	
U62 LLC	34-2485	Decreed	8/10/1966	IRRIGATION, STOCKWATER	0.14	6.0	

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UNION PACIFIC RAILROAD CO	36-4203	Decreed	9/13/1957	COMMERCIAL, DOMESTIC, MUNICIPAL	0.22		
UNITED ALLIANCE & FIDELITY CORP	25-7387	Decreed	12/4/1983	IRRIGATION	0.10	5.0	
US BUREAU OF INDIAN AFFAIRS	29-12560	Decreed	8/23/1954	IRRIGATION	3.75	187.9	
US BUREAU OF INDIAN AFFAIRS	29-12565	Decreed	8/23/1954	COOLING	0.04		
US BUREAU OF LAND MANAGEMENT	34-2373B	Decreed	7/5/1960	IRRIGATION	0.10	5.0	
US BUREAU OF LAND MANAGEMENT	35-7685	Decreed	3/22/1977	IRRIGATION	2.48	124.0	
US BUREAU OF LAND MANAGEMENT	35-7534B	Decreed	8/4/1979	IRRIGATION	1.09	57.0	
US BUREAU OF LAND MANAGEMENT	36-16583	Decreed	3/15/1987	IRRIGATION	0.03	4.0	Yes
US BUREAU OF LAND MANAGEMENT	21-7517	License	2/27/1992	STOCKWATER, WILDLIFE	0.07		
US BUREAU OF LAND MANAGEMENT	36-8726	Permit	4/28/1994	STOCKWATER, WILDLIFE	0.12		
US BUREAU OF LAND MANAGEMENT	21-13032	License	2/24/2006	STOCKWATER, WILDLIFE	0.02		
US BUREAU OF LAND MANAGEMENT	34-14459	Permit	8/26/2014	STOCKWATER, WILDLIFE	0.15		
US BUREAU OF RECLAMATION	25-7201	Decreed	8/11/1980	DOMESTIC, IRRIGATION	0.14	4.0	
US DEPARTMENT OF ENERGY	35-7098	Decreed	8/2/1969	FISH PROPAGATION	20.00		
US DEPARTMENT OF ENERGY	35-7097	Decreed	9/30/1969	DOMESTIC, FISH PROPAGATION	4.00		
VALLEY MOBILE HOME COURT	25-12489	Decreed	3/31/1958	DOMESTIC	0.23		
VALLEY SCHOOL DISTRICT #262	36-15190	Decreed	9/1/1954	DOMESTIC, IRRIGATION	0.15	0.2	
VALLEY SCHOOL DISTRICT #262	36-16299	License	9/22/2004	DOMESTIC, FIRE PROTECTION	1.52		
VALLEY VIEW HEIGHTS SUBDIVISION WATER CO	25-7344	Decreed	7/29/1983	DOMESTIC, STOCKWATER	0.11		
VALLEY VIEW HEIGHTS SUBDIVISION WATER CO	25-13986	License	6/16/2003	DOMESTIC	0.08		
VALLEY VISTA CARE CENTER	34-13830	Decreed	9/2/1961	IRRIGATION	0.28	14.0	
VAN DYKE, VIRGINIA	37-10019	Decreed	2/1/1961	COMMERCIAL, STOCKWATER	0.06		
VAN EPS, KATHY; VAN EPS, LENARD	34-14130	Decreed	2/12/1974	IRRIGATION	1.26	32.6	
VAN ETTEN, CHRIS	34-14448	Decreed	9/30/1953	IRRIGATION	1.56	78.2	
VAN ETTEN, CIRBY	34-14450	Decreed	9/30/1953	IRRIGATION	0.76	38.0	
VAN ETTEN, CLAY	34-14449	Decreed	9/30/1953	IRRIGATION	0.68	34.0	
VAN ETTEN, DEE J; VAN ETTEN, SANDRA	34-2307	Decreed	9/30/1953	IRRIGATION	0.04	1.8	
VAN OVER, MARY; VAN OVER, RAYMOND	25-7650	License	12/29/1982	DOMESTIC, IRRIGATION, STOCKWATER	0.06	1.0	
VEENSTRA, FRANK W	36-17233	Decreed	1/31/1961	STOCKWATER	0.38		
VERBREE LAND HOLDINGS LLC	36-8609	License	10/21/1991	DOMESTIC, IRRIGATION, STOCKWATER	0.02	2.5	
VERDEGAAL LIVING TRUST	37-2676	Decreed	12/11/1961	IRRIGATION	1.85	450.4	
VICK, CHELSEA; VICK, SAMUEL	34-14369	Decreed	6/13/1968	IRRIGATION	0.11	5.6	
W T WILLIAMS INC	33-2069	Decreed	2/13/1953	IRRIGATION	0.03	4.4	
W T WILLIAMS INC	33-4001	Decreed	5/1/1954	IRRIGATION	0.03	4.4	
W T WILLIAMS INC	33-4000	Decreed	5/1/1956	IRRIGATION	0.03	4.4	

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W T WILLIAMS INC	33-2041	Decreed	5/7/1963	IRRIGATION	0.03	4.4	
W T WILLIAMS INC	33-7063	Decreed	3/20/1978	IRRIGATION	7.27	644.0	
WADDOUPS FARMS LLC	34-14794	Decreed	4/13/1961	IRRIGATION	2.22	111.0	
WADDOUPS, D KEITH; WADDOUPS, DEBRA J	34-13976	Decreed	6/22/1961	IRRIGATION	1.20	73.5	
WADDOUPS, LE ANNE; WADDOUPS, WADE	34-2426A	Decreed	12/7/1961	IRRIGATION	0.83	37.0	
WADDOUPS, LE ANNE; WADDOUPS, WADE	34-2426B	Decreed	12/7/1961	IRRIGATION	1.66	68.0	
WADDOUPS, LE ANNE; WADDOUPS, WADE	34-13839	Decreed	4/6/1982	IRRIGATION	0.67	43.0	
WADDOUPS, ROBERT D	34-2416D	Decreed	5/16/1961	IRRIGATION	1.30	64.8	
WADDOUPS, ROBERT DANIEL	34-14791	Decreed	1/24/1980	IRRIGATION, STOCKWATER	2.59	134.0	
WADDOUPS, ROBERT DANIEL	34-14904	Decreed	2/24/1980	IRRIGATION	0.80	40.0	
WADDOUPS, ROBERT DANIEL	34-7226D	Decreed	2/24/1980	IRRIGATION	0.68	34.0	
WADE, NANCY; WADE, RONALD	25-7425	License	6/6/1988	DOMESTIC, IRRIGATION	0.05	1.0	
WAGNER JR, EDWARD P; WAGNER, KRISTIE L	35-8856	Decreed	8/11/1989	DOMESTIC, STOCKWATER	0.10		
WALKER, YOUNG HARVEY	34-2440	Decreed	10/10/1961	IRRIGATION, STOCKWATER	1.55	190.0	
WALKER, YOUNG HARVEY	34-10473	Decreed	8/10/1977	IRRIGATION	0.36	190.0	Yes
WALTERS READY MIX INC	22-14336	License	2/28/1992	INDUSTRIAL	0.10		
WALTERS READY MIX INC	22-14337	Permit	9/26/2011	INDUSTRIAL STORAGE, INDUSTRIAL	4.99		
WALTERS, BRUCE A; WALTERS, MARCEY L	25-7596	License	6/26/1991	DOMESTIC, IRRIGATION	0.15	10.0	
WALTERS, PATRICE; WALTERS, SHAWN J	22-14445	Decreed	4/1/1962	IRRIGATION	2.05	102.8	
WANSTROM, CINDY; WANSTROM, PAUL	34-14654	Decreed	7/26/1961	IRRIGATION	0.43	24.0	
WANSTROM, DAVID E; WANSTROM, NANCY W	34-2435B	Decreed	7/26/1961	IRRIGATION	0.08	4.5	
WANSTROM, JOSEPH SCOTT	34-2339A	Decreed	6/3/1957	IRRIGATION	0.17	18.0	
WANSTROM, JOSEPH SCOTT	34-7172	Decreed	3/13/1977	IRRIGATION	0.94	47.0	
WANSTROM, JOSEPH SCOTT	34-14314	License	7/8/1992	IRRIGATION	0.22	36.0	
WARD, ALLAN	45-14476	Decreed	9/15/1971	COMMERCIAL, IRRIGATION, STOCKWATER	0.30	1.0	
WARD, DANIEL G; WARD, KARLA	45-14422	Decreed	12/11/1953	COMMERCIAL, STOCKWATER	0.06		
WARD, DELORA; WARD, REED I	25-14309	Decreed	8/10/1966	IRRIGATION	0.02	1.0	
WATSON, WESLEY F	34-14505	Decreed	4/2/1980	IRRIGATION	0.04	2.1	
WAYNE PROPERTIES LLC	25-14460	Decreed	2/19/1982	IRRIGATION	0.10	353.9	
WAYNE PROPERTIES LLC	25-14461	Decreed	2/19/1982	IRRIGATION	0.10	353.9	
WAYNE PROPERTIES LLC	25-14463	Decreed	2/19/1982	IRRIGATION	0.10	353.9	
WAYNE PROPERTIES LLC	25-14473	Decreed	2/19/1982	IRRIGATION	0.10	353.9	
WAYNE PROPERTIES LLC	25-14476	Decreed	2/19/1982	IRRIGATION	0.10	353.9	
WAYNE PROPERTIES LLC	25-14489	Decreed	2/19/1982	IRRIGATION	0.10	353.9	
WAYNE PROPERTIES LLC	25-14519	Decreed	2/19/1982	IRRIGATION	0.03	1.3	

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WAYNE PROPERTIES LLC	25-14520	Decreed	2/19/1982	IRRIGATION	0.01	353.9	
WAYNE PROPERTIES LLC	25-14495	License	1/14/1983	IRRIGATION	0.07	285.4	
WAYNE PROPERTIES LLC	25-14503	License	1/14/1983	IRRIGATION	0.07	285.4	
WELLS, DELOS H	35-8220	License	8/4/1983	DOMESTIC, IRRIGATION	0.11	9.5	
WELLS, DELOS H; WELLS, LUELLA	35-10874	Decreed	10/1/1962	DOMESTIC, IRRIGATION	0.20	8.0	
WENDELL & MARJEAN TEW REVOCABLE LIVING TRUST	34-13775	Decreed	5/6/1954	IRRIGATION	0.26	13.0	
WENDLING, JACOB; WENDLING, JAIME	29-14458	Decreed	10/28/1953	IRRIGATION	0.02	3.2	
WENDLING, JACOB; WENDLING, JAIME	29-14438	Decreed	6/23/1977	IRRIGATION	0.03	3.2	
WESTON, CAROL; WESTON, ERVIN P	33-7039	Decreed	3/31/1975	DOMESTIC, IRRIGATION	0.09	3.0	
WHEATLEY, SCHAUNEE; WHEATLEY, SCOTT	29-14461	Decreed	10/28/1953	IRRIGATION	0.02	2.0	
WHEATLEY, SCHAUNEE; WHEATLEY, SCOTT	29-14441	Decreed	6/23/1977	IRRIGATION	0.02	2.0	
WHEELER, G ALVIN; WHEELER, GAY D	34-2353	Decreed	7/31/1959	IRRIGATION	1.87	219.0	
WHEELOCK, MICHAEL T; WHEELOCK, TINA J	29-14448	Decreed	10/28/1953	IRRIGATION	0.02	2.1	
WHEELOCK, MICHAEL T; WHEELOCK, TINA J	29-14428	Decreed	6/23/1977	IRRIGATION	0.02	2.1	
WHITEWATER WATER USERS ASSN	29-2438B	Decreed	2/3/1961	IRRIGATION	0.74	37.0	
WHITEWATER WATER USERS ASSN	29-7819	Decreed	9/20/1979	DOMESTIC	2.00		
WILBURN, DARRELL; WILBURN, KAREN	34-14236	Decreed	9/29/1966	IRRIGATION	0.07	4.0	
WILBURN, DARRELL; WILBURN, KAREN	34-14238	Decreed	5/20/1984	IRRIGATION	0.01	4.0	Yes
WILLIAMS, ANDREA; WILLIAMS, HENRY	34-13732	Decreed	8/1/1961	IRRIGATION	0.54	42.4	
WILLIAMS, BRETT	34-2489	Decreed	8/16/1966	IRRIGATION	2.98	176.0	
WILLIAMS, BRETT; WILLIAMS, TRUDY	34-2377	Decreed	7/22/1960	IRRIGATION	1.60	78.0	
WILLIAMS, BRETT; WILLIAMS, TRUDY	34-14938	Decreed	9/5/1961	IRRIGATION	1.55	151.5	
WILLIAMS, BRETT; WILLIAMS, TRUDY	34-2436	Decreed	9/5/1961	IRRIGATION	2.00	167.0	
WILLIAMS, BRETT; WILLIAMS, TRUDY	34-7054A	Decreed	12/10/1973	IRRIGATION	5.86	390.6	
WILLIAMS, BRETT; WILLIAMS, TRUDY	34-10621	Decreed	6/1/1977	IRRIGATION	0.80	167.0	Yes
WILLIAMS, CLAUDIA; WILLIAMS, JOHN	25-7528	License	9/19/1989	IRRIGATION	0.04	1.3	
WILLIAMS, JANENE; WILLIAMS, WADE	33-2102	Decreed	6/21/1961	IRRIGATION	1.60	77.0	
WILLIAMS, TERRY; WILLIAMS, VICKIE	34-2323B	Decreed	2/11/1955	IRRIGATION	0.16	10.0	
WILLIE, DANIEL L	36-16113	Decreed	11/11/1959	MITIGATION	0.20	30.2	
WILSON, JOHN CHARLES	29-7916	License	3/20/1990	IRRIGATION	0.09	4.5	
WOOD, HEIDI; WOOD, J ADAM	29-8009	License	7/26/1990	IRRIGATION, STOCKWATER	0.04	1.5	
WOOD, HOWARD; WOOD, SHEILA	34-2478	Decreed	6/16/1966	IRRIGATION	0.76	38.0	
WOOD, TIMOTHY	34-13909	Decreed	3/20/1961	IRRIGATION	0.10	5.0	
WOOD, TIMOTHY	34-14464	Decreed	3/20/1961	IRRIGATION	0.24	12.2	
WOODBURY, BRYCE; WOODBURY, STEPHANIE	34-13878	Decreed	1/30/1961	IRRIGATION	0.01	1.0	

Attachment A -Sorted by Owner
List of Ground Water Rights Junior to August 15, 1952
(Highlighted rights have 15-days to join a Ground Water District)

Owner	Water Right No.	Basis	Priority Date	Water Use List	Diversion Rate (cfs)	Total Acres	Enlargement
WOODBURY, RANDY	34-13903	Decreed	8/29/1960	IRRIGATION	1.57	150.4	
WOODBURY, RANDY	34-13905	Decreed	12/17/1961	IRRIGATION	0.12	150.4	
WOODBURY, RANDY	34-13907	Decreed	1/3/1975	IRRIGATION	0.30	150.4	
WOODMAN, ERIC; WOODMAN, MICHELLE	34-14237	Decreed	9/29/1966	IRRIGATION	0.04	2.2	
WOODMAN, ERIC; WOODMAN, MICHELLE	34-14239	Decreed	5/20/1984	IRRIGATION	0.01	2.2	Yes
WOODS, JOANNE; WOODS, NICHOLAUS	34-14626	Decreed	12/17/1961	IRRIGATION	0.09	4.7	
WOODS, JOANNE; WOODS, NICHOLAUS	34-14681	Decreed	12/17/1961	IRRIGATION	0.10	4.8	
WRIDE FARMS	35-8949	Permit	8/26/1991	IRRIGATION	3.00	150.0	
WRIGHT, DEE; WRIGHT, RUBY	25-7256	Decreed	5/12/1981	IRRIGATION	0.10	1.4	
WRIGHT, KATHERINE A; WRIGHT, MICHAEL V	34-14627	Decreed	12/17/1961	IRRIGATION	0.09	4.6	
YANCEY, CLEM R	35-7955	License	3/10/1981	DOMESTIC, STOCKWATER	0.06		
YOUNG & YOUNG LIVESTOCK LLC	25-14494	Permit	8/3/2021	DOMESTIC	0.23		
YOUNG, DE VONA; YOUNG, WILLIAM N	25-7437	License	8/26/1988	DOMESTIC, STOCKWATER	0.07		
YOUNG, JUDY D; YOUNG, KENNETH A	25-7436	License	9/14/1988	IRRIGATION	0.03	1.5	
ZIRKELBACH, NANCY; ZIRKELBACH, RICHARD	25-7440	License	8/25/1988	DOMESTIC, IRRIGATION	0.04	1.2	
ZWEIFEL PROPERTIES LLC	32-10031	Decreed	5/1/1968	DOMESTIC, STOCKWATER	0.12		

EXPLANATORY INFORMATION TO ACCOMPANY A FINAL ORDER

(To be used in connection with actions when a hearing was **not** held)

(Required by Rule of Procedure 740.02)

The accompanying order is a "**Final Order**" issued by the department pursuant to section 67-5246, 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 67-5246(4), Idaho Code.

REQUEST FOR HEARING

Unless the right to a hearing before the director or the water resource board is otherwise provided by statute, any person who is aggrieved by the action of the director, and who has not previously been afforded an opportunity for a hearing on the matter shall be entitled to a hearing before the director to contest the action. The person shall file with the director, within fifteen (15) days after receipt of written notice of the action issued by the director, or receipt of actual notice, a written petition stating the grounds for contesting the action by the director and requesting a hearing. See section 42-1701A(3), Idaho Code. **Note: The request must be received by the Department within this fifteen (15) day period.**

RECEIVED
Dec 09, 2025
DEPARTMENT OF
WATER RESOURCES

Travis L. Thompson, ISB #6168
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Attorneys for A&B Irrigation District

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY OR FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY	Docket No. CM-DC-2010-001 **A&B IRRIGATION DISTRICT'S CONSOLIDATED RESPONSE TO AFA MOTION / IGWA MOTION FOR SUMMARY JUDGMENT**

COMES NOW, A&B IRRIGATION DISTRICT ("A&B or "District"), by and through counsel of record, pursuant to IDAPA 37.01.01.220.02.b[1] and the *Order Granting A&B's Motion to Amend Deadlines* (Nov. 25, 2025), and hereby submits this consolidated response to the *American Falls-Aberdeen Ground Water District's Motion to Reconsider et al.* ("AFA Motion") and the *Idaho Ground Water Appropriators, Inc.'s Motion for Summary Judgment* ("IGWA Motion") filed on November 18, 2025. This response is supported by the *Declaration of Travis L. Thompson* ("*Thompson Dec.*") and exhibits attached thereto. For the reasons set forth below, the Director and/or Hearing Officer should deny the motions.

[1] Citations to the *Rules of Procedure of the Idaho Department of Water Resources and the Water Resource Board* (IDAPA 37.01.01 et seq.) (3-18-22) will hereinafter be referred to shorthand as "Rule."

INTRODUCTION

AFA and IGWA generally ask the Department to vacate and dismiss the upcoming hearing on res judicata grounds. Both parties mistakenly believe the June 2023 hearing decided the questions presently pending before the Hearing Officer. The Director granted A&B's requests for hearing on the April and July 2025 As Applied Orders, and this contested case will provide an opportunity for the parties to exhaust their administrative remedies and create a full record for a decision on these important issues.

Issues regarding mitigation responsibility have been subject to confusion and uncertainty over the past two years, largely due to the actions of the Ground Water Districts. Whereas the agency applied a steady-state model analysis to determine a curtailment priority date and a storage water mitigation obligation from 2016 through 2022, that changed in the spring of 2023 when the Director moved to a "transient" analysis, but only for identifying the curtailment priority date. A&B had successfully implemented a surface water conversion project of 3,573 acres since 2016 and the Director did not require the district to mitigate for groundwater rights covered by those conversions.[2] The earliest groundwater right priority date for curtailment during those first seven years was June 14, 1977. A&B's senior groundwater right 36-2080 with a September 9, 1948 priority date was not subject to the delivery call in any way.

Between 2023 and 2024 the Ground Water Districts filed a flurry of new mitigation plans and proposed to mitigate under the decades-old 2009 Storage Water Plan. The Director concluded the Districts could mitigate under the 2009 Plan, but such mitigation would cover all groundwater users on the ESPA, thereby obviating A&B's obligation altogether. As described below, this was the state of the mitigation questions at the time of the June 2023 hearing. Certain

[2] *See Final Order Curtailing Non-Enlargement Ground Water Rights Junior to April 12, 1994, and Enlargement Ground Water Rights Junior to March 14, 1971* at 4 (June 7, 2019) (CM-DC-2010-001).

districts attempted to mitigate pursuant to a "transient" model analysis, while others tried to parse out their mitigation share through different methods. Eventually the Surface Water Coalition and nine affected Ground Water Districts entered into a new stipulated mitigation plan in the fall of 2024. As the Director continued to issue new As Applied Orders throughout the irrigation season, A&B's 1948 groundwater right was subject to the call for the first time in July 2025. How IDWR determines a proportionate share of the mitigation obligation had not been previously decided or applied to A&B's senior right. A&B exercised its statutory right to request a hearing and the consolidated contested case has been proceeding for several months.

The Department's rules advise that "[e]vidence should be taken by the agency to assist the parties' development of a record, not excluded to frustrate that development." IDAPA 37.01.01.600. The administrative hearing is the vehicle for the agency to develop a complete evidentiary record and hear information related to determining a proportionate share of an identified mitigation obligation. With the recent changes in model use, the new boundary of the area of common ground water supply, and an opportunity to receive additional technical information on alternatives, there is no basis to vacate the hearing and foreclose the opportunity to actually decide the issues presented to the agency.

Finally, due process also requires that A&B receive a hearing on these issues, particularly as they have implicated the district's senior groundwater right 36-2080 for the first time. If a water right, a real property interest, is subject to curtailment and/or a mitigation obligation, due requires an opportunity for a hearing on that agency decision prior to curtailment. *See Clear Springs Foods, Inc. v. Spackman*, 150 Idaho 790, 815, 252 P.3d 71, 96 (2011). For the reasons set forth below, A&B respectfully requests the Hearing Officer to deny the motions filed by AFA and IGWA accordingly.

AFA Motion to Reconsider / Clarify Scope of Hearing

PRESIDING OFFICER / FORMAL PROCEEDINGS

AFA's motion is not filed in compliance with IDWR's Rules and therefore should be denied on procedural grounds. AFA alleged that it has filed its motion with the "Director," not the Hearing Officer assigned to hear this contested case. *See* AFA Motion at 1-2. A&B filed two requests for hearing, one for the April As Applied Order (Steps 1-3) on April 29, 2025, and a second one for the July As Applied Order (Steps 5-6) on July 24, 2025. The Director granted the requests for hearing and found as follows:

> 10) The issues identified for hearing in A&B's July hearing request relate to, and even mirror at times, the issues identified in its April request. A&B has not previously been afforded an opportunity for a hearing to contest either the *April Forecast Supply Order* or the *July As-Applied Order*.

Order Granting A&B Irrigation District's Requests for Hearing at 2 (Sept. 3, 2025).

The Director further consolidated the proceedings, set the matter for a pre-hearing conference, and appointed Gerald F. Schroeder to serve as the hearing officer. The scope of the Hearing Officer's authority was not limited. *See* IDWR Rule 412. Accepting the contested case so designated, AFA voluntarily petitioned to intervene in the contested case on September 17, 2025.[3] AFA was not required to participate in this contested case. *See e.g.*, *Porter as Tr. of Brian L. Porter Revocable Tr. v. Remmich,* 174 Idaho 263, 272, 553 P.3d 925, 934 (2024) (cleaned up) (citations and internal quotation marks omitted) ("Importantly, the landowner, as an intervenor, could not assert any conflicting claims in the second case, *because an intervenor*

[3] A&B stipulated to AFA's intervention on the basis that the District represents ground water right holders subject to the SWC delivery call. A&B would not have stipulated to AFA's intervention had AFA disclosed that it was intervening on the basis to wait several weeks and then ask the Director to vacate the hearing altogether. That issue could have been addressed up front as part of the AFA's grounds for intervention.

takes a case as he finds it. He is not entitled to raise new claims outside the scope of the original parties' pleadings") (emphasis added).[4]

The Hearing Officer held the prehearing conference on September 18, 2025 where AFA's intervention was granted and a discovery and hearing schedule was set. *See Order on Intervention et al.* ("Oct. 7, 2025). AFA did not oppose the Hearing Officer's jurisdiction and fully participated in setting the schedule. Since that time A&B has served discovery requests on various parties, conducted two depositions of IDWR employees, and submitted an expert report. In other words, significant time and resources have been spent in preparation for the hearing previously granted by the Director over three months ago.

IDWR's Rules define the terms related to this matter as follows:

> **09. Hearing Officer**. A hearing officer is a person other than the agency head appointed to preside over a formal proceeding in a contested case on behalf of the agency. . . .
>
> **15. Presiding Officer**. One (1) or more members of the Board, the Director, or duly appointed hearing officer presiding over a formal proceeding as authorized by statute or rule. . . .
>
> **102. FORMAL PROCEEDINGS**. When the agency determines that informal proceedings are unlikely to resolve a contested case, the agency will initiate formal proceedings by issuing a Notice of Prehearing Conference and identifying a presiding officer. Representation of parties and other persons in formal proceedings is governed by Rule 201.02.

IDAPA 37.01.01 (emphasis in original).

[4] Furthermore, "[i]ntervention is not an independent proceeding but an ancillary and supplemental one that, unless otherwise provided for by legislation, must be in subordination to the main proceeding, and, as a general rule, an intervenor is limited to the field of litigation open to the original parties …. [E]ven aside from any such express declaration, the rule is stated to be that one who intervenes in a pending action ordinarily must come into the case as it exists and conform to the pleadings as the intervenor finds them or that an intervenor must take the case as the intervenor finds it. An intervenor is admitted to the proceeding as it stands, and in respect of the pending issues, but is not permitted to enlarge those issues or compel an alteration of the nature of the proceeding…. [T]he intervenor is bound by the previous proceedings and the record of the case at the time of intervention. *See* 59 Am. Jur. 2d Parties § 226 (footnotes omitted).

The present contested case concerning the April and July As Applied Orders is a "formal proceeding" that is presided over by Hearing Officer Schroeder. AFA seeks to side-step the ongoing formal proceeding and have the Director issue a new order despite his previous assignment. A&B submits the contested case is properly before the designated hearing officer, that the scope of his authority is not limited, and that the Director is no longer "presiding" over the matter set for hearing in January. Accordingly, AFA's motion for reconsideration and request to vacate the hearing is procedurally misplaced at this point and should be denied accordingly.

AFA's request to clarify the scope of the hearing should be denied as well. Contrary to AFA's interpretation of the initial expert report, A&B is not attempting to use this proceeding "as a vehicle to advocate for the adoption of a GMP." *See* AFA Motion at 7. The Director previously reviewed A&B's requests for hearing and identified the scope of the consolidated hearing in his *Order Granting A&B Irrigation District's Requests for Hearing* (Sept. 3, 2025). AFA has provided no meritorious basis to reconsider or clarify the scope of the hearing based on its unilateral interpretation of A&B's expert report. If AFA wishes to object to evidence offered at the hearing it will have an opportunity to raise such objections at the appropriate time. Rule 600 (Evaluation of Evidence); Rule 603 (Objections).

Alternatively, if AFA's motion to vacate the hearing is considered for a ruling by the Hearing Officer, A&B submits it should be denied for substantive reasons as well. As set forth below, A&B's requests for hearing are not moot, and should not be barred under res judicata, law of the case, or the quasi-estoppel doctrine.

FACTUAL AND PROCEDURAL BACKGROUND

From 2016 through 2022, the Director applied the *Fourth Amended Methodology Order* to the SWC delivery call every year. The predicted in-season demand shortfall ("IDS"), or predicted material injury, ranged from a low of 0 acre-feet (2017, 2018, 2020) to a high of 170,000 acre-feet (July 2021 Steps 5 & 6 Order).[5] The corresponding curtailment date for affected ground water rights ranged from the most junior date of May 31, 1989 (2022 Step 9 Order) to the most senior date of June 14, 1977 (2021 Steps 5 & 6 Order).

During this time A&B delivered surface water to approximately 3,573 acres that were formerly irrigated with groundwater pursuant to water rights with priorities ranging from April 1, 1962 to April 12, 1994 (enlargement water right priority date condition).[6] *See* I.C. § 42-1426. During this time the Director did not require A&B to mitigate for its groundwater rights that were not used, or for those irrigated lands that had been converted to a surface water supply. *See Final Order Curtailing Non-Enlargement Ground Water Rights Junior to April 12, 1994, and Enlargement Ground Water Rights Junior to March 14, 1971* at 4 (June 7, 2019) ("A&B will not have a mitigation obligation for this year if A&B curtails the enlargement ground water rights and if the priority date for curtailment for 2019 remains junior to A&B's other ground water rights").

[5] Copies of the various orders issued by the Director in the delivery call are available on the IDWR's website: https://idwr.idaho.gov/legal-actions/delivery-call-actions/SWC/.

[6] After completion of its second pumping plant on the Snake River, A&B was able to deliver surface water to additional lands previously only irrigated with groundwater. *See Stipulation Regarding A&B Irrigation District's Amended Mitigation Plan* at 2 (Dec. 27, 2023) ("A&B has curtailed the diversion of groundwater to approximately 3,573.6 acres within the Unit B portion of the irrigation district. A&B has delivered surface water to these 'soft conversion' acres dating back to 1994 (1,378 acres) and 2016 (2,195 acres).

Moreover, since the Director's curtailment orders never affected A&B's senior groundwater right 36-2080 (Sept. 9, 1948), and A&B's junior rights were part of its surface water conversion deliveries, there was no immediate or actual need to litigate or challenge how the Director apportioned mitigation obligations amongst junior ground water rights across the ESPA. During this time (2016-2022), the Director also approved a variety of stipulated mitigation plans without deciding a contested "mitigation apportionment standard" or how the plans would work together to ensure ground water rights were properly administered as amongst each other.[7] In other words, the priority date of ground water rights was not at issue in the context of how the Department required the various rights to mitigate a "proportionate share" of a predicted injury in a given irrigation season. A&B's surface water conversion program also ensured that it had no mitigation obligation during this time period.

The Director changed his method for identifying a groundwater right curtailment date in the spring of 2023 with the issuance of the *Fifth Amended Methodology Order* (April 21, 2023). In that order the Director adopted a "transient" simulation of ESPAM 2.2 which evaluated the predicted impacts of pumping from groundwater rights and the corresponding responses that would occur in the Near Blackfoot to Minidoka reach of the Snake River during that same irrigation season. The reasons for this change in model use were described as follows:

> 84. Steady-state analysis does not calculate the time to reach steady-state conditions nor describe the seasonal timing of the impacts. . . . The assumption of continuous curtailment does not reflect reality in the SWC Delivery Call. . . . It is important to predict what benefits to the river are realized during the irrigation season in which injury has been determined. A steady-state ESPAM simulation cannot predict what benefits are realized during the irrigation season. In contrast, a transient ESPAM simulation will predict the timing of changes in river reach gains.

[7] *See generally*, https://idwr.idaho.gov/legal-actions/mitigation-plan-actions/swc/. Approved plans included the IGWA 2016 Settlement Mitigation Plan (CM-MP-2016-001); the Coalition of Cities (CM-MP-2016-002; 2019-001); and Southwest Irrigation District's 2018 Mitigation Agreement Plan (CM-MP-2010-001).

* * *

89. Transient simulations are necessary to evaluate the impacts of aquifer stresses applied for short periods of time (i.e. short-term curtailments with varying priority dates). Transient simulations are necessary to simulate the short-term curtailments prescribed in the methodology.

Fifth Amended Methodology Order at 29-31.

The Director sua sponte issued a notice of hearing concurrent with the issuance of the fifth order and the April 2023 As Applied Order. *See Notice of Hearing, Notice of Prehearing Conference, and Order Authorizing Discovery* (April 21, 2023). The scheduled June 2023 hearing specifically addressed the Director's *Fifth Methodology Order* and the *Final Order Regarding April 2023 Forecast Supply* both issued on April 21, 2023. *See id.* The hearing did not, as AFA suggests, specifically address "five of the six issues" raised in A&B's present 2025 requests for hearing. Importantly, the hearing did not address any agency decision related to A&B's senior water right 36-2080 with a September 9, 1948 priority date.

In the *Fifth Methodology Order* the Director adopted a "transient" model analysis for determining a curtailment date of junior priority ground water rights. Issues related to apportionment of the mitigation obligation amongst junior ground water rights were not addressed or explained. Further, the Director limited the scope of topics that IDWR witnesses could provide testimony and evidence on at the June 2023 hearing.

Notably, Jennifer Sukow's testimony was limited to: "steady-state vs. transient modeling / simulations for the Eastern Snake Plain Aquifer Model (ESPAM); calculation of curtailment priority dates for the SWC's delivery call." *See Notice of Materials Department Witnesses May Rely Upon at Hearing and Intent to Take Official Notice* (May 5, 2023).[8]

[8] A&B requested a hearing and identified two issues related to the 2023 April As Applied Order, however no ruling was issued on those issues, and the Director's limitation on the scope of the June hearing was issued that very same day. *See Surface Water Coalition's Request for Hearing and Statement of Issues* at 2-3 (May 5, 2023).

Ms. Sukow had previously addressed this issue in the fall of 2024 with the parties' technical working group, and that presentation did not address apportioning the mitigation obligation amongst junior ground water rights. *See* **Ex. A** to *Thompson Dec.* The issue was limited to what the differences were between using a steady state analysis versus a transient analysis for identifying a curtailment date that would supply the required water to meet the in-season demand shortfall during the irrigation season.

AFA's reference to testimony from Jennifer Sukow at the June 2023 hearing concerned a "courtesy" email and calculation related to the individual ground water districts' share of the predicted in-season demand shortfall. *See* **Ex. B** to *Thompson Dec.* Throughout the spring and early summer of 2023 the Ground Water Districts were attempting to provide storage water mitigation under a variety of mitigation plans, and they were trying to identify the individual district's mitigation responsibilities. *See Order Determining Deficiency in IGWA's Notice of Secured Water* (May 23, 2023) ("*Deficiency Order*"). The Director described what was being attempted that year as follows:

> Since the 2015 Settlement Agreement Mitigation Plan was approved by the Department, IGWA has only mitigated under that plan. This year, IGWA is proposing something new. Certain ground water district members are seeking to mitigate under the 2009 Storage Water Mitigation Plan and other ground water district members are seeking to mitigate under the 2015 Settlement Agreement Mitigation Plan. Instead of relying on one or two mitigation plans for all members, individual ground water districts are seeking to mitigate under different mitigation plans.

Deficiency Order at 2.

Although certain districts were attempting to mitigate under the 2009 Mitigation Plan based upon the proportionate share of storage provided as a "courtesy" in the Garrick Baxter email, others were relying upon their "alleged share" of the 50,000 acre-feet requirement in the

2016 Mitigation Plan. *See Deficiency Order* at 2-3. The Director rejected this novel "hybridization" approach and concluded that IGWA was required to either: 1) supply the entire predicted 2023 in-season demand shortfall under the 2009 Plan, which was 75,200 acre-feet; or 2) the entire 50,000 acre-feet under the 2015 Plan. *See id.* at 5 ("IGWA cannot pick and choose who gets the benefit of storage water if IGWA is not providing storage water amounts equal to the shortfall obligation"); at 7 ("While the 2015 Settlement Agreement Mitigation Plan allows for determining the proportionate share of the reduction obligation of the parties, it does not authorize the 50,000 acre-foot storage volume to be shared proportionately by the parties. To be in compliance with the plan, the entire 50,000 acre-feet must be provided").

Just a few days before the June 2023 hearing, IGWA submitted an *Amended Notice of Mitigation* purporting to mitigate the 2023 injury under the 2009 Plan with copies of storage water leases totaling 77,714 acre-feet. *See IGWA's Amended Notice of Mitigation* (June 1, 2023). Pursuant to the Director's prior order, IGWA would have been required to provide the entire 75,200 acre-feet, in which case A&B would have had no obligation in 2023. Accordingly, given the confusion created by IGWA and the various mitigation plans it was attempting to implement for the various ground water districts, it was not clear whether A&B had to mitigate at all that year, most notably at the time of hearing.[9] The issue concerning the sufficiency of IGWA's mitigation was ultimately never addressed in the context of a contested order as the Director issued the *Notice That Questions Concerning the Sufficiency of IGWA's Mitigation Notices are Moot* (July 20, 2023).

[9] Eventually IGWA supplied sufficient storage water to comply with the 50,000 acre-feet storage assignment required under the 2016 Mitigation Plan. *See* **Ex. C** to *Thompson Dec.*

Moreover, at the start of the June 2023 hearing the scope of Ms. Sukow's topics and testimony was described as follows:

> Q. [BY MR. WOOD] And you were aware that on May 5th, 2023, the Director issued a notice advising the parties of two topic areas that you might testify about today?
>
> A. [BY MS. SUKOW] Yes.
>
> Q. And those two topic areas are the following: the first is steady state modeling versus transient state modeling, simulations for the ESPA. And the second is calculations of curtailment priority dates for the Surface Water Coalition's delivery call. Does that sound correct?
>
> A. Yes.

June 2023 Hearing Tr. 38:16 – 39:1. [10]

With respect to the calculations performed, and how the predicted demand shortfall might be divided up between the districts, Ms. Sukow specifically explained the following at the June 2023 hearing:

> Q. [MR. BUDGE] And under this approach to allocating that predicted demand shortfall. Some ground water districts such as North Snake would have to provide more water as mitigation than the Coalition would receive from curtailment. And other ground water districts would have to provide less water as mitigation than the Coalition would receive from curtailment?
>
> A. [MS. SUKOW] I don't think that's true as far as the Department's concerned. IGWA's proportionate share is 63,645 acre-feet. And the Department, I don't think, has a say in how you decide to split that up. You asked us to provide a breakdown, and I did it by this method. And Garrick sent it to you as a courtesy. But we are not telling you that that's how you have to split up the proportionate share.
>
> Q. Yeah, and I appreciate that. And I don't actually even mean to be critical of the method. It's just one method; right? It's not the only method. And I just wanted to highlight under this method in the proportionate mitigation obligations don't match up with the transient modeled reach gains?

[10] *See* copy of June 2023 hearing transcript at *https://idwr.idaho.gov/wp-content/uploads/sites/2/legal/CV01-23-13238/CV01-23-13238-20230928-Settled-Agency-Hearing-Transcript-on-Appeal.pdf*

A. No, they do not.

* * *

Q. [MR. SIMPSON] I'm not sure if I fully appreciated the calculation you made. But my understanding is that your method that you utilized, and this was your proposed method, acknowledged the long-term impacts of each ground water district on the Blackfoot to Minidoka reach. And then once the percentage was calculated, then it was utilized in the calculation of the responsibility of each ground water district of the total for IGWA; is that correct?

A. Well, and again, that was provided as a courtesy, and the Department is not telling them, IGWA what each ground water districts responsibility is. But it is just an apportioning based on their long-term impacts.

June 2023 Hearing Tr. 86:17 – 87:12; 101:4-17.

In this context, the above testimony shows that IDWR's method for apportioning the mitigation obligation was not an issue that was actually litigated between various ground water users on the ESPA. It was obvious that IDWR was not making any formal decisions or ordering IGWA to use a certain method to apportion that obligation. Stated another way, although the ground water districts were divided at that time as to how each was going to mitigate in 2023, IDWR did not decide any contested issues concerning an apportionment methodology. How A&B's obligation, if any, would or would not be addressed in the context of this uncertainty was also not resolved.

As to the issue that was litigated and decided, the Director adopted the transient analysis in the *Fifth Methodology Order*, and following the June 2023 hearing, affirmed its use in the *Sixth Amended Methodology Order* as well. Contemporaneous with the issuance of the *Sixth Methodology Order* the Director issued the *Post-Hearing Order Regarding Fifth Amended Methodology Order* (July 19, 2023). As admitted by AFA, the Director did not decide any "proportionate share" methodology in that decision. *See* AFA Motion at 5.

With respect to conjunctive administration during the 2023 irrigation season A&B complied with the April 2023 mitigation obligation[11] and the in-season injury finding was later reduced to zero (0) acre-feet in the 2023 July As Applied Order. *See Order Revising April 2023 Forecast Supply and Amending Curtailment Order (Methodology Steps 5 & 6)* at 9 (July 19, 2023) ("there is no mid-season demand shortfall to the SWC members"). Consequently, A&B did not request any further hearings on the 2023 As Applied Orders. However, the conclusion of the 2023 irrigation season did not answer or foreclose the question of IDWR's apportionment of mitigation obligations going forward.

2024 ushered in even more uncertainty as the various Ground Water Districts filed several new mitigation plans[12] while at the same time attempting to mitigate under both the 2009 Plan and the 2016 Plan again. *See Final Order Regarding April 2024 Forecast Supply* at 5-6, n.8 *(Methodology Steps 1-3)* (Apr. 18, 2024) (Director noting the continued "uncertainty" regarding the status of the mitigation plans and confirming that under the 2009 Plan "IGWA's obligation is

[11] *See A&B Irrigation District's Notice of Communication to Water District 01 Watermaster* (May 5, 2023). Ultimately, the Director did not issue a curtailment order in 2023. *See Notice of Possible Curtailment of Ground Water Rights with Priority Dates Junior to December 30, 1953* (May 1, 2023) ("The Department scheduled a hearing for the parties to the As-Applied Order on June 6-10, 2023. After the hearing the Director will decide whether to issue a curtailment order").

[12] *See generally*, the various mitigation plans filed in late 2023 and early 2024: Madison GWD & Henry's Fork GWD (CM-MP-2023-001); Bonneville-Jefferson GWD (CM-MP-2023-002); Jefferson Clark GWD (CM-MP-2023-003); North Snake GWD (CM-MP-2023-004); Magic Valley GWD (CM-MP-2003-005); Bingham GWD (CM-MP-2024-001). The districts proposed to mitigate under a variety of actions and methods. North Snake and Magic Valley both proposed to mitigate for transient impacts. *See Petition for Approval of MVGWD Mitigation Plan* at 3 ("Mitigation provided by Petitioner under this plan may offset all or part of the volume of water the SWC would receive from curtailment of water rights held by Petitioner's patrons"); *Petition for Approval of NSGWD Mitigation Plan* at 3 ("Mitigation provided by Petitioner under this plan may offset all or part of the volume of water the SWC would receive from curtailment of water rights held by Petitioner's patrons"). Other districts similarly proposed to mitigate their "transient" irrigation season pumping impacts to the Near Blackfoot to Neeley reach as part of their new mitigation plans. *See Petition for Approval of Madison GWD and Henry's Fork GWD Storage Water Mitigation Plan for the Surface Water Coalition* at 3 (CM-MP-2023-001) (Dec. 18, 2023) ("Petitioners may utilize storage to offset all or part of the volume of water the SWC would receive from curtailment of water rights held by Petitioners' patrons"); *Petition for Approval of Jefferson Clark GWD Storage Water Mitigation Plan for the Surface Water Coalition* at 3 (CM-MP-2023-003) (Dec. 20, 2023) ("To provide mitigation under this plan, Petitioners will deliver or assign storage water to the SWC to offset the amount of water the SWC would receive from curtailment of water rights held by Petitioner's patrons").

74,100 acre-feet"). A&B provided notice of its ability to mitigate its share of the predicted in-season demand shortfall, and further advised:

> Finally, although the District [A&B] disagrees with and reserves all rights concerning the *Order* initially allowing IGWA to choose to mitigate under its 2009 Storage Water Mitigation Plan, if IGWA does establish that it has 74,100 acre-feet, then A&B will no longer have any obligation for the 2024 irrigation season.

A&B Irrigation District Letter to the Director (May 1, 2024).

For example, Magic Valley GWD and North Snake GWD filed a joint notice of compliance proposing to mitigate under the 2009 Plan. *See Joint Notice of Compliance* (May 2, 2024). The districts' joint notice identified the schism in IGWA that was occurring at the time: "This Joint Notice is submitted by MV and NS through undersigned counsel because of a current lack of consensus within IGWA's membership frustrating IGWA's ability to submit an entity-wide notice." *See id.* at 2. The districts further represented, that despite proposing to mitigate their proportionate share of the entire 74,200 acre-feet predicted injury in 2024:

> The districts' steady state-based commitments above shall not be construed as an admission or concession that steady state application of ESPAM 2.2 is the appropriate application of the model. Clearly, the Director has determined that transient model simulation/application is the appropriate method of ESPAM 2.2 deployment. . . . Under transient application of the model, MV's proportionate share of the April-predicted IDS would be 25 acre-feet, and NS's proportionate share would be negligible (0.1 acre-feet). Be that as it may, MV and NS are willing to collectively provide 15,590 acre-feet (as opposed to merely 24 acre-feet under transient modelling) for the 2024 irrigation season in a good faith effort to do what they can, the fairest they can in recognition of the lingering effects of legacy pumping.

Joint Notice of Compliance at 3 (May 2, 2024).

Other districts also proposed to mitigate under the 2009 Plan, AFA proposed to mitigate under the 2016 Plan, and certain districts opted to not participate under any approved mitigation plan. The Director summarized the confusing and contradictory filings as follows:

> At the status conference, the Director started by asking each participating ground water district to identify whether, in 2024, they plan to mitigate under IGWA's *2009 Storage Water Mitigation Plan* (CM-MP-2007-001) or IGWA's *2016 Settlement Mitigation Plan*. The Director asked this because many of the mitigation notices submitted by the ground water districts included vague, confusing, or contradictory statements regarding compliance with the approved mitigation plans. Bonneville-Jefferson, Magic Valley, and North Snake indicated that they had secured water for 2024 and would dedicate their secured water towards the mitigation requirements under the *2009 Storage Water Mitigation Plan*. Jefferson-Clark, Henry's Fork, and Madison indicated that they also had secured storage water and would dedicate their secured storage water towards required mitigation activities set forth in either the *2009 Storage Water Mitigation Plan* or the *2016 Settlement Mitigation Plan*. American Falls-Aberdeen indicated that it planned to mitigate under the *2016 Settlement Mitigation Plan* only. Bingham indicated it will not mitigate under any approved mitigation plan. Carey Valley did not participate in the status conference.

Amended Order Determining Deficiency in Notices of Secured Water at 3-4 (May 28, 2024) (CM-DC-2010-001); **Ex. D** to *Thompson Dec.*

Comparing the districts' various storage water leases to the predicted in-season demand shortfall, the Director further concluded:

> The above table shows that the ground water districts have indicated that they have secured 32,876 acre-feet, which is less than the full shortfall obligation of 74,100 acre-feet. . . . The Department has calculated what the revised curtailment date would be if these ground water districts can show, to the satisfaction of the Director, that they have secured 32,876 acre-feet of water. <u>The revised curtailment date for all ground water users would be February 16, 1970.</u>

Id. at 5 (emphasis added); **Ex. D** to *Thompson Dec*.

With that understanding at the end of May 2024, A&B's only water rights subject to curtailment were its enlargement water rights with an effective priority date of April 12, 1994 (enlargement rights). A&B had no way of knowing whether the districts would ultimately secure all 74,100 acre-feet thus eliminating A&B's obligation completely. However, A&B relied upon the Director's above representation and submitted a follow up *Notice of Mitigation Water*. *See Letter from A&B Irrigation District to Director Mat Weaver* (May 30, 2024). A&B submitted a copy of its executed lease for 62 acre-feet to cover its proportionate share of the predicted in-

season demand shortfall in 2024. *See id.* A&B further "reserved all rights" concerning its notice of mitigation and its right to request a hearing pursuant to I.C. § 42-1701A(3). *See id.* at 2.

The Director then issued his *Final Order Curtailing Ground Water Rights Junior to March 31, 1954* (May 30, 2024). That order prompted additional districts to change their position and attempt to comply with the *2016 Settlement Mitigation Plan* for the 2024 irrigation season. *See Joint Notice of Compliance* at 2 (June 5, 2024) ("In response to the Director's Curtailment Order, the Districts [Magic Valley and North Snake] provide notice that they intend to comply with the 2016 Plan for the 2024 irrigation season only").

Eventually, the Surface Water Coalition, all Ground Water Districts, and IGWA reached an interim stipulation for 2024 whereby all districts agreed to comply with the 2016 Plan for the 2024 irrigation season. *See Joint Motion for Order Approving 2024 Stipulation* (June 20, 2024). The Director approved the parties' stipulation to comply with the 2016 Plan. *See Order Approving 2024 Stipulation as Compliance with Approved Mitigation Plan* (June 20, 2024).

The Director later revised the predicted in-season demand shortfall down to 6,800 acre-feet in July. *See Order Revising April 2024 Forecast Supply and Amending Curtailment Order (Methodology Steps 5 & 6)* (July 17, 2024). The Director concluded that "continued curtailment of ground water rights beyond mid-July is unwarranted at this time." *See id.* at 11. Consequently, at that time A&B had no in-season obligation and no reason to challenge the Director's 2024 as-applied orders or any proportionate share methodology that had been used.[13]

[13] In response to the Director's 2024 Step 9 Order and predicted carryover storage shortfall of 44,900 acre-feet, A&B confirmed that it intended to continue to curtail its enlargement water rights (2,063 acres) for the 2025 irrigation season that were subject to the curtailment order. *See Final Order Curtailing Ground Water Rights Junior to January 25, 1970* (December 17, 2024). The Director kept those water rights on the curtailment list and did not require A&B to secure or assign any storage water. *See id.* at 4; *see also*, *Order Revising April 2025 Forecast Supply and Continuing May 16, 2025 Curtailment Order* at 1 *(Methodology Steps 5 & 6)* (July 10, 2025) ("While the SWC's storage allocation did not fill this year, because no water users secured water in 2024 to fulfill this carryover shortfall, there is no volume of water to be made available to the SWC under Step 5").

With the above context it was obvious that the Director's apportionment of any mitigation obligation was not the subject of any prior hearing and had not been resolved through any final order. A&B's 1948 water right had not been implicated in any curtailment orders and the scope of its mitigation obligation was uncertain and constantly changing in the face of the Ground Water Districts' efforts to use a myriad of mitigation plans that may have covered A&B's obligation completely. The misdirection approach left water users uncertain as to what IDWR would finally approve for purposes of mitigation obligations in these years.

Further, the Director's fifth and sixth methodology orders were subject to two petitions for judicial review filed in 2023, wherein the petitioners were asking the district court to set aside those orders in total. *See Idaho Ground Water Appropriators, Inc.'s Opening Brief* at 45 (Fourth Jud. Dist., Ada County Dist. Ct., Case No. CV01-23-13173)[14] (Dec. 8, 2023); *Cities' Opening Brief on Judicial Review, SWC Post-Hearing Order, Fifth Methodology* at 49 (Fourth Jud. Dist., Ada County Dist. Ct., Case No. CV01-23-13238 (Dec. 21, 2023).[15]

The uncertainty and implementation of the various mitigation plans, the pending appeals, and status of the Director' "transient" use of the model were all valid reasons to not pursue additional litigation of any mitigation apportionment methods at the time. Where this question remains unresolved it is important for IDWR to finally address it with a fully developed administrative record. This proceeding provides that forum.

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[14] The district court entered a *Memorandum Decision and Order* on IGWA's appeal on May 31, 2024. IGWA's petition for rehearing of that decision is presently stayed. *See Order Granting Stipulated Motion for Stay*. Documents in this case are available at: https://idwr.idaho.gov/legal-actions/district-court-actions/igwa-v-idwr-cv01-23-13173/.

[15] The Cities specifically challenged the Director's transient model simulation for identifying a curtailment date. *See Cities' Op. Br.* at 43-45. The district court entered a *Memorandum Decision and Order* on the Cities' appeal on May 31, 2024. The Cities appealed the decision to the Idaho Supreme Court and oral argument was recently heard on October 6, 2025. The complete list of documents does not appear to be uploaded to IDWR's website. Certain documents in this case are available at https://idwr.idaho.gov/legal-actions/district-court-actions/city-of-idaho-falls-v-idwr/

STANDARD OF REVIEW

IDWR's Rules of Procedure authorize the filing of motions for summary judgment. Rule 220.03. Such motions are governed by I.R.C.P. 56, except that the rule's time procedure set forth in subsection (b) does not apply. *See id.*

Summary judgment requires the movant to show that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law. *See Martin v. Thelma V. Garrett Living Trust*, 170 Idaho 1, 5, 506 P.3d 237, 241 (2022). The burden of proving the absence of material facts is on the moving party and the Department must liberally construe facts in the existing record in favor of the nonmoving party, and draw all reasonable inferences from the record in favor of the nonmoving party. *See id.* When an action is tried before an agency without a jury (in this case the Hearing Officer), the Department can rule upon summary judgment despite the possibility of conflicting inferences arising from undisputed evidentiary facts. *See Nettleton v. Canyon Outdoor Media, LLC*, 163 Idaho 70, 73, 408 P.3d 68, 71 (2017).

Summary judgment is not appropriate in a case where there are disputed issues of material fact. *See American Land Title Co. v. Isaak*, 105 Idaho 600, 601, 671 P.2d 1063, 1-64 (1983) ("It is axiomatic that summary judgment is improperly granted where any genuine issue of material fact remains unresolved"). In this case the parties are scheduled to put on technical evidence related to the Department's apportionment of the mitigation obligations identified in the April and July 2025 As Applied Orders. Initial expert reports were filed last month, rebuttal expert reports are due by December 19th, and the agency staff memorandum is due by December 30th. IGWA has failed to show that the contested case should be dismissed on summary judgment grounds. As set forth below, the Hearing Officer should deny the motion accordingly.

ARGUMENT

I. AFA's Request to Vacate the Hearing and IGWA's Motion for Summary Judgment on Res Judicata Grounds Should be Denied.

AFA alleges the Director erred in granting A&B's requests for hearing on the two 2025 As Applied Orders and that the January 2026 hearing should be vacated. *See* AFA Motion at 4-6. IGWA similarly seeks summary judgment and argues that A&B should be barred from raising its issues on res judicata grounds. *See* IGWA Motion at 6-8.

In general, AFA alleges that the June 2023 hearing on the *Fifth Methodology Order* and the *April 2023 As Applied Order* already addressed A&B's issues and that the doctrine of res judicata should prevent A&B's request for hearing on the two 2025 As Applied Orders. *See id.* IGWA makes a similar argument and claims that an "evidentiary hearing was held on issues raised by A&B and others" in June 2023. *See* IGWA Motion at 7. To the contrary, the Director correctly granted A&B's present requests for hearing, and technical and legal issues regarding IDWR's application of the CM Rules and apportionment of mitigation obligations to affected junior ground water rights should be finally decided on a complete agency record for purposes of certainty and proper administration of approved mitigation plans. In short, res judicata does not bar the present contested case as the mitigation apportionment issue has not been previously decided and A&B's 1948 groundwater right has never been subject to a curtailment order in this delivery call.

Section 42-1701A(3) provides: "any person aggrieved by any action of the director, including any decision, determination, order or other action, . . . who is aggrieved by the action of the director, and who has not previously been afforded an opportunity for a hearing on the matter shall be entitled to a hearing before the director to contest the action." A&B's requests for hearing concern two As Applied Orders issued in 2025. The Director granted these timely

requests for hearing, consolidated the matters, and initiated a formal contested case and appointed a hearing officer. *See Order Granting A&B Irrigation District's Requests for Hearing et al.* (Sept. 3, 2025).

Importantly for purposes of ruling on AFA's and IGWA's motions, A&B's water right 36-2080 has never been subject to curtailment and IDWR has never apportioned a mitigation requirement to that water right until July 2025. Both the Director and Jennifer Sukow confirmed this fact. First, in a July memorandum to Governor Little, Director Weaver described this unique fact relative to the delivery call:

> This action may affect up to 900 water rights, although the final number is still being confirmed. Notably, this will mark the first time water rights with priority dates earlier than 1955 have been subject to curtailment under the SWC delivery call.

Director Weaver July 22, 2025 Memo to Governor Little (emphasis added); **Ex. E** to *Thompson Dec.*

At her deposition taken on October 22, 2025, Ms. Sukow also testified:

> Q. [BY MR. THOMPSON] Do you know if A&B has been required to mitigate for its 1948 priority groundwater right prior to this order?
>
> A. [BY MS. SUKOW] Not that I know of.

J. Sukow Depo. Tr. 70:21-24; **Ex. F** to *Thompson Dec.*

AFA does not dispute A&B's "aggrieved person" status, but argues that the June 2023 hearing precludes the present contested case. AFA argues that A&B should be barred from contesting certain issues that were not previously decided "under principles of res judicata." AFA Motion at 5-6. Although AFA does not address the elements of res judicata, the doctrine is not satisfied regardless if AFA is advocating for either issue or claim preclusion. AFA mistakenly claims that "all six of the issues A&B presented in its 2025 requests were litigated in the June 2023 hearing or are not moot." *Id.* at 6.

IGWA claims that the elements of res judicata are satisfied on the basis that "(1) A&B had a full and fair opportunity to litigate the issue in response to the April 2016 As-Applied Order, the April 2023 As-Applied Order, and the April 2024 As-Applied Order; (2) the issue decided in the prior As-Applied Orders is identical to the issue raised by A&B in the present action; (3) the issue sought to be precluded was actually decided in the prior As-Applied Orders; (4) there was a final judgment on the merits in the prior As-Applied Orders; and (5) A&B was a party to the prior As-Applied Orders." IGWA Motion at 8.

Both AFA and IGWA miss the mark regarding prior IDWR proceedings and final agency orders as to what was actually decided. Furthermore, AFA and IGWA appear to argue that information related to how IDWR makes technical decisions is foreclosed from ever being submitted in response to an As Applied Order as part of the annual conjunctive administration of the SWC delivery call.

First, res judicata encompasses both issue preclusion and claim preclusion. *Byrd v. Idaho State Bd. of Land Commissioners*, 169 Idaho 922, 931, 505 P.3d 708, 717 (2022). The Idaho Supreme Court has confirmed that res judicata can apply to administrative proceedings. *See id.* In *Byrd*, the Court concluded that collateral estoppel did not apply because there was "no record demonstrating any litigation of the parties' littoral rights, much less ownership of the shoreline beyond the iron pins." 160 Idaho at 932, 505 P.3d at 718. Although the applicants had previously received an encroachment permit, their "initial permit issued without a hearing and with only minimal procedures was not a final adjudication of their littoral rights and ownership." *Id.*

Furthermore, "res judicata can apply within the same case to bar relitigation of those issues that were previously decided and are the subject of a final judgment." *Doe I v. John Doe*

(2024-23), 566 P.3d 409, 420 (Idaho 2025) (citing *State v. Wolfe*, 158 Idaho 55, 62, 343 P.3d 497, 504 (2015)) (emphasis added). The key point is that an issue must be actually decided for res judicata to apply. The Idaho Supreme Court has found that res judicata does not bar litigation of issues that were not ripe for adjudication in the prior action. *See Duthie v. Lewiston Gun Club*, 104 Idaho 751, 754, 663 P.2d 287, 290 (1983). In this case A&B's senior water right was never at issue in any prior As Applied Order, hence there was no facts to address what was required for mitigation. *See id.* ("The 'sameness' of a cause of action for purposes of application of the doctrine of res judicata is determined by examining the operative facts underlying the two lawsuits").

The test for res judicata requires a "final judgment on the merits," which is generally defined as "an order or judgment that ends the lawsuit, adjudicates the subject matter of the controversy, and represents a final determination of the rights of the parties." *Snap! Mobile, Inc. v. Vertical Raise, LLC*, 173 Idaho 499, 522, 544 P.3d 714, 737 (2024), *reh'g denied* (Mar. 28, 2024).

> Issue preclusion is found where:
>
> (1) the party against whom the earlier decision was asserted had a full and fair opportunity to litigate the issue decided in the earlier case; (2) the issue decided in the prior litigation was identical to the issue presented in the present action; (3) the issue sought to be precluded was actually decided in the prior litigation; (4) there was a final judgment on the merits in the prior litigation; and (5) the party against whom the issue is asserted was a party or in privity with a party to the litigation.

Id. (emphasis added).

Claim preclusion occurs where a claim could have been brought in the previous action, regardless of whether it was actually brought, where: "(1) the original action ended in final judgment on the merits, (2) the present claim involves the same parties as the original transaction,

and (3) the present claim arises out of the same transaction or series of transactions as the original action." *Elsaesser v. Riverside Farms, Inc.*, 170 Idaho 502, 508, 513 P.3d 438, 444 (2022).

As highlighted above, an issue is not subject to res judicata if it was not actually decided in a final judgment on the merits. *See Snap! Mobile, Inc.*, 173 Idaho at 522, 544 P.3d at 737. Nowhere in any of the Director's prior As-Applied Orders or the methodology orders does the agency explain or address the contested issue of apportioning the mitigation obligation amongst groundwater users. Further, the Director used a steady-state analysis for identifying a curtailment date from 2016 through 2022. The Director also found that A&B did not have to mitigate for its groundwater rights that had been converted to a surface water supply. In addition, the oldest priority for junior ground water rights affected under that method was June 14, 1977, approximately 30 years junior to A&B's most senior ground water right 36-2080.

Unlike the examples offered by AFA and IGWA, the issue of apportioning the mitigation obligation has not been previously heard and decided by the Department.[16] As such, the element of actually deciding the issue through a final judgment for res judicata is not met in this case. In addition, it is clear that the issue of how IDWR apportions the mitigation obligation to satisfy a predicted in-season demand shortfall was not heard at the June 2023 hearing as the Director limited Jennifer Sukow's testimony to the issue of modeling simulations for determining a

[16] AFA points to the Director's *Order Denying Cities' Motion for Clarification and Reconsideration* (Sept. 25, 2023) as a reason to deny A&B's present requests for hearing. *See* AFA Motion at 6, n. 4. However, the Cities' four issues relating to the SWC's water use were all litigated and decided by the Director following the June 2023 hearing. *Compare Order Denying Cities' Motion* (Sept. 25, 2023) at 1-2 (listing four issues) with *Post-Hearing Order Regarding Fifth Amended Methodology Order* at 17-23 (July 19, 2023) (addressing IGWA's and Cities' claims regarding SWC efficiency, irrigated acres, supplemental ground water use). IGWA similarly argues that its example from the 2016 mitigation plan case should apply here as well. *See* IGWA Motion at 7. However, in that proceeding the Director concluded IGWA failed to request a hearing on the *2022 Compliance Order* as required by section 42-1701A(3), and that its attempt to raise its "baseline issue" eight months later, including after the hearing held before Hearing Officer Roger Burdick held in March 2024, was untimely. *See Order Denying IGWA's Motion to Vacate or Amend 2022 Compliance Order* at 6 (CM-MP-2016-001) (May 2, 2024) ("IGWA failed to timely raise the baseline calculation example"). As such the above references are distinguishable and not applicable to the present contested case. The Hearing Officer should reject AFA's and IGWA's arguments accordingly.

curtailment date. Similar to the applicants in *Byrd*, where an agency does not answer a disputed issue in a prior administrative action, collateral estoppel does not apply to preclude a future hearing on the issue. *See* 160 Idaho at 932, 505 P.3d at 718 ("the Department was correct to permit Coffey's objection and conduct a hearing on the dispute").

Finally, from 2023 through 2024 the Ground Water Districts filed numerous mitigation plans and attempted to mitigate through a "hybrid" approach as to previously approved plans. Various districts were proposing to mitigate with a "transient" approach while others were attempting to use the 2009 Storage Plan, which mitigation would have covered all groundwater users, including A&B. This state of mitigation uncertainty clouded what the Department was accepting and approving and what mitigation obligation A&B finally had in those years, if any. Viewed in this context, it is clear that res judicata cannot apply to bar the present contested case addressing A&B's requests for hearing on the 2025 As Applied Orders.

Moreover, due process requires a hearing prior to curtailing a junior groundwater right for the first time, in this case A&B's 1948 water right 36-2080. *See Clear Springs Foods, Inc. v. Spackman*, 150 Idaho 790, 815, 252 P.3d 71, 96 (2011) ("Under these circumstances, the Director abused his discretion by issuing the curtailment orders without prior notice to those affected and an opportunity for hearing"). For these reasons the Hearing Officer should deny AFA's and IGWA's request to vacate and/or dismiss this case on res judicata grounds.

II. A&B's Requested Hearing on the Apportionment Issue is Not Moot.

AFA further claims that issue no. 3 in the July 24, 2025 request for hearing is "moot" because the Director approved an interim stipulation for the 2025 irrigation season between A&B and the Coalition. *See* AFA Motion at 6. The Director approved the stipulation and concluded that "A&B does not need to establish that they can mitigate for its proportionate share

of the predicted IDS" for purposes of the 2025 irrigation season. *See Order Revising July 2025 Forecast Supply (Methodology Steps 7-8)* at 12, n. 7 (Sept. 11, 2025). However, the Director had previously granted A&B's requests for hearing on the April and July As Applied Orders.[17] the issue is not "moot" as the Director recently found that A&B has a mitigation obligation concerning the reasonable carryover shortfall. *See Final Order Establishing Reasonable Carryover (Methodology Step 9)* at 5, n. 10 (November 21, 2025); *see also*, *Final Order Curtailing Ground Water Rights Junior to August 15, 1952* (December 8, 2025).[18] How IDWR apportions mitigation obligations in the context of the SWC delivery call is an issue that has not been previously decided and is likely to arise again in future As Applied Orders. Developing a full administrative record on this issue in the "public interest" and allows parties to exhaust administrative remedies prior to any petitions for judicial review.

The issue is particularly relevant as additional areas have been added to the defined ESPA Area of Common Ground Water Supply effective November 1, 2025, and additional tributary basin areas will likely be added later.[19] *See* Idaho Code § 42-233c; *see also*, *Order*

[17] AFA cites a prior denial of IGWA's petition for review as a basis for the Hearing Officer to conclude the present case is "moot." *See* AFA Motion at 6, n. 7. IGWA had challenged the Director's requirement for IGWA to pay administrative fees to Water District 01 as part of its storage water leases. IGWA was attempting to mitigate under its 2009 Plan early in 2023, but eventually abandoned that theory when it decided to mitigate under the 2016 Plan later that summer. *See* **Ex. C** to *Thompson Dec.* In an exercise of discretion the Director denied IGWA' petition for reconsideration and concluded that "the issue is not likely to evade judicial review" and "there is no substantial interest in having the issue decided now." *See Order Denying IGWA's Petition for Review* at 2. By contrast, there is a "substantial public interest" reason for addressing A&B's issue now as how the Department should apportion a mitigation obligation is a "live" issue with respect the SWC call, and it will arise every time an As Applied Order finds material injury. *See Final Order Establishing Reasonable Carryover (Methodology Step 9)* at 5, n. 10 (November 21, 2025).

[18] A&B requested a hearing on the Step 9 Order and requested the Director to "stay" any formal proceedings pending the resolution of this proceeding. *See A&B Irrigation District's Request for Hearing / Evidence of Ability to Mitigate / Request for Stay & Informal Proceedings* at 3 (Dec. 2, 2025) ("As opposed to having the same issues addressed in multiple contested cases where the results of the prior proceeding and any final order may impact the calculations and proportionate share of the reasonable carryover shortfall assigned to A&B, and assuming A&B's request for hearing is granted, the District would request the Director to stay any formal proceedings").

[19] The Director has initiated the process to expand the ESPA ACGWS in the American Falls, Big Lost, Little Lost, Portneuf, and Raft River Tributary Basins. *See* https://idwr.idaho.gov/legal-actions/administrative-actions/

Regarding Mid-Season Change to Area of Common Ground Water Supply for the Eastern Snake Plain Aquifer; Third Order Amending Curtailment List (June 28, 2024); **Ex. G** to *Thompson Dec.*

With respect to finding a case "moot," the Idaho Supreme Court has commented that "[a] case is considered moot when the issues presented are no longer live or the parties lack a legally cognizable interest in the outcome." *Vanrenselaar v. Batres*, 575 P.3d 866, 885 (Idaho 2025) (citations and internal quotation marks omitted). A&B has a "legally cognizable interest in the outcome" of this proceeding as the Department's mitigation apportionment decision has varied between a few hundred acre-feet to over 5,000 acre-feet this past July. Whereas the SWC and A&B stipulated to an assignment of storage this past summer, the issue is still "live" in the context of future As Applied Orders, including the recently issued 2025 Step 9 Order. Even if the 2025 irrigation season obligation is considered "moot," the Hearing Officer can grant one of the recognized exceptions to allow this case to proceed to an evidentiary hearing.

The Idaho Supreme Court has acknowledged that, even when a case is deemed moot, there are discrete exceptions to overcome mootness:

> This Court has recognized three exceptions to the mootness doctrine: (1) when there is the possibility of collateral legal consequences imposed on the person raising the issue; (2) when the challenged conduct is likely to evade judicial review and thus is capable of repetition; and (3) when an otherwise moot issue raises concerns of substantial public interest.

In re Guardianship of Doe, 157 Idaho 750, 754, 339 P.3d 1154, 1158 (2014) (citations and internal quotation marks omitted).

The *Collateral Legal Consequences* exception is straightforward: the party raising the otherwise-moot issue must show "the possibility of collateral legal consequences" that would flow from the issue. *In re Guardianship of Doe*, 157 Idaho at 754, 339 P.3d at 1158. One of the

few illustrative examples of this exception[20] is found in *Snap! Mobile, Inc. v. Vertical Raise, LLC*, 173 Idaho 499, 544 P.3d 714 (2024), *reh'g denied* (Mar. 28, 2024). In *Snap!*, defendant was subject to an 18-month permanent injunction that (in sum) broadly prohibited defendant from conducting a wide array of business activities. Defendant appealed, arguing the permanent injunction was overbroad. By the time of appeal, the injunction had already expired. Despite being moot, the Idaho Supreme Court addressed the merits of defendant's injunction argument. The court reasoned that defendant's injunction challenge fell within the *collateral legal consequences* exception because defendant was at risk of contempt for possible violations of the injunction. Thus, a judicial determination of the injunction's lawfulness would have collateral legal consequences for defendant.

Here, the apportionment of A&B's mitigation obligation will have collateral legal consequences for A&B with respect to existing (i.e. 2025 Step 9 Order) and future As Applied Orders and injury determinations. Moreover, understanding IDWR's methodology and calculations as it applies amongst junior groundwater users is an important administrative matter that should be decided for purposes of future application, particularly in the context of multiple mitigation plans and their implementation.

Next, for the *capable of repetition yet evading review* exception to apply, the following circumstances must simultaneously exist: "(1) the challenged action is, in its duration, too short to be fully litigated prior to cessation or expiration; and (2) there is a reasonable expectation that the same complaining party will be subject to the same action again." *State v. John Doe* (2022-04), 172 Idaho 386, 392, 533 P.3d 295, 301 (Ct. App. 2023). Here A&B is already subject to another pending decision regarding the apportionment of a mitigation obligation (2025 Step 9

[20] Referring only to examples in the civil context. Most *collateral legal consequences* case involve criminal matters like parole or double jeopardy.

Order). *See also*, *Final Order Curtailing Ground Water Rights Junior to August 15, 1952* (December 8, 2025).

Given the hydrologic conditions experienced in 2025, it is reasonable to expect that a future predicted in-season shortfall will trigger a curtailment date affecting A&B's senior water right 36-2080 again. For example, prior As Applied Orders issued in 2021 and 2022 identified predicted in-season demand shortfalls ranging between 132,100 acre-feet and 170,000 acre-feet. Short water years are certain to occur in the future, it is not a matter of "if" but "when." For that reason, it is "reasonable" for A&B to expect that it will be subject to the same Department apportionment decision related to the mitigation obligation and that the "capable of repetition yet evading review" exception to the mootness doctrine applies.

III. IGWA's "Law of the Case" Argument Does not Apply and Should be Denied.

IGWA also argues that the "law of the case" doctrine precludes A&B from raising the issues identified in its requests for hearing on the two 2025 As Applied Orders. *See* IGWA Motion at 8. IGWA points to no "subsequent appeal" that would apply to an "earlier appeal" to show how the doctrine might apply in this proceeding. On its face IGWA's motion plainly fails the summary judgment standard.

Instead, IGWA only cites to a prior argument raised by the Coalition in the petition for judicial review case that is currently stayed before the Ada County District Court (Case No. CV01-23-13173). *See* IGWA Motion at 9, n. 2. The argument advanced by the Coalition in that appeal related to IGWA's defenses of "futile call" and "maximum beneficial use," defenses that IGWA raised time and time again and the Department had previously rejected.[21] Stated another

[21] *See Opinion Constituting Findings of Fact, Conclusions of Law and Recommendation* at 19, 26 (Apr. 29, 2008) ("Junior water pumping caused material injury to surface water irrigators affecting natural flow and storage rights . . . 5. The Surface Water Coalition made the showing that its members had licensed or decreed water rights and that

way, IGWA alleged that conjunctive administration was precluded altogether based on those defenses. Whereas IGWA attempted to re-raise those defenses in the appeal of the Director's *Sixth Methodology Order*, the Coalition rightfully argued such defenses should be rejected, "again." *See generally*, *IGWA's Opening Br.* at 39-44 (arguments regarding "futile call" and "maximum use" defenses). The district court agreed and affirmed the Director's determination that the delivery call was not futile. *See Memorandum Decision* at 24-26.

Unlike IGWA's alleged defenses, A&B's issues on the apportionment of a mitigation obligation have not been previously decided by the Department or by any court on judicial review. Accordingly, IGWA's "law of the case" argument should be denied.

IV. IGWA's "Quasi-Estoppel" Argument Does not Apply and Should be Denied.

Finally, IGWA turns to an equitable argument and claims that A&B should be estopped from challenging how the Department apportions the mitigation obligation based on the Ground Water Districts' *2024 Stipulated Mitigation Plan*. *See* IGWA Motion at 9-10; *see Gomez v. Hurtado*, 174 Idaho 1002, 1013, 554 P.3d 53, 64 (2024) ("Quasi-estoppel is an equitable remedy"). IGWA claims that because its ground water district members applied a "steady state" modeling analysis to apportion their 75,000 acre-feet (up to 82,500 acre-feet) storage water mitigation obligation, then A&B should also be bound to that analysis for purposes of the present contested case proceeding and its mitigation obligation.

Quasi-estoppel requires the following:

> (1) the offending party took a different position than his or her original position and (2) either (a) the offending party gained an advantage or caused a disadvantage to the other party; (b) the other party was induced to change positions; or (c) it would be unconscionable to permit the offending party to maintain an inconsistent position from one he or she has already derived a benefit or acquiesced in.

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material injury was occurring."); *see also*, *A&B Irr. Dist. v. IDWR*, 155 Idaho 640, 653, 315 P.3d 828, 841 (2013) (affirming IDWR's use of a "baseline methodology" in the SWC delivery call).

Gomez, 174 Idaho at 1014, 554 P.3d at 65.

The Supreme Court further found that "in order to state a claim for … quasi-estoppel, a plaintiff must at least allege, among other things, a promise or representation by the party to be estopped." *Id.* IGWA's motion fails to prove the above elements.

First, contrary to IGWA's argument, A&B did not agree "that steady-state modeling is the appropriate method for allocating storage water mitigation obligations among groundwater users." *See* IGWA Motion at 9. The 2024 Stipulated Plan had absolutely nothing to do with A&B's groundwater rights and how IDWR would apportion any future mitigation obligation relative to those rights. A&B participated in the stipulation as a member of the "Surface Water Coalition" and the mitigation plan only protected the participating Ground Water Districts. *See Joint Motion for Order Approving 2024 Stipulated Mitigation Plan*, **Ex. H** to *Thompson Dec.* The joint motion plainly stated that it was submitted "to provide safe harbor to groundwater rights held by patrons of the Ground Water Districts and other entities representing groundwater users that participate in and comply with the Plan." *See Joint Motion* at 3. The 2024 Plan was not submitted for A&B's groundwater rights and does not prejudge how IDWR reviews A&B's mitigation plan or evaluates its mitigation obligations. Therefore, IGWA has failed to show that A&B's present position is something different than its original position.

Next, IGWA cannot show that A&B gained some advantage or that the Ground Water Districts were induced to change their original position. While the Ground Water Districts chose to divide up their stipulated storage water obligation based upon a steady-state analysis, that stipulated quantity and formula has no bearing on IDWR's decisions in a contested case or A&B's right to challenge how IDWR apportioned a future mitigation obligation (i.e. as was done with the July As Applied Order regarding A&B's 1948 groundwater right 36-2080). Moreover,

IGWA can point to no "advantage" that A&B gained through the 2024 Stipulated Plan, other than to argue without any supporting evidence that "[w]ithout that provision, the ground water districts would not have agreed to the 2024 Plan." *See* IGWA Motion at 9. The Ground Water Districts have an approved mitigation plan, they are not subject to curtailment, hence they can show no "disadvantage" by operation of the 2024 Plan.

Finally, the Director's approval of the 2024 Plan did not decide any contested storage water apportionment issue. Instead, the Director generally recognized the new mitigation plan was based upon an agreement of the parties and that it included various activities that the ground water users had to implement to receive safe harbor. *See Amended Final Order Approving Stipulated Plan* at 5 (CM-MP-2024-003) (Feb. 7, 2025). The Director did not decide any contested issues or standards, and recognized his ability to consider, as provided by the CM Rules, "'[w]hether the petitioners and respondents have entered into an agreement on an acceptable mitigation plan even through such plan may not otherwise be fully in compliance with these provisions.' IDAPA 37.03.11.043.03(o)." *See id.*

Finally, IGWA resorts to hyperbole in the hopes that its claim will sway the Hearing Officer to grant its motion. A&B's present requests for hearing are not some nefarious "bad faith" effort or "indirect attack on the 2024 Plan."[22] Whereas the Ground Water Districts have an approved mitigation plan and have received safe harbor from the SWC delivery call for the past two years, IGWA can point to no suffered "disadvantage" or "detriment" based upon A&B's present position in this contested case.

[22] IGWA is a not even a party to the 2024 Stipulated Plan and therefore has no basis to argue its interpretation or enforcement for its benefit. *See e.g. American West Enterprises, Inc. v. CNH, LLC*, 155 Idaho 746, 752-53, 316 P.3d 662, 668-69 (2013) ("The third party must show that the contract was made primarily for his benefit, and that it is not sufficient that he be a mere incidental beneficiary. Further, the contract itself must express an intent to benefit the third party").

In short, the equitable doctrine of quasi-estoppel has no application in this case and the Hearing Officer should deny IGWA's motion accordingly.

CONCLUSION

A&B's requests for hearing are properly before the Hearing Officer and should proceed to a full hearing on the merits as scheduled in January. As explained above AFA's and IGWA's attempts to vacate and/or dismiss this proceeding are misplaced and should be denied.

DATED this 9th day of December, 2025.

PARSONS BEHLE & LATIMER

Travis L. Thompson

Attorneys for A&B Irrigation District

CERTIFICATE OF SERVICE

I hereby certify that on this 9th day of December, 2025, I served a true and correct copy of the foregoing *A&B Irrigation District's Consolidated Response* on the following by the method indicated:

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/s/ Jessica Nielsen
Jessica Nielsen
Assistant for Travis L. Thompson

RECEIVED
Dec 09, 2025
DEPARTMENT OF
WATER RESOURCES

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Attorneys for A&B Irrigation District

BEFORE THE DEPARTMENT OF WATER RESOUCES

OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY OR FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY	Docket No. CM-DC-2010-001 **DECLARATION OF TRAVIS L. THOMPSON IN SUPPORT OF A&B IRRIGATION DISTRICT'S CONSOLIDATED RESPONSE TO AFA MOTION / IGWA MOTION FOR SUMMARY JUDGMENT**

I, Travis L. Thompson, declare as follows:

1. I am duly licensed to practice law in the State of Idaho, and I am an attorney with the firm of Parsons Behle & Latimer. I am over the age of 18 and make this declaration based upon my personal knowledge. I am an attorney representing A&B Irrigation District in this matter.
2. Attached hereto as **Exhibit A** is a true and correct copy of Jennifer Sukow's November 28, 2022 powerpoint presentation to the SWC methodology technical working group titled *SWC methodology – Calculation of Priority Dates for*

Curtailment of Junior Groundwater Users. This document was admitted as exhibit 905 in the contested case hearing held before the Director from June 6-9, 2023.

3. Attached hereto as **Exhibit B** is a true and correct copy of a May 3, 2023 email from Garrick Baxter to T.J. Budge and the other parties' counsel listed on the certificate of service in IDWR Docket No. CM-DC-2010-001.
4. Attached hereto as **Exhibit C** are true and correct copies of T.J. Budge's July 19, 2023 letter to Kent Fletcher and myself, and Elisheva Patterson's August 3, 2023 letter to Tony Olenichak (Water District 01 Watermaster), documenting IGWA's 2023 storage water assignments to the Surface Water Coalition.
5. Attached hereto as **Exhibit D** is a true and correct copy of the Director's *Amended Order Determining Deficiency in Notices of Secured Water* (May 28, 2024).
6. Attached hereto as **Exhibit E** is a true and correct copy of Director Mat Weaver's July 22, 2025 memorandum to Governor Little. The memo was produced by IDWR in response to the *Subpoena for Production of Documents and Information – the Department of Water Resources* (Oct. 7, 2025) and the *Notice of Deposition Duces Tecum of Brian Ragan* (November 13, 2025).
7. Attached hereto as **Exhibit F** is a true and correct copy of the excerpt of the transcript from the deposition of Jennifer Sukow taken on October 22, 2025.
8. Attached hereto as **Exhibit G** is a true and correct copy of the *Order Regarding Mid-Season Change to Area of Common Ground Water Supply for the Eastern Snake Plain Aquifer; Third Order Amending Curtailment List* (June 28, 2024) (without the attached curtailment list).

9. Attached hereto as **Exhibit H** is a true and correct copy of the *Joint Motion for Order Approving 2024 Stipulated Mitigation Plan* (November 19, 2024) (CM-MP-2024-003).

I declare under penalty of perjury under the laws of the state of Idaho that the foregoing is true and correct to the best of my knowledge.

DATED this 9th day of December, 2025.

PARSONS BEHLE & LATIMER

Travis L. Thompson

Attorneys for A&B Irrigation District

CERTIFICATE OF SERVICE

I hereby certify that on this 9th day of December, 2025, I served a true and correct copy of the foregoing on *Declaration of Travis L. Thompson* on the following by the method indicated:

Gerald F. Schroeder Director Mat Weaver Garrick Baxter Sarah Tschohl Megan Carter State of Idaho Dept. of Water Resources 322 E Front St. Boise, ID 83720-0098 *** service by electronic mail gerald_23107@msn.com mat.weaver@idwr.idaho.gov garrick.baxter@idwr.idaho.gov sarah.tschohl@idwr.idaho.gov meghan.carter@idwr.idaho.gov file@idwr.idaho.gov	Sarah A. Klahn Maximillian C. Bricker Somach Simmons & Dunn 1155 Canyon Blvd., Ste. 110 Boulder, CO 80302 *** service by electronic mail only sklahn@somachlaw.com vfrancisco@somachlaw.com mbricker@somachlaw.com	Skyler C. Johns Nathan M. Olsen Steven L. Taggart Olsen Taggart PLLC P.O. Box 3005 Idaho Falls, ID 83403 *** service by electronic mail only sjohns@olsentaggart.com nolsen@olsentaggart.com staggart@olsentaggart.com
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/s/ Jessica Nielsen
Jessica Nielsen
Assistant for Travis L. Thompson

Exhibit
A

SWC methodology – calculation of priority dates for curtailment of junior groundwater users

Presented to the SWC Methodology Technical Working Group

Jennifer Sukow, P.E., P.G.

November 28, 2022

Methodology reference

- Curtailment date calculation (Step 2) (Page 36 of Methodology)
  - The ESPA Model will be run to determine the curtailment date which will produce a volume of water equal to the DS in the near Blackfoot to Minidoka reach. The model simulation will be run at steady state within the area of common ground water supply as described by CM Rule 50.01.
- Curtailment date calculation (Step 6) (Page 38 of Methodology)
  - Upon a determination of an additional mitigation obligation, junior ground water users will be required to establish, to the satisfaction of the Director, their ability to secure a volume of storage water pursuant to an approved mitigation plan or to conduct other approved mitigation activities that will deliver the additional mitigation obligation water to the injured members of the SWC at the Time of Need. If junior ground water users fail or refuse to submit this information within fourteen (14) days from issuance of a Step 6 order, the Director will issue an order curtailing junior ground water users.[13] The ESPA Model will be run to determine the priority date to produce the necessary additional mitigation obligation volume within the area of common ground water supply, as described by CM Rule 50.01.

Methodology reference

- Curtailment for carryover shortfall (Step 9) (Page 39 of Methodology)
  - Fourteen (14) days following the issuance by the Department of reasonable carryover shortfall obligations, junior ground water users will be required to establish, to the satisfaction of the Director, their ability to supply a volume of storage water or to conduct other approved mitigation activities that will provide water to the injured members of the SWC equal to the reasonable carryover shortfall for all injured members of the SWC. If junior ground water users cannot provide this information, the Director will issue an order curtailing junior ground water rights.

Presentation outline

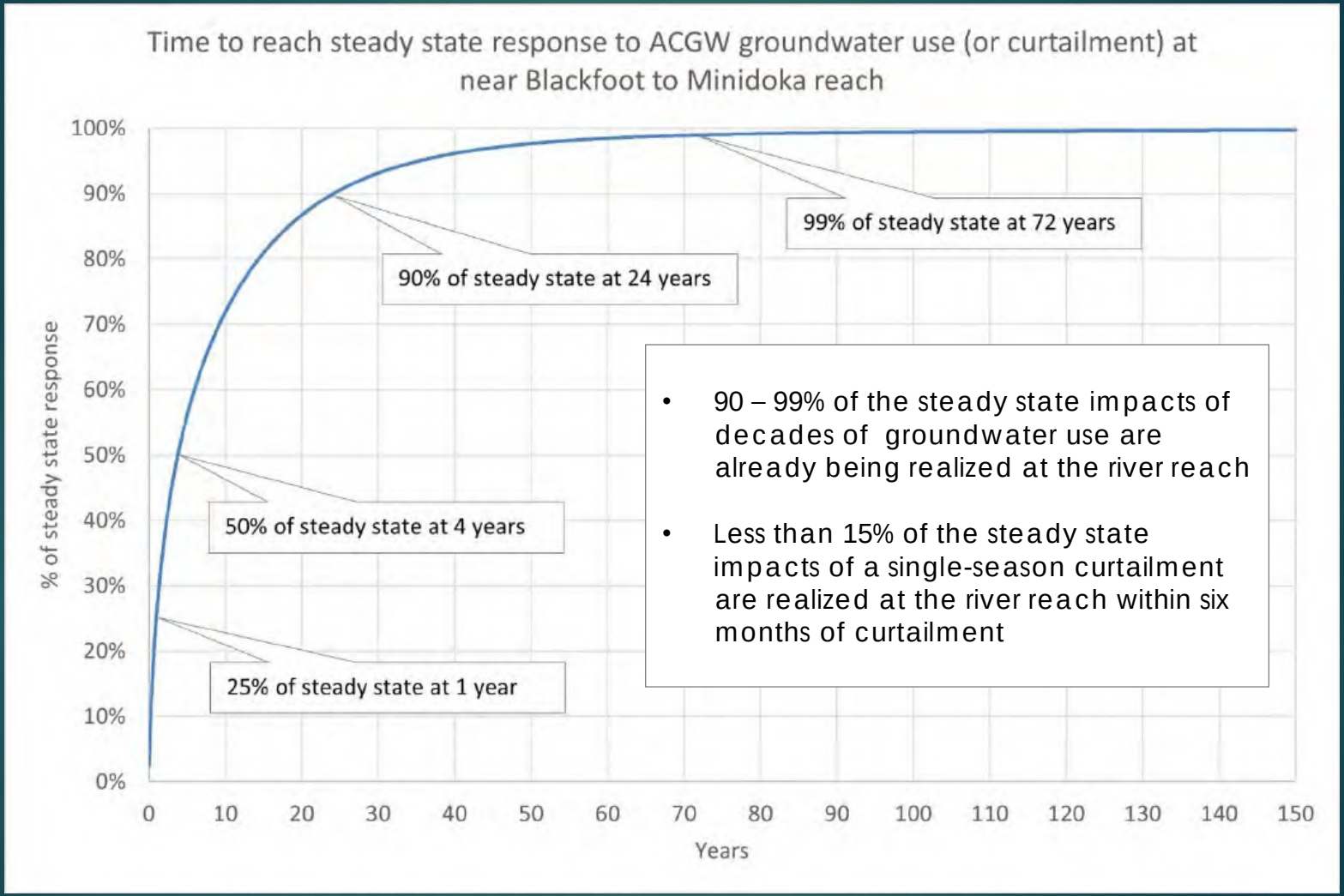
- Steady state vs. transient model simulations
- Transient model results for curtailment priority dates in 2022 orders
- Examples of transient model simulations for calculation of curtailment priority dates
  - Assumptions for transient model simulations
  - Comparison of priority dates and acres curtailed for various shortfall volumes
  - Transient analyses for water years 2021-2022

Steady state vs. transient model simulations

- Merriam-Webster definition of *steady state*
  - a state or condition of a system or process that does not change in time

- Steady state ESPAM simulation for calculation of curtailment priority date
  - Predicts long-term response to continuous curtailment of groundwater use at a constant rate for an infinite number of years
  - Result is a prediction of the long-term average annual impact of curtailment on the near Blackfoot to Minidoka reach
  - Curtailments ordered as prescribed in methodology order are not continuous or long-term
  - Groundwater use does not occur at a constant rate throughout the year

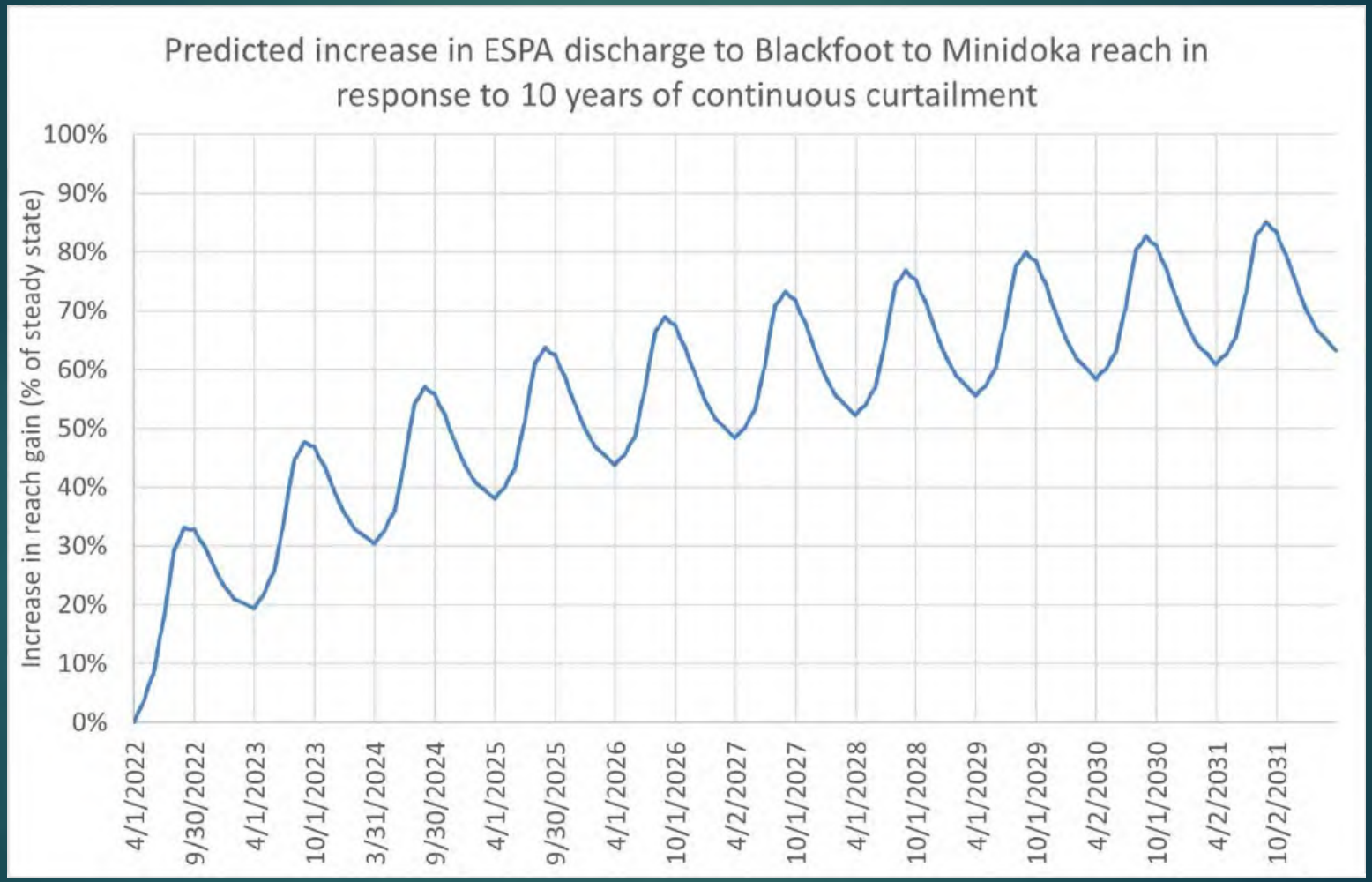
How long does it take to approach steady state conditions?



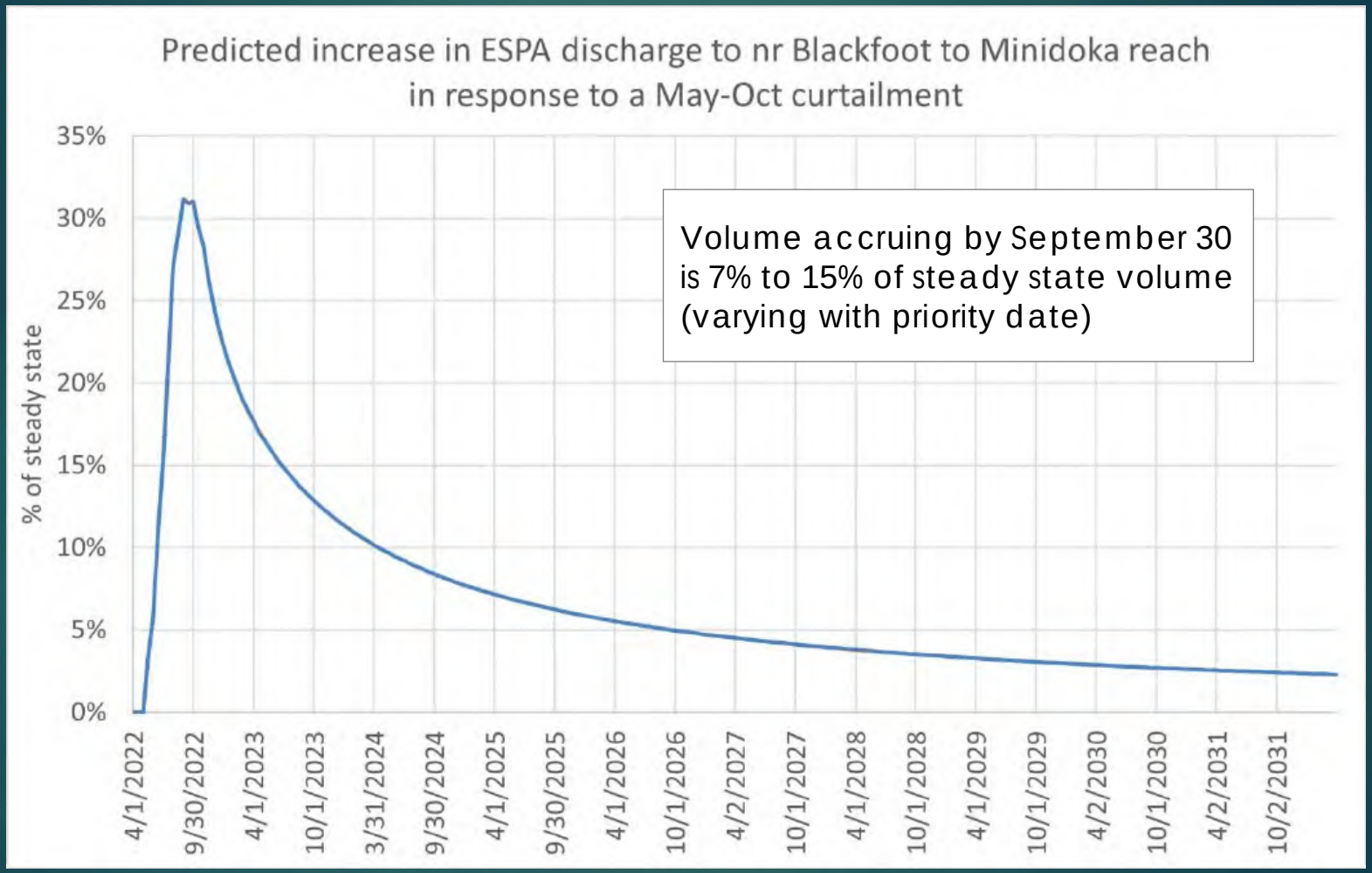
Steady state vs. transient model simulations

- Merriam-Webster definition of *transient*
  - passing especially quickly into and out of existence
- Transient ESPAM simulation for calculation of curtailment priority date
  - Predicts timing and magnitude of response to time-varying changes in aquifer stress resulting from short-term curtailment of groundwater use to address a predicted shortfall
  - Result is a prediction of the timing and magnitude of the response to time-varying curtailment of groundwater use

Steady state vs. transient model simulations



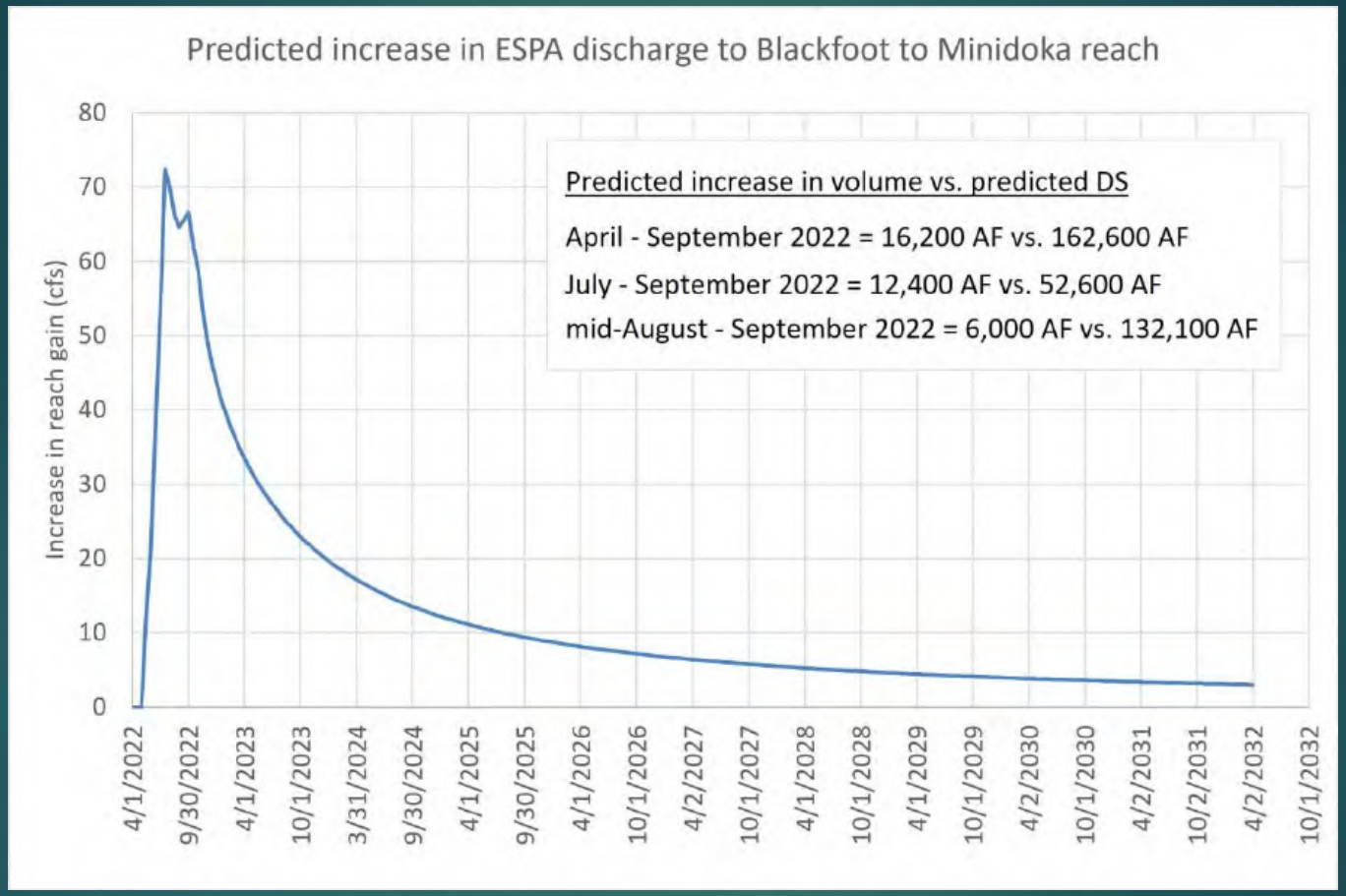
Steady state vs. transient model simulations



Transient simulation of curtailments ordered in 2022

- 2022 curtailments ordered
  - Curtailment priority dates were calculated based on steady state response at near Blackfoot to Minidoka
  - April 1 DS forecast of 162,600 AF → curtailment junior to December 25, 1979 beginning May
  - July 1 DS Forecast of 52,600 AF → curtailment reduced to junior to March 12, 1989 in July
  - Time of Need Forecast of 132,100 AF → curtailment increased to junior to March 25, 1981 in August
- Transient simulation of these curtailment dates was performed to compare volumes predicted to accrue to near Blackfoot to Minidoka during this season with the predicted DS volumes

Transient simulation of curtailments ordered in 2022

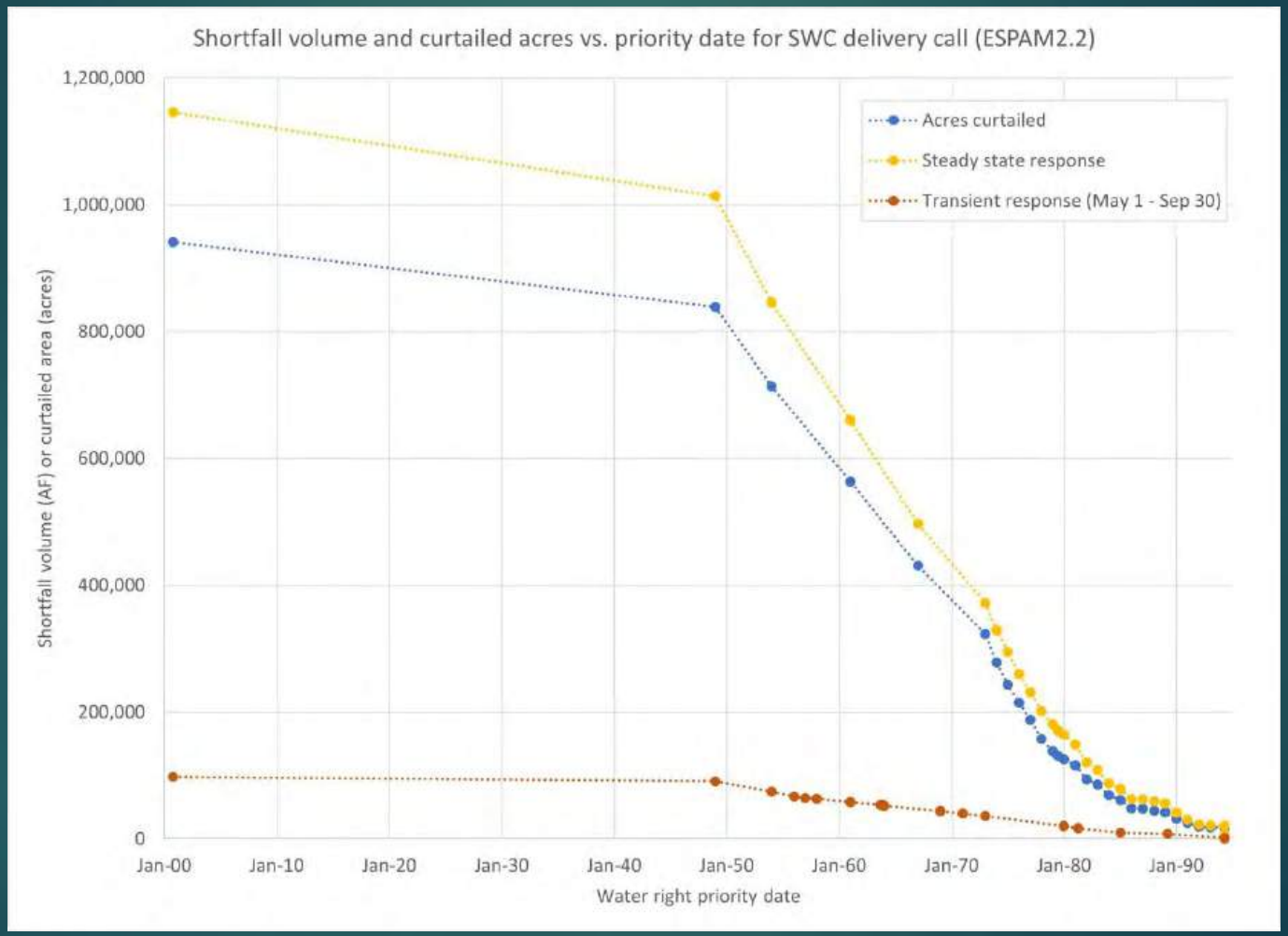


- Volume that would accrue from the ordered curtailments during the period of each shortfall is much less than the predicted shortfall
- Increases in reach gain would continue to accrue in future water years

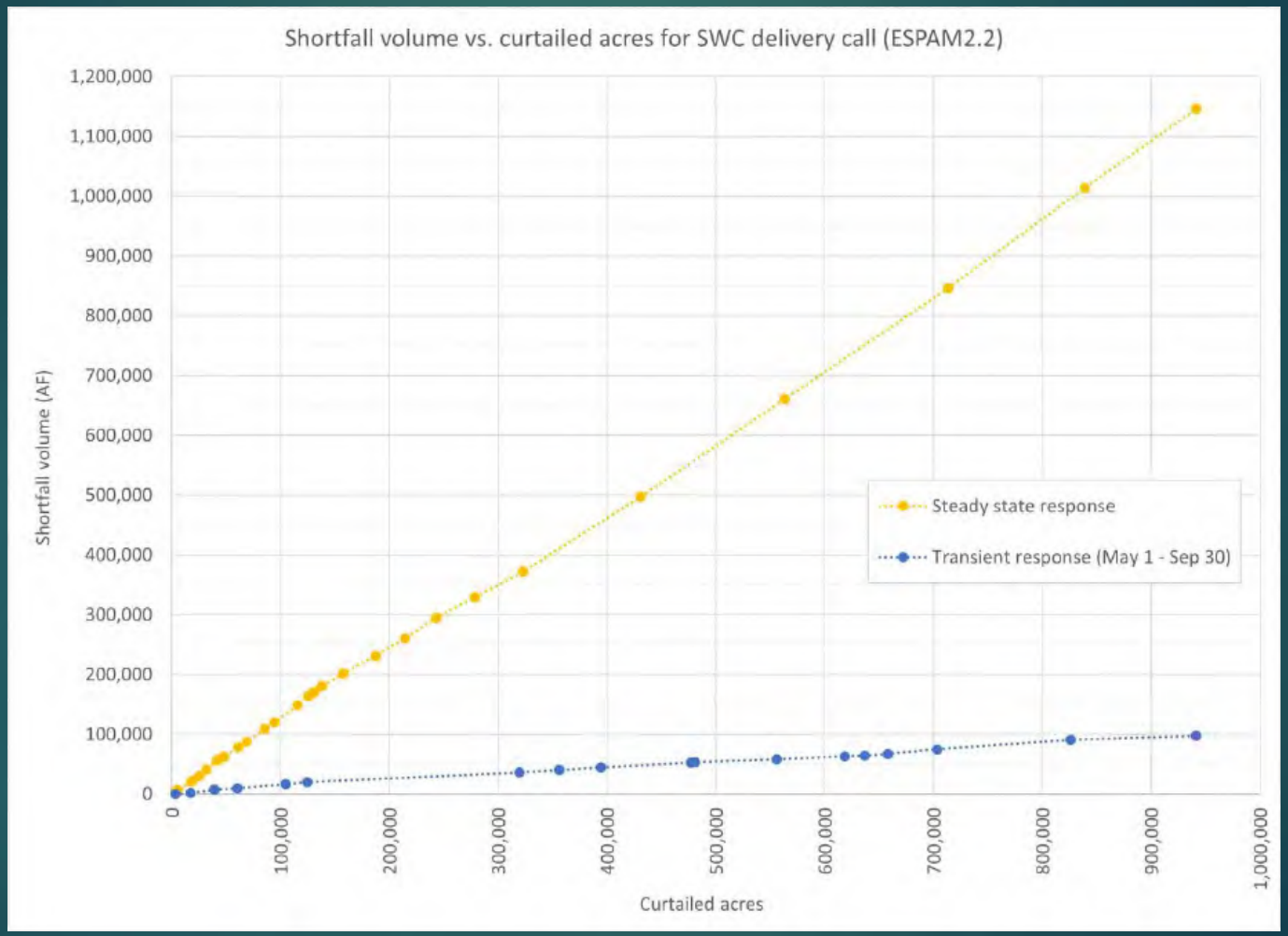
Assumptions for example transient model simulations

- Continue to use methods documented in "Curtailment Scenario" report (Sukow, 2021) https://research.idwr.idaho.gov/files/projects/espam/browse/ESPAM22_Reports/Scenarios/CurtScen22_FinalwApp.pdf
  - Use average monthly ET and precipitation from WY2009-WY2018 instead of average annual values
- Analysis of municipal curtailment continues to use methods described in 2015 IDWR staff memo for Rangen delivery call (Sukow, 2015) https://idwr.idaho.gov/wp-content/uploads/sites/2/legal/CM-MP-2014-007/CM-MP-2014-007-20150123-Staff-Memo-Cities-2nd.pdf
  - Five-year average pumping rates within ACGW are updated each year based on reported annual pumping volumes
- Curtailment for April forecast begins ~ May 1
- Curtailment priority date revision for July forecast goes into effect ~ July 16 if April DS > July DS
- Curtailment priority date revision for July forecast goes into effect ~ August 1 if April DS < July DS
- Curtailment priority date revision for Time of Need (mid-August) forecast goes into effect ~ September 1
- Target for transient calculation is a modeled benefit at near Blackfoot to Minidoka equal to DS volume accruing between DS forecast date and September 30
- Earliest curtailment priority date is junior to October 11, 1900 (TFCC and NSCC natural flow water rights)

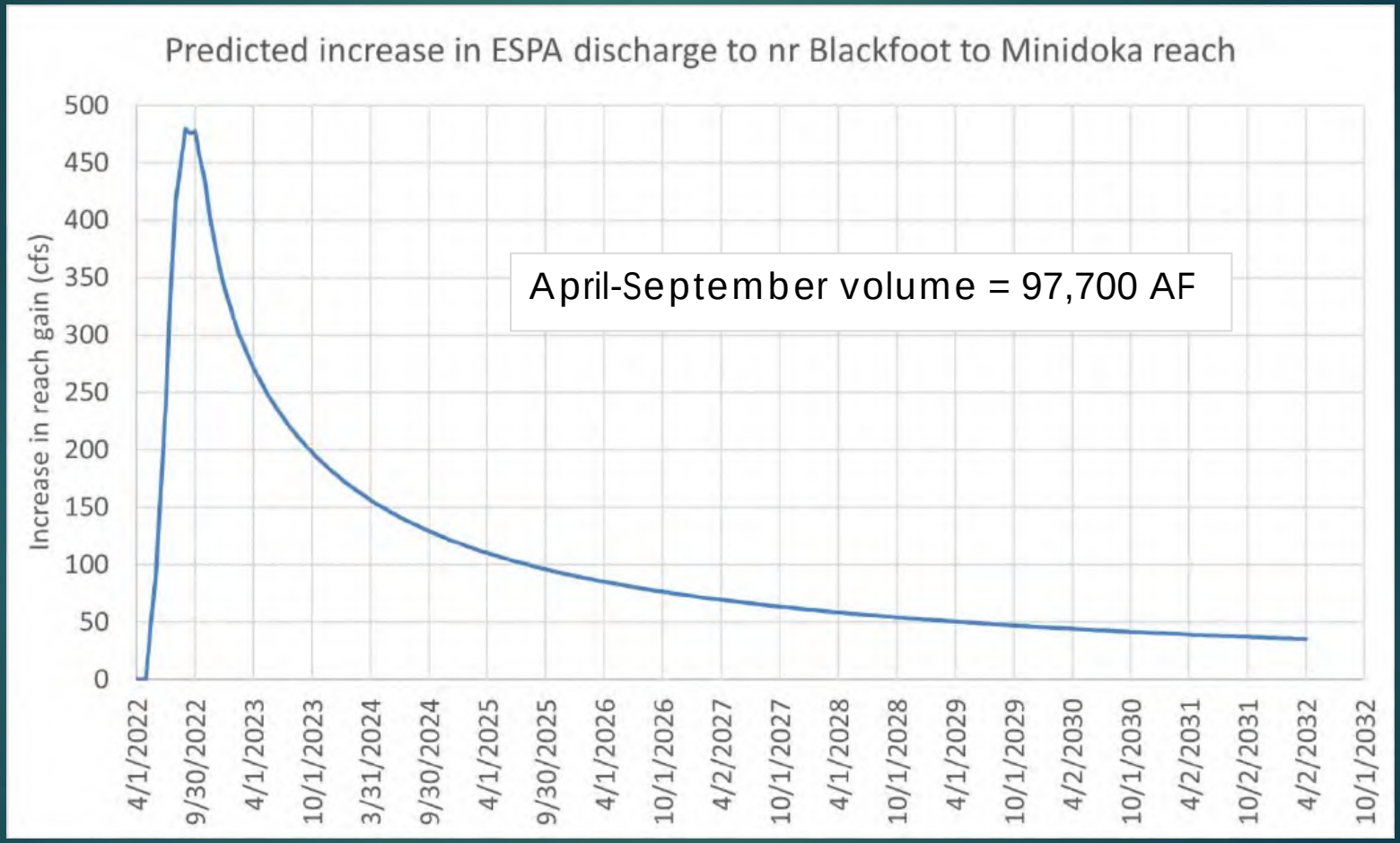
Comparison of priority dates calculated for April DS forecasts (May 1 curtailment)



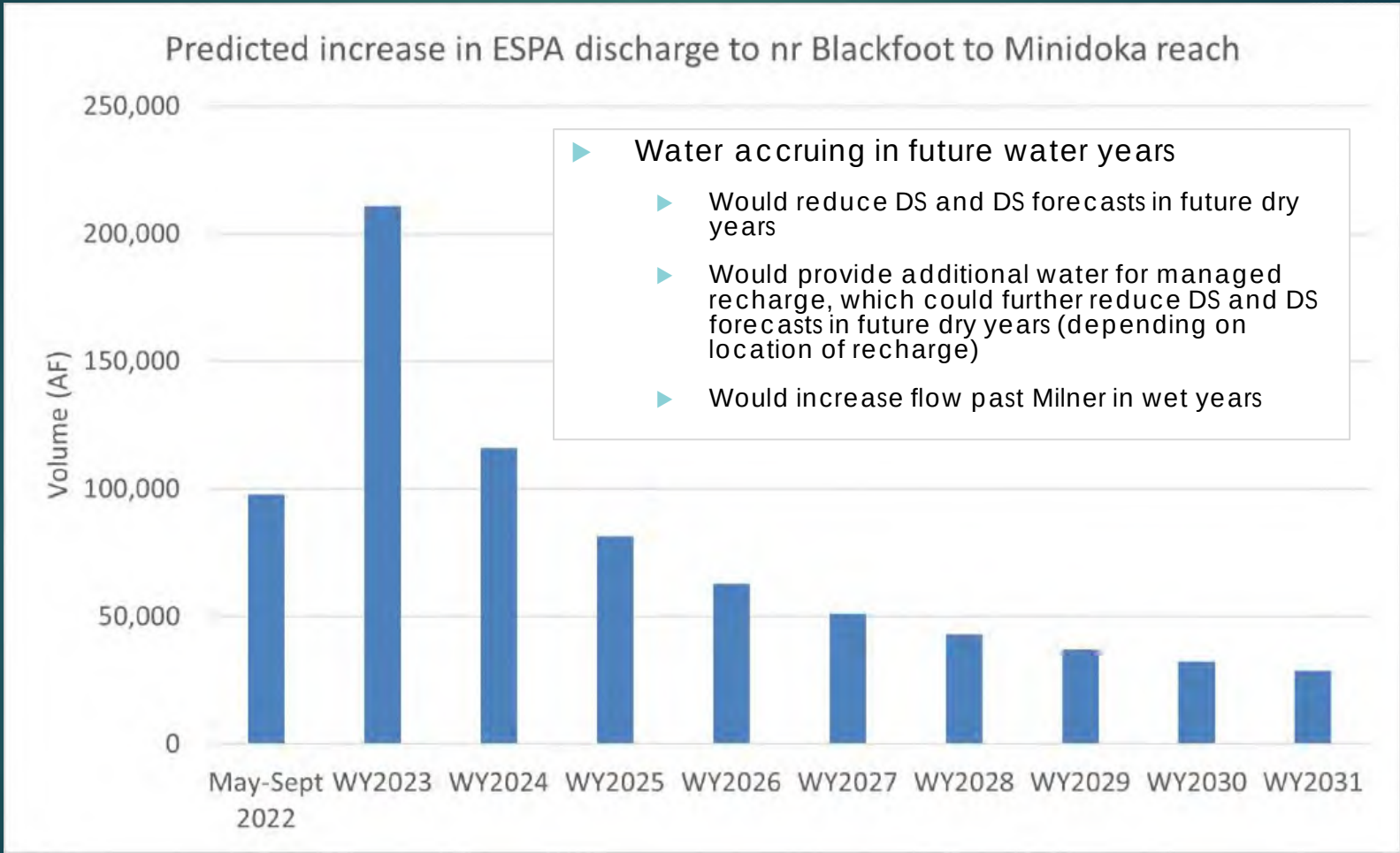
Comparison of priority dates calculated for April DS forecasts (May 1 curtailment)



Predicted response to May 1 curtailment of water rights junior to October 11, 1900



Predicted response to May 1 curtailment of water rights junior to October 11, 1900



Transient analyses for 2021 shortfall volumes

- April DS forecast = 40,500 AF
  - Curtail junior to January 11, 1971 starting May 1
    - May 1 – Sep 30 predicted response = 40,500 AF
- July DS forecast = 170,000 AF
  - Increase curtailment to junior to October 11, 1900 starting August 1
    - Jul 1 – Sep 30 predicted response = 44,400 AF
- Time of Need DS forecast = 142,700 AF
  - Maintain curtailment junior to October 11, 1900
    - Aug 16 – Sep 30 predicted response = 27,400 AF
- Carryover shortfall forecast = 64,600 AF
  - Curtail junior to April 19, 1961 starting January 1
    - Jan 1 – Sep 30 predicted response = 64,700 AF

Transient analysis for 2021 carryover shortfall

- Calculation target is volume accruing between date of curtailment and September 30 of the next irrigation season
- Carryover shortfall forecast = 64,600 AF
  - Curtail junior to April 19, 1961 starting January 1
    - Jan 1 – Sep 30 predicted response = 64,700 AF

Transient analyses for 2022 shortfall volumes

- April DS forecast = 162,600 AF
  - Curtail junior to October 11, 1900 starting May 1
    - May 1 – Sep 30 predicted response = 97,700 AF
- July DS forecast = 52,600 AF
  - Decrease curtailment to junior to March 13, 1981 starting July 16
    - Jul 1 – Sep 30 predicted response = 52,600 AF
- Time of Need DS forecast = 132,100 AF
  - Increase curtailment to junior to October 11, 1900 starting September 1
    - Aug 16 – Sep 30 predicted response = 27,200 AF

Comparison of priority dates calculated using transient and steady state analyses

Forecast	Steady state date	Transient date	Steady state acres	Transient acres
April 1, 2021	1990	1/11/1971	~30,000	357,000
July 1, 2021	7/18/1979	10/11/1900	130,300	941,400
August 15, 2021	1981	10/11/1900	~110,000	941,400
Final net DS	1976	10/11/1900	~200,000	941,400
Carryover 2021	6/29/1985	4/19/1961	55,300	539,700
April 1, 2022	12/25/1979	10/11/1900	124,700	941,400
July 1, 2022	3/12/1989	3/31/1981	39,300	104,700
August 15, 2022	3/25/1981	10/11/1900	105,000	941,400

Range of priority dates using steady state simulations:
1976 – 1990 (30,000 to 200,000 acres)

Range of priority dates using transient simulations:
1900 – 1981 (105,000 to 940,000 acres)

Conclusions

- Steady state simulations are appropriate for evaluating the impact of aquifer stresses that have been applied for decades (i.e. groundwater pumping, continuous curtailment to same date every year)
- Transient simulations are appropriate to evaluate the impacts of aquifer stresses applied for short periods of time (i.e. short-term curtailments with varying priority dates)
- Steady state simulations of continuous curtailment do not simulate the short-term curtailments prescribed in the SWC methodology
- Transient simulations better simulate the short-term curtailments prescribed in the SWC methodology

Conclusions

- Short-term curtailments in response to in-season predictions of DS are inadequate to provide water during the time of need for several of the shortfall volumes predicted in 2021-2022
- Curtailments sufficient to provide water during the time of need would also provide water to reduce shortfalls in future dry years, but would result in additional flow past Milner in future wet years

Exhibit
B

Travis L. Thompson

From: Baxter, Garrick <Garrick.Baxter@idwr.idaho.gov>
Sent: Wednesday, May 3, 2023 4:14 PM
To: tj@racineolson.com; Elisheva Patterson
Cc: Spackman, Gary; Weaver, Mathew; Wood, Pete; Jenkins, Megan; Sukow, Jennifer; Tschohl, Sarah; John K. Simpson; Travis L. Thompson; Jess Nielsen; wkf@pmt.org; 'David W. Gehlert (david.gehlert@usdoj.gov)'; Matt J Howard; Sarah A Klahn; Diane Thompson; Diehl, Rich; Candice McHugh; Chris Bromley; Rob Williams (rewilliams@wmlattys.com); Robert L Harris; rfife@idahofallsidaho.gov; sjohns@olsentaggart.com; nolsen@olsentaggart.com; staggart@olsentaggart.com; Olenichak, Tony; Skinner, Corey; 'William Parsons'
Subject: Request to delineate proportionate shares of mitigation obligation

TJ,
On March 31, 2023, you submitted a request asking the Director to delineate the ground water districts' respective share of IGWA's mitigation obligation. Below is the requested information using a method that distributes IGWA's proportionate share by ground water district based on information currently available to IDWR regarding the water rights mitigated for by each ground water district. Note that assumptions had to be made for some water rights based on location within or near ground water district boundaries. The Department is providing this information as a courtesy this spring. If this information becomes necessary in the future, the Department expects IGWA to determine the numbers on its own. Please also be aware that there may be a question about whether individual ground water districts can mitigate by providing a volume less than IGWA's proportionate share under the 2009 mitigation plan (Docket No. CM-MP-2009-007). By providing this data, the Director is not deciding this or any other issue related to proportionate shares.

GWD	% of IGWA's proportionate share	Portion of April 2023 predicted demand shortfall	
	%	AF	%
American Falls Aberdeen	33.4%	21,214	28.2%
Bingham	20.9%	13,384	17.8%
Bonneville Jefferson	13.4%	8,469	11.3%
Carey Valley	0.0%	5	0.0%
Henry's Fork	0.2%	90	0.1%
Jefferson Clark	10.8%	6,939	9.2%
Madison	0.0%	4	0.0%
Magic Valley	16.1%	10,277	13.7%
North Snake	5.1%	3,262	4.3%
Sum	100.0%	63,645	84.6%

Garrick Baxter | Lead Deputy Attorney General
Idaho Department of Water Resources | Energy and Natural Resources Division
Office of the Attorney General | State of Idaho
208-287-4811 | ag.idaho.gov

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Exhibit
C

RACINE OLSON
ATTORNEYS | PROBLEM SOLVED

July 19, 2023

Travis Thompson
tthompson@martenlaw.com

Kent Fletcher
wkf@pmt.org

Re: 2023 Mitigation

Dear Travis & Kent:

This letter is written in response to your letter dated July 6, 2023.

As discussed in previous letters, IGWA does not believe the 2015 Agreement is workable or enforceable. However, IGWA desires to work cooperatively with the SWC in good faith to resolve past disputes and work toward development of a more effective mitigation framework going forward. Toward that end, IGWA has delivered 30,000 acre-feet under the Settlement Agreement dated September 7, 2022, and IGWA plans to deliver 50,000 acre-feet of storage to the SWC within 21 days of the Date of Allocation consistent with the 2015 Agreement. This should not be interpreted as an acknowledgement that the 2015 Agreement is enforceable, but rather as a good faith gesture.

While the Director's *April 2023 As-Applied Order* predicts a demand shortfall of 75,200 acre-feet, IGWA anticipates that step 7 of the Methodology Order will result in a demand shortfall less than 50,000 acre-feet, and likely 0 acre-feet. Thus, IGWA anticipates that its delivery of 50,000 acre-feet will provide the SWC with more storage than is required under the Methodology Order. To the extent there is a mitigation obligation under the Methodology Order, the 50,000 acre-feet that IGWA plans to deliver within 21 days of the Date of Allocation will be credited towards that obligation.

Sincerely,

T. J. BUDGE

c: IGWA Board

RACINE OLSON
ATTORNEYS | PROBLEM SOLVED

August 3, 2023

Tony Olenichak, Water Master
Water District 1
900 N. Skyline Drive, Suite A
Idaho Falls, Idaho 83402
Email: Tony.Olenichak@idwr.idaho.gov

Re: Revised Assignment of 50,000 acre-feet to the Surface Water Coalition

Dear Tony:

On July 10, 2023, T.J. Budge sent you a letter assigning 30,000 acre-feet of storage to the Surface Water Coalition (SWC) on behalf of Idaho Ground Water Appropriators, Inc. (IGWA). On July 21, 2023, I sent you a letter assigning an additional 50,000 acre-feet to the SWC on behalf of IGWA. Upon further review, I have identified a small discrepancy in the assignment volumes set forth in the July 21 letter. In addition, IGWA desires to make a few adjustments to the volumes assigned to the SWC under certain storage leases. Therefore, I am sending this letter to revise IGWA's assignments to the SWC.

As of today, IGWA assigns a total of 80,002 acre-feet of storage to the SWC as set forth in the table attached hereto as Appendix A. I believe all of the lease contracts referenced above have been sent to you previously except for the One-Year Tribal Water Lease Agreement dated July 21, 2023; Harrison Canal Co. Storage Water Lease dated July 21, 2023; Peoples Canal Co., Blackfoot Irrigation Co., Wearyrick Ditch Co., and Palisades Water Users Assoc. Storage Water Leases dated July 24, 2023; and the Corbett Slough Ditch Co. Storage Water Lease dated July 25, 2023, copies of which are enclosed. Enclosed also are the Parsons Ditch Co. and Watson Canal Co. Storage Water Leases dated May 5, 2023, which were previously submitted, but lacking full signatures. If you do not have copies of any of the leases referenced in Appendix A, please let me know and I will send them to you promptly.

I believe all Water District 1 fees associated with these leases have already been paid, which the exception of the fees associated with the lease from Falls Irrigation District which are being paid directly by American Falls-Aberdeen Ground Water District and should be arriving soon at your office. Please let me know if you have any questions regarding Water District 1 fees associated with these leases.

Kent Fletcher, Travis Thompson, or another representative of the SWC will direct you as to which SWC storage accounts this water should be credited.

Thank you for your assistance. If you have any questions, please contact me.

Sincerely,

Elisheva M. Patterson

c: IGWA Board of Directors
Bob Turner, IGWA Executive Director
Kent Fletcher
Travis Thompson

Exhibit
D

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY OR FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY	Docket No. CM-DC-2010-001 **AMENDED ORDER DETERMINING DEFICIENCY IN NOTICES OF SECURED WATER**

BACKGROUND

On July 19, 2023, the Idaho Department of Water Resources ("Department") issued its *Sixth Final Order Regarding Methodology for Determining Material Injury to Reasonable In-Season Demand and Reasonable Carryover* ("*Methodology Order*"). The *Methodology Order* established nine steps for determining material injury to members of the Surface Water Coalition ("SWC").

Step 3 of the Methodology Order states that by May 1, or within 14 days from issuance of the final order predicting a shortfall, "whichever is later in time, junior ground water users with approved mitigation plans for delivery of water must secure, to the satisfaction of the Director, a volume of water equal to their proportionate share" of any predicted shortfall unless the forecast is revised. *Methodology Order* ¶ 4 at 42. Step 3 further states that "[t]he secured water will not be required to be delivered to the injured members of the SWC until the Time of Need." *Id.*

On April 18, 2024, the Director issued the *Final Order Regarding April 2024 Forecast Supply (Methodology Steps 1–3)* ("*April As-Applied Order*"), in which the Director determined the predicted shortfall obligation for junior ground water users for 2024. The Director concluded that Twin Falls Canal Company ("TFCC") is the only entity with a predicted in-season demand shortfall ("IDS") for 2024 and the IDS is 74,100 acre-feet. *April As-Applied Order*, at 4. The Director ordered that:

> On or before May 2, 2024, ground water users holding consumptive water rights bearing priority dates junior to March 31, 1954, within the Eastern Snake Plain Aquifer area of common ground water supply shall establish, to the satisfaction of the Director, that they can mitigate for their proportionate share of the predicted April IDS of 74,100 acre-feet in accordance with an approved mitigation plan.

Id. at 6. The Director also ordered that, if such a junior ground water user cannot establish "they can mitigate for their proportionate share of the predicted April IDS in accordance with an approved mitigation plan, the Director will issue an order curtailing the junior-priority ground water user." *Id.*

Historically, the Idaho Ground Water Appropriators, Inc. ("IGWA"), acting on behalf of its member ground water districts, filed a notice of mitigation with the Department to establish that the ground water districts can mitigate for their proportionate share of the predicted IDS in accordance with an approved mitigation plan. However, this year, individual ground water districts submitted their own mitigation notices.[1]

On May 2, 2024, Bonneville-Jefferson Ground Water District ("Bonneville-Jefferson") and Jefferson-Clark Ground Water District ("Jefferson-Clark") each individually filed mitigation notices. *BJGWD's Notice of Mitigation in Resp. to April 2024 As-Applied Order (Methodology Steps 1-3)* [hereinafter *BJGWD's Notice*]; Letter from Jerry Rigby, attorney for Jefferson-Clark, to Mathew Weaver, Department Director (Regarding mitigation water obligations of Jefferson-Clark).

Also on May 2, Magic Valley Ground Water District ("Magic Valley") and North Snake Ground Water District ("North Snake") jointly filed a mitigation notice and Henry's Fork Ground Water District ("Henry's Fork") and Madison Ground Water District ("Madison") jointly filed a mitigation notice. *Joint Notice of Compliance—Magic Valley Ground Water Dist.& North Snake Ground Water Dist.'s 2024 Irrigation Season Mitigation Commitments* [hereinafter *MVNS's Notice*]; Letter from Jerry Rigby, attorney for Henry's Fork and Madison, to Mathew Weaver, Department Director (Regarding mitigation water obligations of Henry's Fork and Madison).

On May 3, 2024, Bingham Ground Water District ("Bingham") filed a mitigation notice. *Notice of Bingham Ground Water District 2024 Mitigation*. On the same day, Carey Valley Ground Water District ("Carey Valley") submitted a letter proposing a "mitigation plan for 2024 . . . ." Letter from Leta Hansen, Chairman of Carey Valley, to Mathew Weaver, Department Director. While the letter was framed as a "mitigation plan," the Director will consider it a mitigation notice.

Also on May 3, the Director held a status conference to discuss the status of IGWA's mitigation plans and IGWA's mitigation efforts for this irrigation season. *Am. Notice of Status Conf.*, at 1.

On May 6, 2024, American Falls-Aberdeen Ground Water District ("American Falls-Aberdeen") filed a mitigation notice. Letter from Sarah Klahn, attorney for American Falls-Aberdeen, to Mathew Weaver, Department Director [hereinafter AFA Mitigation Notice] (Regarding Case Nos.CM-DC-2010-001 and CM-MP-2016-001).

On May 8, 2024, the Department received a letter from IGWA regarding ground water district compliance with IGWA's *2016 Settlement Mitigation Plan* (CM-MP- 2016-001). In the letter, IGWA clarifies its intent to comply with certain elements of the plan regarding its 2021 performance. Letter from T.J. Budge, attorney for IGWA, to Mathew Weaver, Department

[1] The Department received *IGWA's Request for Mitigation Credit for Aquifer Enhancement Activities (2024)* on May 2, 2024. This request will be addressed by the Director is a separate order.

Director (Regarding Case Nos. CM-DC-2010-001, CM-MP-2016-001, and Sept. 7, 2022 Settlement Agreement between IGWA and SWC).

On May 10, 2024, the Director issued the *Order Determining Deficiency in Notices of Secured Water* ("*Order Determining Deficiency*").

On May 14, 2024, IGWA submitted *IGWA's Conditional Notice of Mitigation Compliance; Petition for Reconsideration; and Request for Expedited Decision* ("*IGWA Second Petition for Reconsideration*") in which IGWA asked the Director to reconsider the Director's conclusion in the *Order Determining Deficiency* that under the *2009 Storage Water Mitigation Plan* IGWA must mitigate for all ground water users. *IGWA Second Petition for Reconsideration*, at 2–3. On the same day, Bingham filed a *Brief in Support of IGWA's Conditional Notice of Mitigation Compliance; Petition for Reconsideration; and Request for Expedited Decision* ("*Bingham's Brief*"), in which Bingham took issue with the Director's use of the term "free rider" in the *Order Determining Deficiency*. *Bingham's Brief*, at 1–2.

On May 17, 2024, American Falls-Aberdeen filed a *Motion for Reconsideration of Order Determining Deficiency in Notices of Secured Water* ("*AFA's Motion for Reconsideration*") in which it also sought reconsideration of the *Order Determining Deficiency*. American Falls-Aberdeen argued that the Director requiring "evidence [that] it has secured storage water to satisfy the entire 50,000 acre-feet ("50kaf") delivery obligation . . . . is inconsistent with the plain language of the underlying settlement that was adopted as the *2016 Plan* and with the Department's prior interpretations of the ground water districts' obligations under the *2016 Plan*." *AFA's Motion for Reconsideration*, at 1. American Falls-Aberdeen argued that the *2016 Settlement Mitigation Plan* does not require the ground water districts to deliver the 50,000 acre-feet until 21 days after the day of allocation and that "[t]he Director has no legal basis to impose this proof-of-secured-water requirement on AFA or any district complying with, and seek safe harbor under, the 2016 Plan." *Id.* at 3, 5. American Falls-Aberdeen also argued that the parties to the 2016 plan must resolve disputes through the steering committee before bringing issues of breach to the Director. *Id.* at 4. American Falls-Aberdeen requested the Director reconsider the *Order Determining Deficiency* to remove any obligation on behalf of the ground water districts to provide proof that 50,000 acre-feet of storage water has been secured under the *2016 Settlement Mitigation Plan*. *AFA's Motion for Reconsideration*, at 5–7.

On May 28, 2024, the Director issued an order denying *IGWA's Second Petition for Reconsideration*. *Order Denying IGWA's Second Petition for Reconsideration; Order Determining Deficiency in IGWA's May 17, 2024 Notice of Storage Water Leases*, at 8. On the same day, the Director issued an *Order Granting Upper Valley Districts Limited Intervention and AFA's Motion for Reconsideration*, in which the Director agreed with the arguments in *AFA's Motion for Reconsideration* and agreed to issue this *Amended Order Determining Deficiency in Notices of Secure Water* with changes shown in strikeout/underline.

ANALYSIS

At the status conference, the Director started by asking each participating ground water district to identify whether, in 2024, they plan to mitigate under IGWA's *2009 Storage Water*

Mitigation Plan (CM-MP-2009-007) or IGWA's *2016 Settlement Mitigation Plan*. The Director asked this because many of the mitigation notices submitted by the ground water districts included vague, confusing, or contradictory statements regarding compliance with the approved mitigation plans. Bonneville-Jefferson, Magic Valley, and North Snake indicated that they had secured water for 2024 and would dedicate their secured water towards the mitigation requirements under the *2009 Storage Water Mitigation Plan*. Jefferson-Clark, Henry's Fork, and Madison indicated that they also had secured storage water and would dedicate their secured storage water towards required mitigation activities set forth in either the *2009 Storage Water Mitigation Plan* or the *2016 Settlement Mitigation Plan*. American Falls-Aberdeen indicated that it planned to mitigate under the *2016 Settlement Mitigation Plan* only. Bingham indicated it will not mitigate under any approved mitigation plan. Carey Valley did not participate in the status conference.

At the status conference, questions arose regarding whether the ground water districts storage water obligations were additive between the 2009 and 2016 plans, and if and how the ground water district's secured storage water could count towards compliance with either plan. In response, the Director indicated that the ground water districts obligations were not additive between the 2009 and 2016 plans. However, the Director clarified that the ground water districts can apply their secured storage water to either plan, but not both.

This order evaluates whether the ground water districts that seek protection under the *2009 Storage Water Mitigation Plan* and the *2016 Settlement Mitigation Plan* are entitled to protection under their chosen mitigation plan, evaluates the mitigation notices submitted by the ground water districts, and evaluates whether each ground water district has shown, to the satisfaction of the Director, that they have secured the required storage water. The order also discusses Bingham and Carey Valley's decisions not to mitigate under either plan.

1. Mitigation Pursuant to IGWA's *2009 Storage Water Mitigation Plan*

a. The May 3, 2024 Status Conference

At the status conference, Jefferson-Clark, Henry's Fork, Madison, Magic Valley, North Snake, and Bonneville-Jefferson indicated that in 2024, they plan to mitigate using IGWA's *2009 Storage Water Mitigation Plan*. In response to a question about the status of the *2009 Storage Water Mitigation Plan*, the Director recognized that a recent decision by Hearing Officer Roger Burdick in another matter created a question of whether the ground water districts can still use the *2009 Storage Water Mitigation Plan*. The Director concluded that the Hearing Officer's decision was still pending, and the issue had not yet been presented to him for consideration so he would consider the *2009 Storage Water Mitigation Plan* available for use at this time. The Director also stated that he reviewed former Director Spackman's 2023 *Order Determining Deficiency in IGWA's Notice of Secured Water* and agreed with two key conclusions reached in that order related to the *2009 Storage Water Mitigation Plan*. First, that the plain language of the *2009 Storage Water Mitigation Plan* "clearly states" that IGWA will mitigate for all ground water users, not just its members and non-member participants. *Order Determining Deficiency in IGWA's Notice of Secured Water*, at 4. Second, that "IGWA cannot pick and choose who gets the benefit of storage water if IGWA is not providing storage water amounts equal to the

shortfall obligation." *Id.* at 5. The Director reiterated that regarding the *2009 Storage Water Mitigation Plan*, if ground water districts submit adequate contracts to establish that they have secured storage water and the amount secured is less than the shortfall obligation, the Director will credit the contracted volume against the overall obligation, thus reducing the overall obligation for all ground water users.

At the status conference, the ground water districts seeking to use the *2009 Storage Water Mitigation Plan* claimed that they secured the following volumes of water for use in 2024:

Ground Water Districts (GWD)	**GWD Volume of Secured Water (acre-feet)**
Aberdeen-American Falls GWD	0
Bingham GWD	0
Bonneville-Jefferson GWD	8,928
Carey Valley GWD	0
Jefferson-Clark GWD	6,858
Henry's Fork GWD	1,500
Madison GWD	
Magic Valley GWD	11,925
North Snake GWD	3,665
Total	32,876
2009 Mitigation Plan Secured Storage Water Obligation	74,100
Deficiency in the Amount of Secured Storage Water	41,224

The above table shows that the ground water districts have indicated that they have secured 32,876 acre-feet, which is less than the full shortfall obligation of 74,100 acre-feet. Because the amount secured is less than the shortfall obligation, the Director will credit the volume against the overall obligation, thus reducing the overall obligation for all ground water users, if the ground water districts are able to show, to the satisfaction of the Director, that they have secured 32,876 acre-feet of water. The Department has calculated what the revised curtailment date would be if these ground water districts can show, to the satisfaction of the Director, that they have secured 32,876 acre-feet of water. The revised curtailment date for all ground water users would be February 16, 1970. However, to reemphasize the point, this is contingent upon the Director concluding in subsection 1.b. below that the ground water districts provide sufficient evidence that they have secured 32,876 acre-feet of storage water.

b. Sufficency of Mitigation Notices

Mitigation notices must show that the water user has secured, to the satisfaction of the Director, the storage water needed to mitigate. The ground water districts are required to provide the Director with legally enforceable contracts, options, or similar documentation to establish

that they have secured the water necessary to meet the mitigation obligation. *See Order on Pet. for Judicial Review*, at 19, *A&B Irrigation Dist. v. Tuthill*, No. CV-2008-551 (Gooding Cnty. Dist. Ct. Idaho July 24, 2009). Below, the Director reviews the mitigation notices submitted by the ground water districts and determines whether they have complied with these requirements.

i) Bonneville-Jefferson's Mitigation Notice

In its May 2 mitigation notice, Bonneville-Jefferson states that it "will mitigate this season by providing its proportionate share of the IDS from the leases attached hereafter as Exhibit 'A'." *BJGWD's Notice*, at 2. Unfortunately, the leases included as Exhibit A are all leases entered into by IGWA, not Bonneville-Jefferson. It is unclear whether Bonneville-Jefferson has the authority to submit IGWA's leases to the Director for the benefit of Bonneville-Jefferson. Furthermore, even if Bonneville-Jefferson is authorized to lease water under IGWA's leases, Department records do not show that Bonneville-Jefferson has sought or received approval from Water District 01 for any lease. Without approval by Water District 01 and payment of the required fees, Bonneville-Jefferson has not demonstrated to the satisfaction of the director that it has secured the volume of water reported in its May 2 mitigation notice. As indicated in Subsection 1.c. below, Bonneville-Jefferson will have until May 17, 2024, to resolve these issues.

ii) Jefferson-Clark's Mitigation Notice

At the status conference and in its May 2 mitigation notice, Jefferson-Clark indicated that it would mitigate under the *2009 Storage Water Mitigation Plan* for 2024 and that it has secured 6,858 acre-feet of storage water. Unfortunately, Jefferson-Clark did not include contracts, leases, options, or similar documentation to establish that it had secured the water necessary to meet or offset the obligation. Furthermore, the Department records do not show that Jefferson-Clark sought or received approval from Water District 01 for any lease. Without approval by Water District 01 and payment of the required fees, Jefferson-Clark has not demonstrated to the satisfaction of the Director that it has secured the volume of water reported in its May 2 mitigation notice. As indicated in Subsection 1.c. below, Jefferson-Clark will have until May 17, 2024, to resolve these issues.

iii) Henry's Fork and Madison's Mitigation Notice

At the status conference and in its May 2 mitigation notice, Henry's Fork and Madison indicate that they will mitigate under the *2009 Storage Water Mitigation Plan* for 2024 and that they have secured 1,500 acre-feet of storage water. Unfortunately, Henry's Fork and Madison did not include contracts, leases, options, or similar documentation to establish that they have secured the water necessary to meet the obligation. Furthermore, the Department records do not show that Henry's Fork and Madison sought or received approval from Water District 01 for any lease. Without approval by Water District 01 and payment of the required fees, Henry's Fork and Madison have not demonstrated to the satisfaction of the Director that they have secured the water reported in their May 2 mitigation notice. As indicated in Subsection 1.c. below, Henry's Fork and Madison will have until May 17, 2024, to resolve these issues.

iv) Magic Valley and North Snake's Mitigation Notice

Magic Valley and North Snake's May 2 mitigation notice indicates that they will collectively provide 15,590 acre-feet of storage water to the SWC pursuant to the *2009 Storage Water Mitigation Plan*. *MVNS's Notice*, at 2. Unfortunately, Magic Valley and North Snake did not include contracts, leases, options, or similar documentation to establish that they had secured the water necessary to meet the obligation. Furthermore, the Department records do not show that Magic Valley and North Snake sought or received approval from Water District 01 for any lease. Without approval by Water District 01 and payment of the required fees, Magic Valley and North Snake have not demonstrated to the satisfaction of the Director that they have secured the water reported in their May 2 notice. As indicated in Subsection 1.c. below, Magic Valley and North Snake will have until May 17, 2024, to resolve these issues.

c. Conclusion Regarding *2009 Storage Water Mitigation Plan*

While certain ground water districts indicate their intent to mitigate under the *2009 Storage Water Mitigation Plan*, they have failed to show, to the satisfaction of the Director, that they have secured the storage water needed to mitigate in full or in part. The Director will extend the deadline for the ground water districts to submit information to establish, to his satisfaction, that they can mitigate for all or part of the predicted April IDS of 74,100 acre-feet. The ground water districts have until May 17, 2024, to submit the appropriate documentation and to pay any fees required by Water District 01. If appropriate documentation is submitted and fees paid by this deadline, the Director will adjust the curtailment date accordingly.

2. Mitigation Using IGWA's *2016 Settlement Mitigation Plan*

At the status conference and in its mitigation notice, American Falls-Aberdeen indicates that it intends to mitigate under the *2016 Settlement Mitigation Plan*. At the status conference, Jefferson-Clark, Henry's Fork, and Madison also indicated that they would dedicate their secured storage water towards the *2016 Settlement Mitigation Plan* if that would result in their compliance with the plan. The *2016 Settlement Mitigation Plan* allows individual ground water districts to mitigate for their proportionate share of the 240,000-acre-foot reduction obligation set forth in the plan. It also requires that the ground water districts annually provide 50,000 acre-feet of storage water though private leases to the SWC 21 days after the day of allocation. ~~While the *2016 Settlement Mitigation Plan* allows for determining the proportionate share of the reduction obligation of the parties, it does not authorize the proportionate sharing of the 50,000-acre-foot storage volume by the parties. As a result of the plain language of the plan, for any ground water district to be in compliance with the plan, the entire 50,000 acre-feet must be provided.~~

a. The 2021 Breach

Ground water districts were found to have breached the *2016 Settlement Mitigation Plan* in 2021. *Am. Final Order Regarding Compliance with Approved Mitigation Plan*, at 16–17, *In re IGWA's Settlement Agreement Mitigation Plan*, No. CM-MP-2016-001 (Idaho Dept. of Water Res. Apr. 24, 2023) [hereinafter *Compliance Order*]. In his April 24, 2023 *Compliance Order*, the Director approved a one-year settlement agreement to remedy the 2021 breach. *Id.* at 20. In

the settlement agreement, the parties agreed that "IGWA will collectively provide to the SWC an additional 30,000 acre-feet of storage water in 2023 and an additional 15,000 acre-feet of storage water in 2024 within 10 days after the Date of Allocation of such year. Such amounts will be in addition to the long-term obligations set forth in section 3 of the Settlement Agreement and approved Mitigation Plan." *Settlement Agreement*, at 2, No. CM-MP-2016-001 (Sept. 7, 2022).

The first question that arises in evaluating whether any ground water district is complying with the *2016 Settlement Mitigation Plan* is addressing compliance with the agreed upon cure of IGWA's 2021 breach. It is the Director's understanding that the ground water districts provided the required 30,000 acre-feet of storage in 2023. In its May 6 mitigation notice, American Falls-Aberdeen states that it "has entered into a lease with the Shoshone-Bannock Tribe for approximately 11,000 acre feet of water." AFA Mitigation Notice, at 1. American Falls-Aberdeen states it plans to provide its share of the 15,000-acre-foot obligation under the 2021 Breach Order, approximately 2,900 acre-feet, to the SWC using this lease. *Id.* In its May 8 letter to the Director, IGWA confirms that it will "deliver the balance of the 15,000 acre-feet." The obligation to supply the water does not accrue until ten days after the day of allocation. *Settlement Agreement*, at 2.

So long as the entire 15,000-acre-foot obligation is provided to the SWC within ten days following the forthcoming day of allocation, the 2021 breach has been remedied.

b. The 2022 Breach

American Falls-Aberdeen and certain other ground water districts were found to have breached the *2016 Settlement Mitigation Plan* in 2022. *Final Order Regarding IGWA's 2022 Mitigation Plan Compliance*, at 9, No. CM-MP-2016-001 (Aug. 2, 2023). The following table summarizes the volume of the individual ground water district's breaches.

Ground Water Districts (GWD)	**2022 Deficiency in GWD Compliance with 2016 Mitigation Plan (acre-feet)**
Aberdeen-American Falls GWD	1,352
Bingham GWD	32,476
Bonneville-Jefferson GWD	5,204
Carey Valley GWD	0
Jefferson-Clark GWD	18,605
Henry's Fork GWD	0
Madison GWD	0
Magic Valley GWD	0
North Snake GWD	0

Id at 8.

American Falls-Aberdeen subsequently entered into an agreement with the SWC and mitigated for their breach. *Notice of Satisfaction of American Falls-Aberdeen Ground Water District 2022 Mitigation Obligation*, No. CM-MP-2016-001 (Nov. 7, 2023). American Falls-Aberdeen has remedied their 2022 breach.

c. The Sentinel Well Benchmark

The ground water districts also failed to achieve the 2023 sentinel well benchmark established by the *2016 Settlement Mitigation Plan*. On May 3, 2024, the Director issued an order determining the additional actions that ground water districts that are signatories to the 2016 settlement agreement must take as part of ongoing adaptive management requirements to ensure they comply with the plan. The Director ordered ground water districts to:

> increase their proportionate share of the total annual ground water use reduction of 240,000 acre-feet by an additional 5% (12,000 acre-feet) during the 2024 irrigation season. The [ground water districts] will increase their proportionate share of the total annual ground water use reduction of 240,000 acre-feet by an additional 12,000 acre-feet each year thereafter until the 2023 benchmark is achieved

Final Order Specifying Additional Actions, at 5, No. CM-MP-2016-001 (May 3, 2024).

In its May 6 mitigation notice, American Falls-Aberdeen confirmed that it intends to "satisfy all its obligations under the *2016 Settlement Mitigation Plan*," including the "adaptive management" obligations prescribed by the Director in his *Final Order Specifying Additional Actions* in CM-MP-2016-001. AFA Mitigation Notice, at 1.

d. 50,000 Acre-Feet of Storage Water

As discussed above, the *2016 Settlement Mitigation Plan* requires the ground water districts to provide the SWC with 50,000 acre-feet of storage water annually. Under the plain language of the *2016 Settlement Mitigation Plan*, the 50,000-acre-foot obligation does not come due until 21 days after the day of allocation. *Settlement Agreement* at 2, ¶ 3.b.i. Furthermore, the *2016 Settlement Mitigation Plan* does not require documentation of securing the water. Therefore, American Falls-Aberdeen's safe harbor from curtailment is not contingent on American Falls-Aberdeen providing proof it has secure 50,000 acre-feet of storage water at this time. In addition, the *2016 Settlement Mitigation Plan* specifically spells out a dispute resolution process if the Districts breach the 50,000-acre-foot obligation. *Id.* at ¶ 2c. Only if that dispute resolution process fails does the Director get involved. *Id.* Since there is no requirement for American Falls-Aberdeen to provide proof that it has secured water at this time and because the steering committee has not referred an allegation of breach of the 50,000-acre-foot obligation to the Director, the Director concludes that American Fals-Aberdeen is in compliance with the requirements of the *2016 Settlement Mitigation Plan's* requirements related to the 50,000 acre-feet of storage water. ~~At the status conference, the Director reiterated that he would adopt former Director Spackman's reasoning regarding the *2016 Settlement Mitigation Plan* and that to comply with the plan, the entire 50,000-acre-foot obligation must be provided (not just a proportionate share). In other words, were American Falls-Aberdeen the only ground water~~

district seeking protection under the *2016 Settlement Mitigation Plan*, it would have to secure and deliver the full 50,000 acre-feet to remain in compliance. In its May 6 mitigation notice, American Falls-Aberdeen does not explicitly state how much water it has secured towards this obligation. However, it reports having secured 11,000 acre-feet of storage water, of which it will credit approximately 2,900 acre-feet towards its 2021 breach obligations. The director interprets American Falls-Aberdeen's notices and statements to imply it has secured 8,100 acre-feet towards the 50,000-acre-foot storage water obligation.

In addition to American Falls-Aberdeen, at the status conference, Jefferson Clark, Henry's Fork, and Madison also indicated they would count their secured storage water towards the *2016 Settlement Mitigation Plan* if that would result in their compliance with the plan.

Based on the ground water district's mitigation notices and comments at the status conference, the following table summarizes the potential volumes of water secured to comply with the *2016 Settlement Mitigation Plan*:

Ground Water Districts (GWD)	**GWD Volume of Secured Water (acre-feet)**
Aberdeen-American Falls GWD	8,100
Bingham GWD	0
Bonneville-Jefferson GWD	0
Carey Valley GWD	0
Jefferson-Clark GWD	6,858
Henry's Fork GWD	1,500
Madison GWD	
Magic Valley GWD	0
North Snake GWD	0
Total	16,458
2016 Mitigation Plan Secured Storage Water Obligation	50,000
Deficiency in the Amount of Secured Storage Water	33,542

e. Conclusion Regarding *2016 Settlement Mitigation Plan*

Based on the above discussion previous summary table, the Director concludes that ground water districts that (1) did not breach the *2016 Settlement Mitigation Plan* in 2022 or who did breach and have remedied their breach, and (2) agree to the "additional actions" required in the *Final Order Specifying Additional Actions* in CM-MP-2016-001, are in compliance with the 2016 plan and entitled to protection under the plan. At this time, American Falls-Aberdeen is the only ground water district that has told the Director that it continues to uphold and seek protection under the *2016 Settlement Mitigation Plan* and has demonstrated that it continues to

comply with all elements of the plan. ~~the ground water districts are short of the 50,000-acre-foot obligation by approximately 33,542 acre-feet. Because the ground water districts have not met the full 50,000-acre-foot obligation, no ground water district can be protected by the *2016 Settlement Mitigation Plan*. As a result of this determination, the Director will give the ground water districts until May 17, 2024, to demonstrate to his satisfaction that they have contracted for the total required storage of 50,000 acre-feet to qualify for protection. The Director will also require confirmation from the Tribes that the water has been paid for and is available for use as mitigation.~~

3. Ground Water Districts Planning to Use Neither the *2009 Storage Water Mitigation Plan* nor the *2016 Settlement Mitigation Plan*.[2]

At the status conference, Bingham indicated that it had secured 8,590 acre-feet of water for the coming irrigation season but that it did not intend to mitigate under either the *2009 Storage Water Mitigation Plan* or the *2016 Settlement Mitigation Plan*. While Bingham stated in its mitigation notice that there "does not appear to be an option for mitigation" under the *2009 Storage Water Mitigation Plan* for this year, *Notice of Bingham Ground Water District 2024 Mitigation*, at 3, the Director made clear at the status conference he would consider mitigation proposals under the *2009 Storage Water Mitigation Plan* for 2024. Still, when pressed at the status conference, counsel for Bingham indicated that Bingham would not apply its storage water towards its mitigation obligations under either of the approved mitigation plans. It is surprising that ~~Why~~ a ground water district would secure storage water but then refuse to claim protection from curtailment under an approved mitigation plan ~~is surprising~~. While the 8,590 acre-feet of water the district has already secured would not make up the current shortfalls under either approved mitigation plan, under the 2009 Storage Delivery Plan, it would nonetheless advance the priority date and reduce the number of its ground water users subject to curtailment. Furthermore, if the other ground water districts contribute storage under the *2009 Storage Water Mitigation Plan* but Bingham does not, ~~this makes Bingham a free rider in this year's delivery call proceedings because~~ some of its members will nonetheless benefit, by avoiding curtailment through the actions of other ground water districts contributing storage water while Bingham undertakes no commensurate actions. Regardless, if the Bingham Ground Water District Board Members do not want to contribute the water they have already secured, ~~would rather free ride under the *2009 Storage Water Delivery Plan* and not~~ to increase the number of its members protected from curtailment, that is its choice. The Director cannot force the district to obligate its secured storage water to maximize the protection of its users.

In its mitigation notice, Bingham expresses frustration about its inability to seek protection under a new mitigation plan that it filed in January of 2024. The new mitigation plan was only for the benefit of Bingham Ground Water District. *Pet. for Approval of Bingham Ground Water District's Mitigation Plan for the Surface Water Coalition*, No. CM-MP-2024-001 (Jan. 2, 2024). Several other ground water districts also submitted individual mitigation plans at about the same time. The plans were advertised, and they were protested by numerous entities. The Director appointed an independent hearing officer, Gerald F. Schroeder, to hear the contested cases on behalf of the Department. It is the Director's understanding that some of the

[2] The changes in this section are made in response to *Bingham's Brief* in which Bingham took issue with the use of the term "free rider."

parties to those contested cases sought to stay the new mitigation plan proceedings until an order was issued by the Director related to the proceeding before Hearing Officer Burdick. Others, including Bingham, did not want to stay the proceedings. It is the Director's understanding that Hearing Officer Schroeder heard arguments on both sides and concluded that it was best to wait for Hearing Officer Burdick's order before scheduling a hearing. While the Director understands Bingham's desire to move forward to hearing, Hearing Officer Schroeder considered the arguments raised by those who wanted to move forward and concluded that it was most appropriate to wait. The Director will not second guess the hearing officer's approach.

Carey Valley did not participate in the May 3, 2024 status conference. Its mitigation notice does not mention securing storage under the *2009 Storage Water Mitigation Plan* or the *2016 Settlement Mitigation Plan*. The Director concludes that Carey Valley has not secured any storage water and as a result does not seek protection under either mitigation plan in 2024.

ORDER

Based on and consistent with the foregoing, IT IS HEREBY ORDERED that the mitigation notices filed by Bonneville-Jefferson, Jefferson-Clark, Magic Valley, North Snake, Henry's Fork, Madison, Bingham, and Carey Valley~~, and American Falls-Aberdeen~~ ground water districts are deficient and fail to demonstrate that they are operating in accordance with an approved mitigation plan. American Falls-Aberdeen Ground Water District has demonstrated that it is operating in accordance with an approved mitigation plan. ~~The Director will give the ground water districts until May 17, 2024, to submit additional notice that demonstrates to the satisfaction of the director that they have secured storage water in compliance with either the *2009 Storage Water Delivery Plan* or the *2016 Settlement Mitigation Plan*.~~

Dated this 28th day of May 2024.

MATHEW WEAVER
Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 28th day of May 2024, the above and foregoing, was served by the method indicated below, and addressed to the following:

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Sarah Tschohl
Paralegal

EXPLANATORY INFORMATION TO ACCOMPANY A FINAL ORDER

(To be used in connection with actions when a hearing was **not** held)

(Required by Rule of Procedure 740.02)

The accompanying order is a "**Final Order**" issued by the department pursuant to section 67-5246, 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 67-5246(4), Idaho Code.

REQUEST FOR HEARING

Unless the right to a hearing before the director or the water resource board is otherwise provided by statute, any person who is aggrieved by the action of the director, and who has not previously been afforded an opportunity for a hearing on the matter shall be entitled to a hearing before the director to contest the action. The person shall file with the director, within fifteen (15) days after receipt of written notice of the action issued by the director, or receipt of actual notice, a written petition stating the grounds for contesting the action by the director and requesting a hearing. See section 42-1701A(3), Idaho Code. **Note: The request must be received by the Department within this fifteen (15) day period.**

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 of: a) the service date of the final order, b) the service date 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.

Exhibit
E

To: Governor Little, Darren Damon, Jamie Neill

From: Director Mat Weaver, IDWR

Date: July 22, 2025

Re: Update on SWC Delivery Call and Curtailment Actions

As part of the ongoing Surface Water Coalition (SWC) conjunctive administration delivery call, I issued an order on April 16, 2025, notifying water users that the Twin Falls Canal Company could face a projected shortfall of 63,000 acre-feet during the 2025 irrigation season. Consequently, on May 16, I issued a curtailment order affecting approximately 667 ground water rights junior to August 28, 1955.

In the months following, the Department, in coordination with staff from Water Districts 36A, 100, 110, 120, and 130, worked to contact affected water users and ensure they either:

1. Join a ground water district and seek protection under the 2024 Settlement Mitigation Plan,
2. Limit their water use to the domestic exemption levels, or
3. Cease water use (curtail).

By early July, approximately one-third of the curtailed water rights had been addressed.

On July 10, 2025, I issued a revised order increasing the estimated shortfall to 75,300 acre-feet. In response, I will issue a second curtailment order this Friday, July 25, expanding the curtailment to include all water rights junior to October 11, 1900. This action may affect up to 900 water rights, although the final number is still being confirmed. Notably, this will mark the first time water rights with priority dates earlier than 1955 have been subject to curtailment under the SWC delivery call.

Today, I met with Department and water district staff responsible for administering the curtailments and emphasized that ensuring compliance with these orders is our highest priority. I am willing to redirect people within the agency to ensure adequate resources are in place to administer the delivery call effectively. Over the past week, we have inspected every irrigated tract of 40 acres or more to verify compliance. Beginning next week, we will expand inspections to include water rights subject to the upcoming curtailment.

Moving forward, we will prioritize encouraging and assisting curtailed water users in joining existing, approved mitigation plans wherever feasible. For those unwilling or unable to join a ground water district, we will coordinate with the respective water districts to implement curtailment. In addition, we will initiate formal enforcement actions against users who fail to comply with curtailment orders.

We are also preparing a summary report on all curtailed water rights. This report will be published on the Department's website to inform the public of our ongoing efforts and progress.

Exhibit
F

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

THE MATTER OF DISTRIBUTION OF	)	
ER TO VARIOUS WATER RIGHTS HELD	)	
OR FOR THE BENEFIT OF A&B	)	
IGATION DISTRICT, AMERICAN FALLS	)	Docket No. CM-DC-2010-001
ERVOIR DISTRICT #2, BURLEY	)	
IGATION DISTRICT, MILNER	)	
IGATION DISTRICT, MINIDOKA	)	
IGATION DISTRICT, NORTH SIDE CANAL	)	
PANY, AND TWIN FALLS CANAL	)	
PANY,	)	
_____	)	

DEPOSITION OF JENNIFER SUKOW

OCTOBER 22, 2025

EPORTED BY:

ONICA M. FUHS, CSR NO. 471

OTARY PUBLIC

THE DEPOSITION OF JENNIFER SUKOW was taken on behalf of A&B Irrigation District at the offices of the Idaho Department of Water Resources, 322 E. Front Street, Boise, Idaho, commencing at 9:05 a.m. on October 22, 2025, before Monica M. Fuhs, Certified Shorthand Reporter and Notary Public within and for the State of Idaho, in the above-entitled matter.

APPEARANCES

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DEPARTMENT OF WATER RESOURCES
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ALSO PRESENT: Nathan Horesh, Greg Sullivan

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Q. But that could be determined using a similar analysis of what you did in April; is that right?
A. Yeah, you could take that percentage of steady state chart and you could, you know, pick the appropriate time frame and multiply the percentage by the steady state volume. And then you would need to do the same thing for the -- well, because of the change in priority date you actually would probably need to run them. No, you could do it. Your consultant could do it.
Q. Understand.
A. You have to account the 1955 is, you know, for a different time period than the 1900. But you could do it just from that transient curve that is in the April. You could also just run it as a transient, too.
Q. So you would agree that curtailing all 66.712 acres as of August 1 would not result in 5.039 acre feet showing up in the near Blackfoot to Minidoka reach between August 1 and September 30; is that correct?
A. Yeah, that's correct.
Q. Do you know if A&B has been required to mitigate for its 1948 priority groundwater right prior to this order?
A. Not that I know of.
Q. So is it fair the department did not perform

any sort of calculations to determine a percentage of mitigation from just being subject to curtailment for part of the year as opposed to the entire year?
A. Yeah, that's true. I didn't account for that at all.
Q. So all of the proportionate share analysis was steady state assuming it was subject to curtailment for the whole year? Or it wouldn't change; is that right?
A. I mean, it just that it is subject to curtailment as of the July order. And the July order has a new predicted in-season demand shortfall. So we are just kind of starting over with the calculation of proportionate shares of that predicted demand shortfall.
Q. I want to go back to Exhibit 17. The July order. This bar chart on page ten. And just so I'm clear again. Once we get to early August you didn't try to then take the difference between what would show up from curtailment from '55, what would show up from 1900, and then try and identify some share different than you had done before; is that correct?
A. No, that was not something we considered.
(Exhibit 19 marked.)
Q. (BY MR. THOMPSON) Jennifer, can you identify Exhibit 19, please?
A. This is the list of A&B's water rights. And

then the total number of acres that are junior to October 11, 1900.
Q. Similar to the other spreadsheet from April, but this just includes the 1948 right; is that right?
A. Yeah. I mean, it is the same list of rights. It is just when I sum up how many acres are junior it is just using a different priority date.
(Exhibit 20 marked.)
Q. (BY MR. THOMPSON) Could you identify Exhibit 20, please?
A. This is again because A&B chose to leave some of the water rights on the curtailment list and not mitigate for them. This is a table with a proportionate share of the July in-season demand shortfall calculated for each individual A&B water right.
Q. So this is looking at the new 1900 curtailment date and identifying a proportionate share for all of A&B's water rights compared to all of the other pumping on that list?
A. Well, no, that was in Exhibit 18 where I calculated the proportionate share.
Q. I'm sorry. Exhibit 20 shows the proportionate of each individual water right of that 5.039 number that is contributed to those --
A. Yes.

(Exhibit 21 marked.)
Q. (BY MR. THOMPSON) Jennifer, do you recognize Exhibit 21?
A. I mean, I'm aware it exists. But I don't think I've reviewed or contributed to this order at all.
Q. So were you aware -- I guess this is a curtailment order with a list of water rights scheduled to curtail May 31. Were you aware of that?
A. Again, I'm aware they issued a curtailment order. I don't know the dates.
Q. Did anybody at the department provide you with any information about water rights being curtailed in 2025?
A. I have seen the summaries they have been posting on our website about the number of water rights that they determined didn't need to be curtailed because they were participating in a mitigation plan or whatever. And the number that were curtailed. But I don't have any information about which water rights those were.
Q. So for your July analysis where you were looking at a new curtailment date identifying what that demand shortfall was to -- identifying a curtailment date to try and make up that demand shortfall for the rest of 2025 you were not provided with any information

Exhibit G

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY OR FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY	Docket No. CM-DC-2010-001 **ORDER REGARDING MID-SEASON CHANGE TO AREA OF COMMON GROUND WATER SUPPLY FOR THE EASTERN SNAKE PLAIN AQUIFER; THIRD ORDER AMENDING CURTAILMENT LIST**

BACKGROUND

During the 2024 legislative session, the Idaho Legislature passed, and the Governor signed into law, Senate Bill 1341. This bill codifies the boundary of the Eastern Snake Plain Aquifer Area of Common Ground Water Supply ("ESPA Area of Common Ground Water"), replacing the boundary found in Rule 50 of the Department's *Rules for Conjunctive Management of Surface and Ground Water Resources* ("CM Rules"). IDAPA 37.03.11.050. The ESPA Area of Common Ground Water is the administrative boundary for the Surface Water Coalition ("SWC") delivery call proceeding (Docket No. CM-DC-2010-001), the proceeding in which this order is being issued.[1]

This order is necessary because Senate Bill 1341 becomes effective July 1, 2024, which is the middle of the 2024 irrigation season. There currently is a curtailment order in effect in the SWC delivery call proceeding, curtailing ground water rights junior to March 31, 1954. *See Final Order Curtailing Ground Water Rights Junior to March 31, 1954* (May 30, 2024) [hereinafter "*Curtailment Order*"]; *Order Am. Curtailment List* (June 6, 2024); *2d Order Am. Curtailment List* (June 20, 2024). Because the administrative boundary is changing mid-season, ground water rights that were not previously included in administration in the SWC delivery call will be included within the ESPA Area of Common Ground Water on July 1, 2024, and will be subject to administration in the SWC proceeding. Furthermore, some ground water rights that were previously subject to curtailment in the SWC delivery call will now be outside the ESPA Area of Common Ground Water on July 1, 2024, and will be excluded from administration in the SWC proceeding. The Director must now decide how to address the mid-season adjustment to the ESPA Area of Common Ground Water.

ANALYSIS

Senate Bill 1341 adds a new section to Idaho Code, Idaho Code § 42-233c. This new code section states in relevant part:

[1] Steps 2, 6, 7, and 9 of the *Sixth Final Order Regarding Methodology for Determining Material Injury to Reasonable In-Season Demand and Reasonable Carryover* ("*Sixth Methodology Order*") contemplate that "[c]urtailment will be simulated within the area of common ground water supply as described by CM Rule 50.01." *Sixth Methodology Order*, at 42, 44, 45.

> The area having a common ground water supply for the eastern Snake plain aquifer, as that term is used in the administration of water rights pursuant to the rules for the conjunctive management of surface and ground water resources, is the aquifer underlying the eastern Snake river plain as described in model calibration report, eastern Snake plain aquifer model version 2.2. of May 2021.

2024 Idaho Sess. Laws ch. 110 § 1 (emphasis added).

In contrast, in Rule 50 of the CM Rules, the Department defined the ESPA Area of Common Ground Water as:

> The area of coverage of this rule is the aquifer underlying the Eastern Snake River Plain as the aquifer is defined in the report, Hydrology and Digital Simulation of the Regional Aquifer System, Eastern Snake River Plain, Idaho, USGS Professional Paper 1408-F, 1992 excluding areas south of the Snake River and west of the line separating Sections 34 and 35, Township 10 South, Range 20 East, Boise Meridian.

IDAPA 37.03.11.050.01.

Administrative rulemaking is a statutory grant of authority by the legislative branch to the executive branch. *Idaho State Athletic Comm'n by & through Stoddard v. Off. of the Admin. Rules Coordinator*, 173 Idaho 310, 542 P.3d 718, 730 (2024). For over thirty years, and as recently as this year, the Idaho Supreme Court has held that administrative rules "'do not rise to the level of statutory law' and are 'less than the equivalent of statutory law.'" *Blasch v. HP, Inc.*, 545 P.3d 581, 589 (Idaho 2024) (quoting *Idaho State Athletic Comm'n*, 542 P.3d at 732). Because administrative rules are "lesser than" statutes, no administrative rule can override a conflicting statute. *See id.*

Therefore, when the Idaho Legislature passed Senate Bill 1341, and redefined the ESPA Area of Common Ground Water, the Legislature effectively overruled the Department's Rule 50 definition.

This redefinition causes the current administrative boundary for the SWC delivery call to both expand and contract. In other words, some ground water rights not previously subject to administration in the SWC delivery call will become subject to administration after July 1, 2024, and some ground water rights previously subject to administration in the SWC delivery call will no longer be subject to administration.

I. *Ground water rights newly included in the ESPA Area of Common Ground Water as of July 1, 2024, will be phased-in to the SWC delivery call proceeding and will not be curtailed in 2024.*

When the ESPA Area of Common Ground Water is redefined as the ESPA model 2.2 boundary on July 1, 2024, 1,818 ground water rights previously not subject to administration in the SWC delivery call will become subject to administration. As discussed above, there is an ongoing curtailment order in the SWC delivery call. Pursuant to the curtailment order, certain water rights junior to March 31, 1954, are curtailed. *Curtailment Order*, at 9.

Under CM Rule 40, when a delivery call is made by a senior-priority water right holder, and the Director finds material injury is occurring, the Director shall either:

a. Regulate the diversion and use of water in accordance with the priorities of rights of the various surface or ground water users whose rights are included within the district, provided, that regulation of junior-priority ground water diversion and use where the material injury is delayed or long range may, by order of the Director, be phased-in over not more than a five-year (5) period to lessen the economic impact of immediate and complete curtailment; or

b. Allow out-of-priority diversion of water by junior-priority ground water users pursuant to a mitigation plan that has been approved by the Director.

IDAPA 37.03.11.040.01.a–b.

The water rights that are newly included in the ESPA Area of Common Ground Water that are junior to March 31, 1954, are listed in Attachment A to this order. The holders of ground water rights listed in Attachment A do not yet have a Department-approved mitigation plan. Therefore, these newly included water rights junior to March 31, 1954, would be curtailed under the current *Curtailment Order* on July 1, 2024. *See* IDAPA 37.03.11.040.01.a.

However, the Director finds that the material injury caused by the diversion and use of water under these newly included ground water rights is delayed or long range. The Director also finds that the economic impact of immediate and complete curtailment would be severe. The newly included ground water rights authorize many different beneficial uses, including irrigation, commercial, industrial, municipal, and domestic. However, the vast majority of both the number of water rights and the volume of ground water used are for irrigation. The Department has observed that the period necessary to submit, review, publish, and issue an order regarding a mitigation plan can vary greatly. Approval of an unprotested mitigation plan can occur as quickly as several months. Whereas a protested mitigation plan that is subject to a contested case proceeding and appeal process can take more than a year to resolve. The Director concludes that priority administration of these newly included ground water rights should be phased-in to provide the affected water users a reasonable time to implement a mitigation plan "to lessen the economic impact of immediate and complete curtailment." IDAPA 37.03.11.040.01.a. Accordingly, the water rights junior to March 31, 1954, listed in Attachment A will not be subject to immediate curtailment this irrigation season. All water rights that are newly included in the ESPA Area of Common Ground Water are on notice that they will be subject to administration effective November 1, 2025.

II. Ground water rights newly excluded from the ESPA Area of Common Ground Water as of July 1, 2024, should be removed from the SWC delivery call curtailment list.

When the ESPA Area of Common Ground Water boundary is redefined on July 1, 2024, some ground water rights previously within the ESPA Area of Common Ground Water boundary will now be outside the boundary and will no longer be subject to administration in the SWC delivery call. Accordingly, effective July 1, 2024, the newly excluded water rights junior to March 31, 1954, should be removed from the curtailment list. These water rights are listed in Attachment B to this order. A new list of curtailed water rights will be issued with this order as Attachment C with the water rights listed in Attachment B removed.[2]

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[2] Additionally, having received communications from Bonneville-Jefferson and American Falls-Aberdeen ground water districts that the following water rights are in good standing with the districts and protected by their approved mitigation plan, the Department has removed the following water rights from the curtailment list: 25-10794, 25-11143, 25-12186, 25-13978, 25-14165, 25-14170, 25-14234, 25-14235, 25-14287, 25-14304, 25-14313, 25-14327, 25-14389, 25-14394, 25-14457, 25-14468, 25-14478, 25-14482, 25-14490, 25-14491, 25-2119, 25-4048,

ORDER

Based upon and consistent with the foregoing, IT IS HEREBY ORDERED that ground water rights newly included in the ESPA Area of Common Ground Water as of July 1, 2024, that are junior to March 31, 1954, will be phased-in to the SWC delivery call proceeding and will not be curtailed in 2024. A list of these rights is included as Attachment A to this order. All water rights that are newly included in the ESPA Area of Common Ground Water are subject to administration effective November 1, 2025.

IT IS FURTHER ORDERED that effective July 1, 2024, the water rights listed in Attachment B to this order are no longer subject to curtailment in association with the SWC delivery call proceeding. Effective July 1, 2024, all other ground water rights listed in Attachment C continue to be curtailed consistent with the timeframes listed in the May 30, 2024 *Final Order Curtailing Ground Water Rights Junior to March 31, 1954.*

Dated this 28th day of June 2024.

MATHEW WEAVER
Director

25-7002, 25-7036, 25-7073D, 25-7086, 25-7186, 25-7471, 25-7473, 35-13542, 35-14266, 35-14667, 35-14668, 35-14669, 35-14670, 35-14671, 35-14673, 35-14674, 35-14675, 35-14676, 35-14678, 35-14679, 35-14681, 35-14682, 35-14694, 35-14695, 35-14696, 35-14697, 35-14698, 35-14731, 35-14732, 35-14739, 35-14744, 35-14769, 35-14770, 35-14777, 35-14778, 35-14779, 35-14780, 35-14781, 35-14782, 35-14783, 35-14784, 35-14785, 35-14788, 35-14789, 35-14790, 35-14791, 35-14792, 35-14793, 35-14796, 35-14867, 35-7593B, 35-7640, 29-13829, 29-7539, 35-14736, 35-14815, 35-14836. Water right 36-15565 is also being removed from the curtailment list because it is for a use that meets the definition of domestic under Idaho Code § 42-111(a).

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 28th day of June 2024, the above and foregoing, was served by the method indicated below, and addressed to the following:

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Exhibit
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STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

IN THE MATTER OF DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY OR FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY	Docket No. CM-MP-2024-003
IN THE MATTER OF THE SURFACE WATER COALITIONS' AND THE GROUND WATER DISTRICTS' 2024 STIPULATED MITIGATION PLAN	**JOINT MOTION FOR ORDER APPROVING 2024 STIPULATED MITIGATION PLAN**

Twin Falls Canal Company, North Side Canal Company, American Falls Reservoir District No. 2, Milner Irrigation District, Burley Irrigation District, A&B Irrigation District, and Minidoka Irrigation District (collectively, the "Surface Water Coalition"), and North Snake Ground Water District, Magic Valley Ground Water District, Carey Valley Ground Water District, Aberdeen-American Falls Ground Water District, Bingham Ground Water District, Bonneville-Jefferson Ground Water District, Jefferson-Clark Ground Water District, Madison Ground Water District, and Henry's Fork Ground Water District (collectively, the "Ground Water Districts"), through counsel, jointly move the director pursuant to rule 220 of the Rules of Procedure of the Idaho Department of Water Resources and rule 43 of the Rules for Conjunctive Management of Surface and Ground Water Resources for an order approving the 2024 Stipulated Mitigation Plan attached hereto as Appendix A (the "Plan").

Pursuant to Conjunctive Management Rule 43.01.a, the names and addresses of the entities submitting the Plan are:

- North Snake Ground Water District
  214 E. Yakima St., Suite A
  Jerome, Idaho 83338

- Magic Valley Ground Water District
  P.O. Box 430
  Paul, Idaho 83347

- Carey Valley Ground Water District
  P.O. Box 261
  Carey, Idaho 83320

- Aberdeen-American Falls Ground Water District
  P.O. Box 70
  American Falls, Idaho 83211

- Bingham Ground Water District
  P.O. Box 1268
  Blackfoot, Idaho 83221

- Bonneville-Jefferson Ground Water District
  P.O. Box 51121
  Idaho Falls, Idaho 83405

- Jefferson-Clark Ground Water District
  P.O. Box 118
  Terreton, Idaho 83450-0118

- Madison Ground Water District
  P.O. Box 15
  St. Anthony, Idaho 83445

- Henry's Fork Ground Water District
  P.O. Box 15
  St. Anthony, Idaho 83445

Pursuant to Conjunctive Management Rule 43.01.b, the Plan is designed to mitigate material injury to water rights held by members of the Surface Water Coalition, and to provide safe harbor to groundwater rights held by patrons of the Ground Water Districts and other entities representing groundwater users that participate in and comply with the Plan.

Pursuant to Conjunctive Management Rule 43.01.c, sections 4 and 6 of the Plan identify the water supply proposed to be used for mitigation and any circumstances or limitations on availability of such supplies.

Pursuant to Conjunctive Management Rule 43.01.d, the Plan includes information that will allow the Director to evaluate the factors set forth in Conjunctive Management Rule 43.03. The

Plan is submitted pursuant to stipulation of the Ground Water Districts and the Surface Water Coalition in accordance with Conjunctive Management Rule 43.03.o, as set forth in section 11 of the Plan.

RESPECTFULL SUBMITTED the 19th day of November, 2024.

SOMACH SIMMONS & DUNN, P.C.

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APPENDIX A

2024 STIPULATED MITIGATION PLAN

This 2024 Stipulated Mitigation Plan ("Plan") is entered into between the parties defined in section 1. The parties agree as follows:

1. Parties. The parties to this Plan are (a) the members of the SWC, (b) ground water districts that sign this Plan by November 14, 2024, pursuant to section 2, and (c) ground water districts and other entities representing groundwater users that subsequently participate in this Plan pursuant to section 10. Parties may be referred to individually in this Plan as a "party."

1.1 Surface Water Coalition. The members of the SWC are A&B Irrigation District, American Falls Reservoir District No. 2, Burley Irrigation District, Milner Irrigation District, Minidoka Irrigation District, North Side Canal Company, and Twin Falls Canal Company (individually, a "SWC member," collectively, the "SWC"). Each SWC member is a party to this Plan.

1.2 Ground Water Districts. The ground water districts initially invited to participate in this Plan are Aberdeen-American Falls Ground Water District, Bingham Ground Water District, Bonneville-Jefferson Ground Water District, Carey Valley Ground Water District, Henry's Fork Ground Water District, Jefferson-Clark Ground Water District, Madison Ground Water District, Magic Valley Ground Water District, and North Snake Ground Water District. Only those ground water districts who sign this Plan by November 14, 2024, pursuant to section 2, or who participate in this Plan pursuant to section 10, are parties to this Plan. Ground water districts and other entities who participate in this Plan are referred to herein individually as "District" and collectively as the "Districts." Any ground water district who does not sign this Plan by November 14, 2024, or who does not participate in this Plan pursuant to section 10, shall not be a party to this Plan, shall not be bound by the terms of this Plan, and shall not benefit from this Plan. The failure of any ground water district to participate in this Plan shall not alter the proportionate obligations of any District.

2. Approval Process and Effective Date. This Plan shall be submitted to the boards of the SWC and the ground water districts identified in sections 1.1 and 1.2 for review by November 1, 2024. Ground water districts that elect to participate in this Plan pursuant to section 1.2 will have until November 14, 2024, to sign this Plan. The SWC will have until November 15, 2024, to sign this Plan. This Plan shall be effective once it is signed by all members of the SWC and at least five of the nine ground water districts identified in section 1.2. The SWC shall not enter into a separate stipulated mitigation plan or agreement with any ground water district that does not participate in this Plan during the term of this Plan.

3. Term.

3.1 Initial Term. The initial term of this Plan is four years, beginning January 1, 2024, and ending December 31, 2027. Compliance with section 4 (groundwater conservation) shall begin January 1, 2024. Compliance with all other sections shall begin November 1, 2024.

3.2 Renewal Terms. This Plan shall automatically renew for successive four-year terms unless a party provides written notice of termination to the other parties by September 15 prior to the end of the term then in effect, in which case this Plan will terminate at the end of such term.

4. Groundwater Conservation. During the term of this Plan, each District will conserve, at a minimum, the volume of groundwater set forth in the "Conservation Obligation" column in Appendix A, on an average annual basis over four-year periods, as measured from the District's baseline groundwater diversion set forth in Appendix A.

4.1 Compliance Periods. Groundwater conservation shall be measured over four-year periods known as "compliance periods." Each four-year term of this Plan is a compliance period; thus, the first compliance period is 2024-2027, the second compliance period is 2028-2031, and so on until Plan termination.

4.2 District Conservation Obligations. As of November 15, 2024, the conservation obligations of the Districts collectively total 205,000 acre-feet annually as initially shown in Appendix A. The Districts' collective conservation of 205,000 acre-feet equates to a total annual divertible volume of 1,590,034 acre-feet as initially shown in Appendix A. Each District's proportionate share of the annual divertible volume is also set forth in Appendix A. Appendix A will be updated annually by the Districts to reflect additions and removals of groundwater rights participating in this Plan through the Districts. Groundwater rights added to a District after November 15, 2024, shall proportionately increase the District's baseline diversion volume, annual conservation obligation, annual divertible volume, and compliance period allocation in Appendix A, and groundwater rights removed from a District after November 15, 2024, shall proportionately decrease the District's baseline diversion volume, annual conservation obligation, annual divertible volume, and compliance period allocation in Appendix A. If a groundwater right is added to or removed from a District for only part of a compliance period, the adjustment to the District's baseline diversion volume, annual conservation obligation, annual divertible volume, and compliance period allocation shall be prorated based on the portion of the compliance period in which the groundwater right participates in this Plan.

4.3 Compliance Period Allocations. At the beginning of each compliance period, each District will be allocated a volume of water that may be diverted during that four-year period, calculated by multiplying the District's annual divertible volume by four, plus surplus allocation carried over from the prior compliance period in accordance with section 4.7, if any. The Districts' four-year compliance period allocations are set forth in Appendix A. Districts are not restricted to the use of one-fourth of their compliance period allocation during each year of the compliance period; rather, Districts may divert more or less than one-fourth of their compliance period allocation in any given year so long as the total amount diverted during a compliance period does not exceed the District's total compliance period allocation. Each District shall independently comply with its individual compliance period allocation in accordance with sections 4.4 and 4.5.

4.4 Patron Allocations. Each District will apportion its compliance period allocation to the District's patrons in the form of a diversion allocation in accordance with Idaho Code § 42-5244A. Districts may allow patrons with multiple groundwater rights to pool their individual water right allocations for purposes of compliance. Districts may also allow patrons to exchange or transfer patron allocations within the District, so long as such patrons do not divert water in excess of the maximum rate or volume authorized under their water rights. District patrons may use their diversion allocation over a compliance period as they choose; however, when a District patron depletes their allocation, that patron will not receive any additional allocation until the next compliance period starts, unless the patron acquires additional allocation from (a) other patrons within the District in accordance with this section 4.4, or (b) the District as a result of managed aquifer recharge in accordance with section 4.5. If a District patron diverts more than their allocation and does not acquire additional allocation, the provisions of section 9.1 apply.

4.5 District Aquifer Recharge. Districts may supplement their compliance period allocation by performing managed aquifer recharge in accordance with standards set forth in Appendix C and with section 4 of the Memorandum of Agreement executed contemporaneously with this Plan. Credit for the managed aquifer recharge shall be determined as follows:

4.5.1 In-District Site. Recharge accomplished at a site within the boundaries of the District performing the recharge or at a site within 12 miles of the boundary of the

District ("In-District Site") will count 1:1 as a reduction in groundwater use within the District performing the recharge.

4.5.2 Out-of-District Site. Recharge performed at a site other than an In-District Site ("Out-of-District Site") will be modeled using the current version of the Eastern Snake Plain Aquifer ("ESPA") Model to quantify the steady-state impact to the Near Blackfoot to Minidoka reach of the Snake River. The impact of recharging the same volume of water at the In-District Site nearest to the Near Blackfoot to Minidoka reach will also be modeled using the ESPA Model to quantify the steady-state impact to the Near Blackfoot to Minidoka reach. The modeled steady-state impact of recharge at the Out-of-District Site will be divided by the modeled steady-state impact of recharge at the In-District Site. If the calculated ratio is less than two (the steady-state impact of recharge at the Out-of-District site is less than twice the steady-state impact of recharge at the In-District Site), the credit towards reduction in groundwater use will be equal to the calculated ratio multiplied by the volume of water recharged. If the calculated ratio is greater than two (the steady-state impact of recharge at the Out-of-District Site is greater than twice the steady-state impact of recharge at the In-District Site), the credit towards reduction in groundwater use will be limited to twice the volume of water recharged.

4.6 Measurement.

4.6.1 Groundwater. Measurement and reporting of non-irrigation diversions will occur on an annual basis. The Districts will develop and implement methods to read irrigation diversions monthly. Irrigation diversions shall be read from June to October, with the June reading including diversions from the start of the irrigation season. The Districts will have functioning programs by the start of the 2026 irrigation season to read irrigation diversions monthly. The Districts' methods may include telemetry, self-reporting with photo evidence, or other reliable techniques to report water diversions. Measurements shall be made available to the appropriate watermaster and the watermaster will make the measurement data publicly available upon request.

4.6.2 Surface Water. The SWC will continue to support the measurement and reporting of the SWC's surface water diversion by Water District 1 and the measurement and reporting of the SWC's return flows by the Idaho Department of Water Resources ("Department").

4.6.3 Reach Gains. Reach gains to the Near Blackfoot to Minidoka reach of the Snake River shall be measured based on calendar year reach gains from the ESPA as reported by the Department to the Idaho Water Resource Board.

4.7 Conservation Carryover. If a District has remaining allocation (*i.e.* the District performs surplus groundwater conservation) at the end of the first compliance period (2024-2027), the surplus will be carried over to the second compliance period (2028-2031). At the annual meeting held in 2031 pursuant to section 7, the parties shall commence discussions to determine the minimum reach gain conditions and other water supply factors that must be maintained to allow surplus allocation to be carried over from one compliance period to the next, which determination shall be documented by a written amendment to this Plan executed by the parties by September 15, 2031.

4.8 Annual Report. By February 15 annually, the Districts will submit a report to the SWC and the Department documenting the Districts' compliance with section 4 during the previous calendar year.

5. Reach Gain Mitigation Fund. The parties understand that the Idaho Water Resource Board ("Board") will contribute $5,000,000 to develop projects that will target and maximize benefits to the reach gains in the Near Blackfoot to Minidoka reach. The projects will be selected by the Board with input from the parties as to the criteria for ranking proposed projects. The Board will make the final decision on projects. Beginning in 2035, the Districts will collectively deposit $250,000 annually into a bank account maintained by the Districts to fund development and implementation of projects designed to further increase reach gains to the Near Blackfoot to Minidoka reach of the Snake River. If, during the second compliance period (2028-2031) or any subsequent compliance period, the average annual reach gains to the Near Blackfoot to Minidoka reach of the Snake River for that compliance period drops below the 2023 reach gains, the Districts will then deposit $500,000 annually, until average annual reach gains over the most recent compliance period equal or exceed the 2023 reach gains. Each District shall be independently responsible to deposit its proportionate share of the $250,000 or $500,000 in proportion to its respective steady-state impacts to the Near Blackfoot to Minidoka reach of the Snake River under the current version of the Model (ESPAM 2.2) as set forth in Appendix B.

6. Storage Water Component. The Districts will collectively secure the volume of storage water required by section 6.1 to meet irrigation needs and carryover storage of the SWC in accordance with section 6.4.

6.1 Storage Water Volume. The Districts will secure 75,000 acre-feet of storage water for the 2025 and 2026 irrigation seasons. In 2027, the maximum volume of storage water the Districts are required to secure is capped at 82,500 acre-feet. If reach gains to the Near Blackfoot to Minidoka reach of the Snake River in 2026 are greater than 2023 reach gains, the Districts will secure 75,000 acre-feet of storage for the 2027 irrigation season. If reach gains to the Near Blackfoot to Minidoka reach of the Snake River in 2026 are less than or equal to 2023 reach gains, the Districts will secure 82,500 acre-feet of storage for the 2027 irrigation season. At the annual meeting held in 2027 pursuant to section 7, the parties shall commence discussions to determine the amount of storage the Districts will be required to secure in 2028 and subsequent years, which determination shall be documented by a written amendment to this Plan executed by the parties by September 15, 2027.

6.2 Storage Water Allocation. Each District will secure its proportionate share of the storage water required by section 6.1 based on their respective steady-state impact to the Near Blackfoot to Minidoka reach of the Snake River as defined by the current version of the ESPA Model. The Districts' respective steady-state impacts under the current version of the Model (ESPAM 2.2) are set forth in Appendix B. If the Districts' respective steady-state impacts set forth in Appendix B change due to Model updates adopted by the Department, or due to changes in the universe of water rights participating in this Plan (e.g., additions or removals of groundwater participating in this Plan through the Districts), the parties will revise Appendix B to reflect the most up-to-date calculation of their respective steady-state impacts. If additional organized groundwater groups join this Plan as contemplated in section 10, they will provide a proportionate share of the storage water required by this section 6.1, thereby reducing the proportionate obligations of the Districts, and the parties will revise Appendix B to reflect the most up-to-date calculation of the proportionate shares of the Districts and additional organized groundwater groups participating in this Plan.

6.3 Acquisition of Storage. Within twenty-one (21) days after the Water District 1 "day of allocation," the Districts will secure, to the satisfaction of the Department, leases or options to lease the volume of storage water required by section 6.1, or demonstrate the ability to supply water under alternative

mitigation actions pursuant to section 6.7. Within seven (7) days thereafter, the Districts will supply copies of such agreements to the SWC.

6.4 Delivery of Storage. If the Water District 1 storage water account of any SWC member drops below the reasonable carryover volume listed in Appendix D between the Water District 1 day of allocation and November 10, the SWC member may draw on the secured storage for in-season irrigation needs and to maintain its reasonable carryover volume by notifying the Districts no later than November 15, and the Districts shall assign storage to such SWC member in the amount needed to maintain its reasonably carryover volume, up to the maximum volume required by section 6.1. The SWC shall not draw down their storage water accounts unnecessarily.

6.5 SWC Lease Adjustment. If a SWC member requesting delivery of storage water pursuant to section 6.4 leases storage water to another person or entity during an irrigation season, other than to the U.S. Bureau of Reclamation for flow augmentation as assigned by Water District 1 or as required rentals by Water District 1 to participate in the rental pool, such water shall be deducted from the volume of storage water the Districts are required to deliver to that SWC member under section 6.4.

6.6 2024 Storage Delivery. The Districts supplied 60,000 acre-feet of storage to the SWC for mitigation purposes pursuant to the *2024 Stipulation* dated June 24, 2024. Any portion of such storage that is not diverted by the SWC during the 2024 irrigation season or delivered to maintain reasonable carryover shall revert to the Districts.

6.7 Alternative Mitigation Actions. The Districts may take alternative actions to deliver water to the SWC, including but not limited to acquiring natural flow, in lieu of securing and delivering storage water. To the extent alternative actions deliver water to the SWC in accordance with state law (including Water District 1 procedures), they shall offset the amount of storage water the District implementing such alternative actions is required to secure under section 6.1 or deliver under section 6.4.

7. Oversight Committee. There will be an oversight committee ("Committee") established to review implementation of this Plan. The Committee shall be made up of the chairs (or their designees) of each party. Additional groundwater groups who join this Plan pursuant to section 10 will have a position on the Committee. Committee meetings will be co-chaired by one representative of the SWC and one representative of the Districts. By February 15 annually, the Committee shall meet to review (a) the annual report submitted by the Districts in accordance with section 4.8; (b) carryover storage from the prior irrigation season; (c) the reach gains to the Near Blackfoot to Minidoka reach of the Snake River; (d) the delivery of storage water to the SWC pursuant to section 6; (e) progress of any alternative mitigation actions taken pursuant to section 6.7; (f) progress of the Board's managed recharge program and the Cooperative Cloud Seeding Program; (g) changes to Appendix A pursuant to section 4.2; and (h) additional groundwater users joining this Plan pursuant to section 10 and the corresponding adjustment to Appendix B. The Committee is advisory in nature, has no authority to bind any party, but may submit recommendations to the Department upon unanimous agreement of Committee members.

8. Safe Harbor. Districts and their patrons that comply with this Plan shall receive safe harbor from the SWC delivery call (IDWR Docket No. CM-DC-2010-001) during the term of this Plan.

9. Enforcement. Each District is independently responsible for complying with its proportionate obligations under sections 4, 5 and 6. If a District does not comply, such non-compliance shall not adversely affect any other District that is in compliance with its proportionate obligations under this Plan.

9.1 Groundwater Conservation. If a District patron fails to comply with their patron allocation, the District shall report the patron to the Department for enforcement under Idaho Code § 42-5244B. Non-compliance shall result in curtailment by the Department, pursuant to Idaho Code § 42-5244B. District

patrons are independently responsible to comply with their respective patron allocations, such that non-compliance by one patron shall not adversely affect any other patron that is in compliance with its patron allocation. If a District reports a non-compliant patron to the Department for enforcement, that patron's allocation under section 4.4 will be deducted from the District's compliance period allocation under section 4.3, and the non-compliant patron's diversions will be deducted from a District's diversions when the District documents compliance under section 4.8, until the non-compliance is remedied. Non-compliant patrons subject to enforcement under this section 9.1 shall not be considered a participant in this Plan until the non-compliance is remedied.

9.2 Storage Water. If a District fails to secure its proportionate share of storage water in accordance with section 6.3, or deliver its proportionate share of storage water in accordance with section 6.4 or deliver water under alternative mitigation actions in accordance with section 6.7, the non-compliant District shall lose safe harbor under section 8, and patrons of the non-compliant District shall be subject to administration pursuant to Conjunctive Management Rule 40.05 unless and until such non-compliance is remedied.

9.3 Reach Gain Mitigation Fund. If a District fails to contribute its proportionate share of funding for projects to improve Near Blackfoot to Minidoka reach gains in accordance with section 5, patrons of the non-compliant District shall be subject to administration pursuant to Conjunctive Management Rule 40.05 until such non-compliance is remedied.

10. Additional Organized Ground Water Groups May Join Plan. Ground water districts or other entities representing groundwater users brought into the area of common ground water supply through the passage of Senate Bill 1341 (2024) or brought in through expansion of the area of common ground water supply as allowed by Senate Bill 1341 (2024) may seek to join this Plan. Upon the written consent of all parties, which consent shall not be unreasonably withheld, the parties and the entity joining this Plan shall execute an addendum to this Plan whereby the joining entity agrees to (a) perform groundwater conservation equivalent to the Districts, which conservation shall be in addition to the 205,000 acre-feet required under section 4; (b) contribute pro rata toward the reach gain fund under section 5; (c) contribute pro rata toward the storage water obligation under section 6, which shall proportionately reduce the storage obligation of the Districts; (d) perform such other obligations as may reasonably be required as a consequence of joining this Plan; and (e) consent to be bound by all other terms of this Plan on the same terms and conditions as the Districts.

11. Mitigation Plan Approval. Within ten (10) days after the Effective Date, the parties will submit this Plan to the Department for approval as a stipulated mitigation plan under rule 43 of the Conjunctive Management Rules. Upon approval, this Plan shall (a) supersede and replace the stipulated mitigation plan previously approved in IDWR Docket No. CM-MP-2016-001, and such plan, together with the agreements upon which it is predicated,[1] shall be null and void; (b) supersede and replace the mitigation plans previously approved in IDWR Docket Nos. CM-MP-2009-006 and CM-MP-2009-007, which shall be null and void. The parties acknowledge that all terms of the *2024 Stipulation* dated June 19, 2024, have been satisfied except for the groundwater conservation obligation in paragraph 5 which is superseded and replaced by section 4 of this Plan.

12. Miscellaneous.

[1] The mitigation plan approved in IDWR Docket No. CM-MP-2016-001 is predicated upon the *Settlement Agreement Entered Into June 30, 2015 Between Participating Members of the Surface Water Coalition and Participating Members of Idaho Ground Water Appropriators, Inc.*, which was amended and clarified by the *Agreement* dated October 7, 2015, the *Addendum to Settlement Agreement* dated October 19, 2015, and the *Second Addendum to Settlement Agreement* dated December 14, 2016.

12.1 Amendment. This Plan may be amended only by a written instrument signed by all parties and approved by the Department.

12.2 Notices. Notices required or permitted to be given to any party under this Plan shall be in writing and shall be effective (a) when personally delivered, (b) three days after mailing via U.S. Postal Service certified mail, (c) upon delivery by a reputable overnight courier, or (d) upon delivery via email to an authorized representative of the party. Notices sent by email shall be deemed received when the designated recipient acknowledges receipt via reply email.

12.3 Appendices. All appendices cited in, and attached to, this Plan are incorporated into this Plan by reference as if set forth fully herein.

12.4 Counterparts. This Plan may be executed in counterparts which, when taken together, shall constitute one and the same document.

12.5 Digital Signatures. Digital and scanned signatures to this Plan shall be valid and effective to bind the party so signing.

[End of text; signature pages below]

GROUND WATER DISTRICT SIGNATURES

North Snake Ground Water District

By: _____ Date: Nov. 12, 2024
Lynn Carlquist, Chairman

Magic Valley Ground Water District

By: _____ Date: _____
Dean Stevenson, Chairman

Carey Valley Ground Water District

By: _____ Date: _____
Leta Hansen, Chairwoman

Aberdeen-American Falls Ground Water District

By: _____ Date: _____
Tim Deeg, Chairman

Bingham Ground Water District

By: _____ Date: _____
Connie Christensen, Chairwoman

Bonneville-Jefferson Ground Water District

By: _____ Date: _____
Stephanie Mickelsen, Chairwoman

GROUND WATER DISTRICT SIGNATURES

North Snake Ground Water District

By:_____ Date:_____
Lynn Carlquist, Chairman

Magic Valley Ground Water District

By:_____ Date: 11/12/2024
Dean Stevenson, Chairman

Carey Valley Ground Water District

By:_____ Date:_____
Leta Hansen, Chairwoman

Aberdeen-American Falls Ground Water District

By:_____ Date:_____
Tim Deeg, Chairman

Bingham Ground Water District

By:_____ Date:_____
Connie Christensen, Chairwoman

Bonneville-Jefferson Ground Water District

By:_____ Date:_____
Stephanie Mickelsen, Chairwoman

GROUND WATER DISTRICT SIGNATURES

North Snake Ground Water District

By:_____ Date:_____
Lynn Carlquist, Chairman

Magic Valley Ground Water District

By:_____ Date:_____
Dean Stevenson, Chairman

Carey Valley Ground Water District

By: Leta Hansen Date: 11/8/2024
Leta Hansen, Chairwoman

Aberdeen-American Falls Ground Water District

By:_____ Date:_____
Tim Deeg, Chairman

Bingham Ground Water District

By:_____ Date:_____
Connie Christensen, Chairwoman

Bonneville-Jefferson Ground Water District

By:_____ Date:_____
Stephanie Mickelsen, Chairwoman

GROUND WATER DISTRICT SIGNATURES

North Snake Ground Water District

By:_____ Date:_____
Lynn Carlquist, Chairman

Magic Valley Ground Water District

By:_____ Date:_____
Dean Stevenson, Chairman

Carey Valley Ground Water District

By:_____ Date:_____
Leta Hansen, Chairwoman

Aberdeen-American Falls Ground Water District

By: Timothy P. Deeg Date: 11-13-2024
Tim Deeg, Chairman

Bingham Ground Water District

By:_____ Date:_____
Connie Christensen, Chairwoman

Bonneville-Jefferson Ground Water District

By:_____ Date:_____
Stephanie Mickelsen, Chairwoman

GROUND WATER DISTRICT SIGNATURES

North Snake Ground Water District

By:_____ Date:_____
Lynn Carlquist, Chairman

Magic Valley Ground Water District

By:_____ Date:_____
Dean Stevenson, Chairman

Carey Valley Ground Water District

By:_____ Date:_____
Leta Hansen, Chairwoman

Aberdeen-American Falls Ground Water District

By:_____ Date:_____
Tim Deeg, Chairman

Bingham Ground Water District

By: Connie Christensen Date: 11-13-24
Connie Christensen, Chairwoman

Bonneville-Jefferson Ground Water District

By:_____ Date:_____
Stephanie Mickelsen, Chairwoman

GROUND WATER DISTRICT SIGNATURES

North Snake Ground Water District

By:_____ Date:_____
Lynn Carlquist, Chairman

Magic Valley Ground Water District

By:_____ Date:_____
Dean Stevenson, Chairman

Carey Valley Ground Water District

By:_____ Date:_____
Leta Hansen, Chairwoman

Aberdeen-American Falls Ground Water District

By:_____ Date:_____
Tim Deeg, Chairman

Bingham Ground Water District

By:_____ Date:_____
Connie Christensen, Chairwoman

Bonneville-Jefferson Ground Water District

By: Stephanie Mickelsen Date: 11/13/2024
Stephanie Mickelsen, Chairwoman

Jefferson-Clark Ground Water District

By: Kirk M Jacobs
Kirk Jacobs, Chairman

Date: 11/13/24

Madison Ground Water District

By:_____
Bevan Jeppsen, Chairman

Date:_____

Henry's Fork Ground Water District

By:_____
Jeff Raybould, Chairman

Date:_____

Jefferson-Clark Ground Water District

By:_____ Date:_____
Kirk Jacobs, Chairman

Madison Ground Water District

By:_____ Date: 11-13-24
Bevan Jeppsen, Chairman

Henry's Fork Ground Water District

By:_____ Date:_____
Jeff Raybould, Chairman

Jefferson-Clark Ground Water District

By:_____ Date:_____
Kirk Jacobs, Chairman

Madison Ground Water District

By:_____ Date:_____
Bevan Jeppsen, Chairman

Henry's Fork Ground Water District

By:_____ Date: 11-11-24
Jeff Raybould, Chairman

SURFACE WATER COALITION SIGNATURES

Twin Falls Canal Company

By: _____ Date: 11/12/24
Roger Blass, Chairman

North Side Canal Company

By: _____ Date: 11/13/2024
Mike Elliott, Chairman

American Falls Reservoir District No. 2

By: _____ Date: _____
Ellis Gooch, Chairman

Milner Irrigation District

By: _____ Date: _____
Scott Breeding, Chairman

Burley Irrigation District

By: _____ Date: _____
Clifford Searle, Chairman

A&B Irrigation District

By: _____ Date: 11-12-24
Harold Mohlman, Chairman

Minidoka Irrigation District

By: _____ Date: _____
Ronald D. Kowitz, Chairman

SURFACE WATER COALITION SIGNATURES

Twin Falls Canal Company

By:_____ Date:_____
Roger Blass, Chairman

North Side Canal Company

By:_____ Date:_____
Mike Elliott, Chairman

American Falls Reservoir District No. 2

By: Ellis Gooch Date: 11-15-24
Ellis Gooch, Chairman

Milner Irrigation District

By:_____ Date:_____
Scott Breeding, Chairman

Burley Irrigation District

By:_____ Date:_____
Clifford Searle, Chairman

A&B Irrigation District

By:_____ Date:_____
Harold Mohlman, Chairman

Minidoka Irrigation District

By: Ronald D Kowitz Date: 11 12 24
Ronald D. Kowitz, Chairman

SURFACE WATER COALITION SIGNATURES

Twin Falls Canal Company

By:_____ Date:_____
Roger Blass, Chairman

North Side Canal Company

By:_____ Date:_____
Mike Elliott, Chairman

American Falls Reservoir District No. 2

By:_____ Date:_____
Ellis Gooch, Chairman

Milner Irrigation District

By: Scott Breeding Date: 11-12-24
Scott Breeding, Chairman

Burley Irrigation District

By:_____ Date:_____
Clifford Searle, Chairman

A&B Irrigation District

By:_____ Date:_____
Harold Mohlman, Chairman

Minidoka Irrigation District

By:_____ Date:_____
Ronald D. Kowitz, Chairman

SURFACE WATER COALITION SIGNATURES

Twin Falls Canal Company

By:_____ Date:_____
Roger Blass, Chairman

North Side Canal Company

By:_____ Date:_____
Mike Elliott, Chairman

American Falls Reservoir District No. 2

By:_____ Date:_____
Ellis Gooch, Chairman

Milner Irrigation District

By:_____ Date:_____
Scott Breeding, Chairman

Burley Irrigation District

By: Clifford Searle Date: 11/12/24
Clifford Searle, Chairman

A&B Irrigation District

By:_____ Date:_____
Harold Mohlman, Chairman

Minidoka Irrigation District

By:_____ Date:_____
Ronald D. Kowitz, Chairman

APPENDIX A

Groundwater Conservation Allocations

District	Baseline Diversion Volume	Annual Conservation Obligation	Annual Divertible Volume	Compliance Period Allocation
American Falls-Aberdeen	286,111	34,132	251,979	1,007,916
Bingham	274,578	32,756	241,822	967,287
Bonneville-Jefferson	161,987	16,500	145,487	581,948
Carey	5,545	661	4,883	19,533
Jefferson-Clark	445,393	53,134	392,259	1,569,037
Henry's Fork	76,241	9,095	67,146	268,583
Madison	78,095	3,000	75,095	300,380
Magic Valley	258,203	30,803	227,400	909,601
North Snake	208,881	24,919	183,962	735,849
	1,795,034	**205,000**	**1,590,034**	**6,360,135**

APPENDIX B

Storage Water Allocations Based on Initial 75,000AF Obligation

District	Baseline Diversion Volume	NB-M SS Baseline Impact	% of total SS Impact	Share of 75k Storage
American Falls-Aberdeen	286,111	210,298	28.6%	21,420.0
Bingham	**274,578**	**173,258**	**23.5%**	**17,647.0**
Bonneville-Jefferson	161,987	79,000	10.7%	8,047.0
Carey	**5,545**	**2,714**	**0.4%**	**277.0**
Jefferson-Clark	445,393	109,276	14.8%	11,130.0
Henry's Fork	**76,241**	**3,528**	**0.5%**	**359.0**
Madison	78,095	2,949	0.4%	300.0
Magic Valley	**258,203**	**123,758**	**16.8%**	**12,605.0**
North Snake	208,881	31,566	4.3%	3,215.0
	1,795,034	**736,347**	**100%**	**75,000**

APPENDIX C

Managed Aquifer Recharge Standards

1. Natural flow water rights used for recharge must have "recharge" listed as an authorized beneficial use.
2. Water must be recharged in the calendar year of the irrigation season in which mitigation credit is claimed.
3. In-canal recharge will be accounted for in accordance with Idaho Water Resource Board standards taking into consideration historical diversion rates.
4. The following information must be provided by the entity conducting the recharge:
   - 4.1 Water source.
   - 4.2 Water right number or storage spaceholder providing storage.
   - 4.3 If storage water is leased, a copy of the lease contract.
   - 4.4 Copy of the recharge contract with the entity that performed the recharge.
   - 4.5 Location(s) where recharge occurred.
   - 4.6 Dates recharge was performed.
   - 4.7 Total volume recharged at each recharge site.
   - 4.8 Daily or weekly measurement data supporting the total volume recharged.
   - 4.9 Description of measurement device and accuracy

APPENDIX D

Reasonable Carryover Volumes

SWC Member	Carryover Volume
A&B Irrigation District	22,700
American Falls Reservoir Dist. #2	16,700
Burley Irrigation District	0
Milner Irrigation District	16,100
Minidoka Irrigation District	0
North Side Canal Company	113,300
Twin Falls Canal Company	37,400

CERTIFICATE OF SERVICE

I hereby certify that on this 19th day of November, 2024, I served the foregoing document on the persons below via email as indicated:

Signature of person mailing form

Director Mat Weaver Garrick Baxter Sarah Tschohl IDAHO DEPT. OF WATER RESOURCES 322 E Front St. Boise, ID 83720-0098	mat.weaver@idwr.idaho.gov garrick.baxter@idwr.idaho.gov sarah.tschohl@idwr.idaho.gov file@idwr.idaho.gov
John K. Simpson Travis L. Thompson Abigail R. Bitzenburg MARTEN LAW P.O. Box 63 Twin Falls, ID 83303-0063	jsimpson@martenlaw.com tthompson@martenlaw.com abitzenburg@martenlaw.com jnielsen@martenlaw.com
W. Kent Fletcher FLETCHER LAW OFFICE P.O. Box 248 Burley, ID 83318	wkf@pmt.org
Jerry Rigby RIGBY, ANDRUS & RIGBY LAW, PLLC P.O. Box 250 Rexburg, ID 83440	jrigby@rex-law.com
Skyler C. Johns OLSEN TAGGART PLLC 1449 E 17th St, Ste A P.O. Box 3005 Idaho Falls, ID 83403	sjohns@olsentaggart.com nolsen@olsentaggart.com staggart@olsentaggart.com
Dylan Anderson DYLAN ANDERSON LAW P.O. Box 35 Rexburg, Idaho 83440	dylan@dylanandersonlaw.com

Sarah A Klahn Maximilian C. Bricker SOMACH SIMMONS & DUNN 2033 11th Street, Ste 5 Boulder, Co 80302	sklahn@somachlaw.com mbricker@somachlaw.com vfrancisco@somachlaw.com
Andrew J. Waldera SAWTOOTH LAW OFFICES, PLLC 1101 W. River Street, Suite 110 Boise, ID 83702	andy@sawtoothlaw.com
Candice McHugh Chris Bromley MCHUGH BROMLEY, PLLC 380 South 4th Street, Suite 103 Boise, ID 83702	cbromley@mchughbromley.com cmchugh@mchughbromley.com

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Thomas J. Budge RACINE OLSON, PLLP 201 E. Center Street P.O. Box 201 Pocatello, ID 83204	tj@racineolson.com
William A. Parsons PARSONS, LOVELAND, SHIRLEY &. LINDSTROM, LLP P.O. Box 910 Burley, ID 83318	wparsons@magicvalley.law

RECEIVED
Dec 12, 2025
DEPARTMENT OF
WATER RESOURCES

Sarah A. Klahn, ISB #7928
Maximilian C. Bricker, ISB #12283
SOMACH SIMMONS & DUNN, P.C.
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Boulder, CO 80302
(303) 449-2834
sklahn@somachlaw.com
mbricker@somachlaw.com

Attorneys for American Falls-Aberdeen Ground Water District

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY OR FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY	Docket No. CM-DC-2010-001 **AMERICAN FALLS-ABERDEEN GROUND WATER DISTRICT'S REPLY IN SUPPORT OF MOTION TO RECONSIDER *ORDER GRANTING HEARING* AND VACATE HEARING OR, ALTERNATIVELY, TO CLARIFY THE SCOPE OF HEARING; REQUEST FOR EXPEDITED RULING**

COMES NOW American Falls-Aberdeen Ground Water District ("AFA"), by and through undersigned counsel of record, pursuant to Rule 220.02.c of the Department's Rules of Procedure,[1] and hereby files this reply brief to support AFA's *Motion to Reconsider* Order Granting Hearing *and Vacate Hearing or, Alternatively, to Clarify the Scope of Hearing* dated

[1] Unless stated otherwise, any "Rules" referenced herein are from the Department's Rules of Procedure located at IDAPA 37.01.01.

November 18, 2025 ("*Motion*"), and to specifically address arguments made in A&B Irrigation District's ("A&B") *Consolidated Response to AFA Motion/IGWA Motion for Summary Judgment* ("*Response*") dated December 9, 2026. AFA also renews its request for an expedited ruling on the *Motion*.

INTRODUCTION

The *Motion* requests that the Director reconsider the *Order Granting A&B Irrigation District's Requests for Hearing, Consolidating Proceedings for Hearing, and Appointing Hearing Officer; Notice of Prehearing Conference* dated September 3, 2025 ("*Order Granting Hearing*") and vacate the hearing set to commence on January 14, 2026, or, alternatively, to clarify the scope of the hearing. The *Motion* was made pursuant to Rules 710, 711, 760, and 770, which collectively authorize parties to request reconsideration of an interlocutory order and authorize the issuing officer to clarify, amend, or rescind the order and substitute a new order for it.

In the *Response*, A&B did not dispute the *Order Granting Hearing* is an interlocutory order or that these Rules apply to AFA's requests. A&B did, however, dispute that the issues presented in its requests for hearing are barred by res judicata and/or mootness doctrines.

As explained in the *Motion,* and below, A&B was afforded the opportunity to be heard in June 2023, and was in fact heard, on five of the six issues that A&B now seeks to litigate. Thus, A&B is not entitled to a hearing under Idaho Code ("I.C.") section 42-1701A(3) and, moreover, is barred from litigating the issues now. The sixth and final issue was not litigated in 2023, however, a decision on that issue would be purely advisory and provide no discernable relief to A&B given to A&B's stipulation with the Surface Water Coalition ("SWC") in July 2025.

ARGUMENT

I. The *Motion* is Properly Addressed to the Director

A&B erroneously argues the *Motion* should be denied on procedural grounds because AFA "voluntarily petitioned to intervene" in, and the Director is no longer "presiding" over, this matter that is set for hearing in January 2026. *See Response* at 4-6.

First, that AFA intervened, even though it "was not required to participate in this contested case," is of no moment. *Id.* at 4. AFA's intervention was granted because it has a direct and substantial interest in the proceeding—an order that resolves issues pertaining to the method by which the Department determines proportionate shares of predicted in-season demand shortfalls implicates more than the rights and obligations of A&B, it implicates the rights and obligations of ground water users across the Eastern Snake Plain Aquifer, and particularly those of AFA's members given their proximity to the Near Blackfoot to Minidoka Reach of the Snake River. Now that AFA intervened, nothing prevents it from seeking disposition of the issues in this case before a hearing is held.

Second, AFA is not only a party to this proceeding but also to the underlying matter: the SWC delivery call, IDWR Docket No. CM-DC-2010-001. The Director undoubtedly "presides" over the "ongoing" SWC delivery call and issued the *Order Granting Hearing*. Thus, it is appropriate for the Director to reconsider his interlocutory order and, upon determining that A&B is barred from litigating the issues within, substitute a new order for it that denies A&B's requests for hearing and vacates the hearing. *See* Rules 710, 711, 760.

II. A&B Was Heard on Five of the Six Presented Issues at the June 2023 Hearing

A&B defends its attempt to re-litigate five of the six issues presented in its requests for hearing in 2025 by arguing that the 2023 hearing did not address these issues or, more narrowly,

did not address these issues with respect to A&B's water right 36-2080. Neither argument holds water.

First, as shown in Ex. 1 to the *Motion*, the issues that A&B presented in the 2023 hearing proceedings are substantively similar, if not identical, to the issues it seeks to litigate now. A&B explicitly sought a hearing on these issues in the *Surface Water Coalition's Request for Hearing and Statement of Issues* dated May 5, 2023. That same day, the Department issued a *Notice of Materials Department Witnesses May Rely Upon at Hearing and Intent to Take Official Notice* ("Notice") that, on page 2, included the following:

> **B. Topics Ms. Sukow may testify about at the hearing:**
>
> - Steady-state vs. transient modeling / simulations for the Eastern Snake Plain Aquifer Model (ESPAM).
> - Calculation of curtailment priority dates for the SWC's delivery call.

Thus, A&B misrepresents the scope of the 2023 hearing and the effect of the *Notice* by combining these two topics as if they are one (*see Response* at 9-10) and suggesting that Ms. Sukow was limited to testifying about the second topic. *Id.* at 24-25. A&B even cites to excerpts from the 2023 hearing transcript where Mr. Simpson, counsel for the SWC (of which A&B is a member), cross-examined Ms. Sukow about how the Department determines proportionate shares of predicted in-season demand shortfall (*id.* at 12-13), yet conveniently omits the parts of the transcript that are problematic for A&B.[2] Moreover, A&B does not respond to the fact that it submitted argument on these issues in post-hearing briefing. *See Motion* at 5 n.3.

[2] The problematic part of the transcript is cited and quoted in the *Motion* at 5 n.2.

Second, A&B argues that, even if there was testimony and argument on these issues in the 2023 hearing, it was not centered around water right 36-2080 because the right, which has a 1948 priority date, was not subject to curtailment from the *Final Order Regarding April 2023 Forecast Supply (Methodology Steps 1-3)* dated April 21, 2023, since that order set a 1953 curtailment date. *See Response* at 9, 21, 24. A&B acknowledges, however, that prior to the adoption of the *Sixth Methodology Order*, the Department had never curtailed water rights senior to 1977, and that the Director's decision to determine curtailment dates using transient modeling is the reason that more senior rights are now subject to curtailment. *See id.* at 2.

Moreover, in the 2023 hearing, A&B (as a member of the SWC) endorsed transient modeling as the basis for determining curtailment dates (*see Surface Water Coalition's Post-hearing Brief* at 6-8 (June 16, 2023) ("*SWC Post-Hearing Brief*")) even though A&B was aware that its 1948 water right would now be vulnerable to curtailment. *See, e.g.*, *Declaration of Travis L. Thompson in Support of A&B Irrigation District's Consolidated Response to AFA Motion/IGWA Motion for Summary Judgment* ("*Thomspon Decl.*"), Ex. A, at 12-20 (November 28, 2022 J. Sukow presentation showing that, if the predicted in-season demand shortfall exceeds 97,900 acre-feet—which occurred in 2021 and 2022—all rights junior to 1900 are subject to curtailment). In its own words, A&B knew or should have known that "it [was] not a matter of 'if' but 'when'" water right 36-2080 would be subject to curtailment. *Response* at 29.

In 2023, A&B also knew that the Department determined A&B's proportionate shares of the predicted in-season demand shortfall by using steady-state analysis and calculating A&B's impacts based on the total acres authorized to be irrigated with ground water rather than some portion thereof. *See SWC Post-Hearing Brief* at 12; *see also A&B Irrigation District's Petition for Reconsideration and Request for Hearing Re: April 2016 As Applied Order* (May 2, 2016)

(disputing A&B's "proportionate share" of the predicted in-season demand shortfall); *A&B Irrigation District's Notice of Withdrawal of Request for Hearing (Denial of request regarding aquifer actions)* (July 1, 2016) (withdrawing prior request for hearing "regarding the issue of the Director's denial of 'A&B's request to reduce its proportionate share of the predicted [Demand Shortfall] due to the effects of A&B's enrollment of acres into CREP and its conversions.'"). A&B has not alleged a change in the Department's method between 2023, or even 2016, and now. Rather, A&B merely argues that res judicata does not bar it from litigating the same issues now that it did in 2023 because water right 36-2080 was not subject to curtailment that year, thus the issue was "not ripe for adjudication" during the 2023 hearing. *Response* at 23.

In other words and as described above, at the 2023 hearing A&B:

- Knew the method by which the Department determines A&B's proportionate shares of the predicted in-season demand shortfall;
- Knew the Director's move to transient modeling to determine curtailment dates meant it was only a matter of time before water right 36-2080 would be subject to curtailment;
- Elicited testimony from Ms. Sukow regarding this subject matter; and
- Submitted argument, which was rejected, as to why the Department needs to change the method by which it determines A&B's proportionate share.

The issues on which A&B seeks to be heard in this case were just as ripe then as they are now, precluding A&B from relitigating them. *See Berkshire Invs., Ltd. Liab. Co. v. Taylor*, 153 Idaho 73 (2012) (affirming district court's dismissal of claims based on its "finding that they were barred by res judicata because they were (1) actually litigated in the prior case . . . or (2) could have been raised in that case," and rejecting appellant's argument that a ripeness exception

applies because appellants knew of the conduct on which the claims were based at the time of the prior case, and thus "should have been raised").

That the Director did not address A&B's argument in the *Post-Hearing Order Regarding Fifth Amended Methodology Order* (Jul. 19, 2023) is inconsequential, as A&B elected to not appeal the order, and cannot circumvent claim preclusion now. *See McQuillen v. Ammon*, 113 Idaho 719, 721 (1987) (holding appellant was precluded from litigating an issue that he had not appealed in prior case because "the doctrine of *res judicata* applies not only as to all matters decided, but also as to 'every matter which might and should have been litigated in the first suit'") (quoting *Duthie v. Lewiston Gun Club*, 104 Idaho 751, 753 (1983); *id.* ("If a litigant chooses not to continue to assert his rights after an intermediate tribunal has decided against him, he has concluded his litigation as effectively as though he had proceeded through the highest tribunal available to him") (quoting *Angel v. Bullington*, 330 U.S. 183, 189 (1947));

> Claim preclusion bars a subsequent action between the same parties upon the same claim or upon claims 'relating to the same cause of action . . . which might have been made.' There are three requirements for claim preclusion to bar a subsequent action: (1) same parties, (2) same claim, and (3) final judgment. Additionally, this Court has interpreted claim preclusion to hinge on whether the matter 'might and should have been litigated in the first suit.'

Kootenai Elec. Coop., Inc. v. Lamar Corp., 148 Idaho 116, 120 (2009) (citations omitted); *Burns v. Baldwin*, 138 Idaho 480, 485-86 (2003) (holding a party "cannot take advantage of his own failure to raise issues in the proper forum" when "the opportunity was given to fully and fairly litigate the issue," and "a party cannot escape the requirements of full faith and credit and res judicata by asserting its own failure to raise matters clearly within the scope of a prior proceeding") (quoting *Underwriters Nat'l Assurance Co. v. North Carolina Life & Accident & Health Ins. Guaranty Ass'n*, 455 U.S. 691, 710 (1982)).

In sum, A&B was afforded an opportunity for hearing in 2023, and was in fact heard, on five of the six issues that A&B again presented in 2025. The issues were ripe for adjudication in 2023 even though water right 36-2080 was not subject to curtailment that year. Accordingly, A&B is not entitled to a hearing on these issues under I.C. section 42-1701A(3) and is barred from relitigating them.

III. A Decision on the Sixth Issue Would be Purely Advisory and Provide no Relief

The sixth and final issue on which A&B sought a hearing this year, issue no. 3 in the July 24, 2025 *Request for Hearing*, is different from the rest. *See Motion*, Ex. 1. While it may not have arisen in 2023, so res judicata does not apply, it is non-justiciable on mootness grounds.

The issue is: "Whether the Director's failure to implement the May 16, 2025 curtailment order in accordance with Idaho law has injured A&B by subjecting its senior water right 36-2080 to curtailment and/or mitigation requirements during the 2025 irrigation season." *A&B Irrigation District's Request for Hearing* at 2 (Jul. 24, 2025). That same day, A&B and the SWC filed a *Joint Motion for Order Approving 2025 Stipulation* that required A&B to deliver 1,252 acre-feet to the SWC. The Director approved the stipulation the next day. *Order Approving 2025 Stipulation as Compliance with Approved Mitigation Plan* (Jul. 25, 2025). On September 11, 2025, eight days after issuing the *Order Granting Hearing*, the Director issued an order that found, because of the A&B/SWC stipulation, "A&B does not need to establish that they can mitigate for its proportionate share of the predicted IDS." *Order Revising July 2025 Forecast Supply (Methodology Steps 7-8)* at 12 n.7.

Thus, A&B was not curtailed in 2025 and was not required to deliver the 5,039 acre-feet that the Director determined it was obliged to deliver earlier in the season. *See Order Revising April 2025 Forecast Supply and Continuing May 16, 2025 Curtailment Order (Methodology*

Steps 5 & 6) at 11 n.6 (July 10, 2025). Yet, A&B argues that the issue is not moot, or altneratively, several exceptions to the mootness doctrine apply. *Response* at 25-29. Not so. First, A&B does not show the issue is "live" because it fails to explain the alleged nexus between the Department's alleged non-curtailment in spring 2025 and its grievances with the Step 9 Order, or how the changes to the Area of Common Ground Water Supply boundary are relevant to this sixth issue.

Further, A&B does not substantiate its assertion that it has or will suffer "collateral legal consequences" if the issue is not heard at the January 2026 hearing. Nor is there a "substantial public interest" in the sixth issue, as A&B is the only entity with an active approved mitigation that requires the Department to determine the entity's proportionate share of the predicted in-season demand shortfall (*see, e.g.*, Final Order Regarding April 2025 Forecast Supply (Methodology Steps 1–3) at 5 n.8; *cf. Motion*, Ex. 2, at 4, 7 (A&B's expert calling its mitigation plan "unique")), and is the only entity that is simultaneously calling for curtailment and subject to curtailment. Finally, A&B has not shown that there is any risk that the Department's alleged non-curtailment is "capable of repetition yet evading review." Conversely, the Department demonstrated a vigorous and thorough effort to curtail all subject ground water users in summer 2025[3] and there is no reason to belive these efforts are short-lived.

In sum, reslution of the sixth issue in A&B's favor would not result in any relief and would consistute a purely advisory decision, thus the issue is non-justiciable due to mootness. *See Secol v. Fall River Med., P.L.L.C.*, 168 Idaho 339, 371 (2021) ("It is well-established that this Court does not decide moot cases. . . . The mootness doctrine applies when 'a favorable

[3] *See, e.g.*, the Department's webpage displaying its summary of enforcement actions, available at https://idwr.idaho.gov/legal-actions/delivery-call-actions/swc/2024-surface-water-coalition-delivery-call/ (last visited Dec. 10, 2025).

judicial decision would not result in any relief.'") (citation omitted); *Taylor v. AIA Servs. Corp.*, 151 Idaho 552, 569 (2011) (declining to issue "purely advisory opinions").

IV. Due Process Does Not Require that A&B Receive a Hearing

In a last ditch effort to keep the hearing intact, A&B argues that due process requires that A&B receive a hearing since water right 36-2080 is now subject to curtailment for the first time. *Response* at 3, 25. However, A&B has been a party to the SWC delivery call proceedings since 2005 and participated in numerous hearings along the way, including the 2023 hearing that involved five of the six issues that A&B seeks to relitigate. Moreover, A&B is among the SWC members urging the Department to curtail ground water users, and, ironically, resisted other ground water users' due process claims vis-à-vis the 2023 hearing. *See Surface Water Coalition's Response Brief*, Case No. CV01-23-13173, at 11-19 (Ada Cnty. Dist. Ct., Jan. 19, 2024).[4] Finally, A&B was not curtailed in 2025, and there is no indication that water right 36-2080 will be subject to curtailment in 2026. No process is currently due to A&B, so vacating the hearing will not result in any violation.

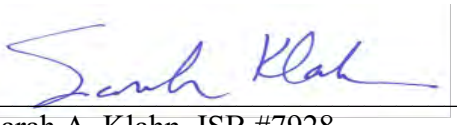
CONCLUSION

Based on the foregoing, AFA requests that the Director, who issued the *Order Granting Hearing*, rescind the order and substitute a new order for it that vacates the hearing or, alternatively, clarifies the scope of hearing. Further, to minimize waste of the parties' and the Department's resources in prehearing activities, AFA respectfully requests that a ruling on the *Motion* be issued as expeditiously as possible.

[4] Available at https://idwr.idaho.gov/wp-content/uploads/sites/2/legal/CV01-23-13173/CV01-23-13173-20240119-Surface-Water-Coalitions-Response-Brief.pdf (last visited Dec. 10, 2025).

DATED this 12th day of December 2025.

SOMACH SIMMONS & DUNN

By 
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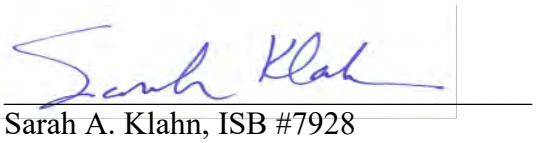

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STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

IN THE MATTER OF DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY OR FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY	Docket No. CM-DC-2010-001 **IGWA'S REPLY BRIEF**

Idaho Ground Water Appropriators, Inc. ("IGWA"), through counsel, submits this brief in reply to *A&B Irrigation District's Consolidated Response to AFA Motion / IGWA Motion for Summary Judgment* ("A&B's Response Brief") filed December 9, 2025, in this matter. This brief is supported by pleadings and orders filed previously in this Docket.[1]

Introduction

A&B's Response Brief does not effectively counter the arguments set forth in *IGWA's Motion for Summary Judgment* ("IGWA's Motion"), which clearly demonstrate that the doctrines of *res judicata* and "law of the case" preclude A&B from challenging the method by which the Director calculates storage water mitigation obligations, and that the doctrine of *quasi-*

[1] All pleadings and orders cited in this brief are part of the agency record in this Docket No. CM-DC-2010-001 unless a citation is given to a different docket. IGWA requests that the hearing officer take official notice pursuant to IDAPA 37.01.01.602 of all pleadings and orders cited in this brief. IDWR's maintains an online repository of contested case pleadings and orders accessible via https://idwr.idaho.gov/legal-actions/administrative-actions/.

estoppel bars A&B's challenge to the Director's use of steady-state modeling to calculate storage water mitigation obligations. Therefore, IGWA will not burden the hearing officer by reiterating the facts and arguments set forth in IGWA's Motion. Rather, this reply brief highlights the key failings in A&B's Response Brief and the ways in which A&B's arguments contradict positions it previously took in this case.

1. The doctrines of *res judicata* and "law of the case" foreclose A&B's attempt to re-litigate the method used to calculate storage water mitigation obligations.

A&B argues that since its 1948 priority groundwater right was curtailed for the first time in 2025, it is entitled to challenge the method the Director uses to calculate storage water mitigation obligations. (A&B's Resp. Br., p. 2.) A&B's argument fails for two reasons.

First, the method used by the Director to calculate storage water obligations applies across-the-board to all groundwater rights. If A&B did not want the method to apply to its water rights, A&B had a duty to challenge the method when it was first developed and applied.

Second, the Director has applied the method to A&B for many years. A&B owns a whole portfolio of groundwater rights, of which its 1948 priority right is but one. The following is a summary of A&B's groundwater rights:[2]

WR#	Basis	Priority Date	Div. Rate (cfs)	Source	Water Use
36-15127A	Decreed	4/1/1962	31.12	Ground Water	Irrigation
36-15127B	Decreed	4/1/1984	28.89	Ground Water	Irrigation
36-15192	Decreed	4/1/1962	0.6	Ground Water	Irrigation
36-15193A	Decreed	4/1/1962	0.21	Ground Water	Irrigation
36-15193B	Decreed	4/1/1965	0.31	Ground Water	Irrigation
36-15194A	Decreed	4/1/1962	0.23	Ground Water	Irrigation
36-15194B	Decreed	4/1/1968	2.51	Ground Water	Irrigation
36-15195A	Decreed	4/1/1962	0.87	Ground Water	Irrigation
36-15195B	Decreed	4/1/1978	2.24	Ground Water	Irrigation
36-15196A	Decreed	4/1/1962	0.29	Ground Water	Irrigation
36-15196B	Decreed	4/1/1981	0.08	Ground Water	Irrigation
36-16749	Decreed	4/1/1956	0.45	Ground Water	Irrigation

[2] A&B's water right information was obtained via a search of IDWR's online water rights database on December 13, 2025, via URL https://research.idwr.idaho.gov/apps/waterrights/wrajsearch/wradjsearch.aspx. IGWA requests that the hearing officer take official notice of these records pursuant to IDAPA 37.01.01.602.

A&B's water rights have been curtailed several times, and each time the Director calculated a storage water mitigation obligation for A&B. As noted in IGWA's Motion, the Director first calculated A&B's storage water mitigation obligation in 2016, which A&B challenged. (IGWA's Motion, p. 3.) When the Methodology Order was changed in 2023, the Director again calculated storage water mitigation obligations, which A&B challenged.

The method used by the Director to calculate A&B's storage water mitigation obligation in 2025 is the same method the Director has applied since 2016. A&B does not get a second bite at the apply simply because the method now reaches one more A&B right. Idaho's *res judicata* doctrine bars claims and defenses that were, or could have been, raised in earlier proceedings, and "law of the case" bars re-litigating issues previously decided. *See Monitor Finance, L.C. v. Wildlife Ridge Estates, LLC*, 164 Idaho 555, 560, 433 P.3d 183, 188 (2019).

2. Judicial estoppel bars A&B's inconsistent positions.

Apart from *res judicata* and "law of the case," A&B's current position is barred by judicial estoppel. Judicial estoppel an equitable doctrine invoked to protect the integrity of judicial proceedings by "preclude[ing] a party from advantageously taking one position, then subsequently seeking a second position that is incompatible with the first." *McCallister v. Dixon*, 154 Idaho 891, 894, 303 P.3d 578, 581 (2013). The doctrine applies where the party taking the inconsistent position "did have, or was chargeable with, full knowledge of the attendant facts prior to adopting the initial position." *Heinze v. Bauer*, 145 Idaho 232, 236, 178 P.3d 597, 601 (2008).

A&B has on several occasions, in this very case, urged the Director to deny "second hearings" and resist perpetual re-litigation, including:

- SWC's Response to Cities' Request for Hearing (Aug. 22, 2023): "The statute only allows an aggrieved person to have a hearing on a director's action or order when that person 'has not previously been afforded an opportunity for hearing on the matter.' … Since the Cities had an opportunity for a hearing on their issues, Idaho law does not afford them a right to a 'second' hearing." (p. 4-5; excerpt attached as Appendix A.)
- SWC Response to Cities' Motion for Clarification and Reconsideration (Sept. 19, 2023): "[T]he Director's methodology … may be updated at some point in time, [but] that does not mean the prior contested cases resulting in 'final orders' … are continuing ad infinitum … Such a scenario has no basis in statute or rule and would be unduly

burdensome and mire the parties in endless litigation expense." (p. 3; excerpt attached as Appendix B.)

- SWC Response Brief (Jan. 19, 2024): "The doctrine of res judicata covers both claim preclusion and issue preclusion. … All three of the criteria are met here and therefore the Court should apply res judicata to deny IGWA's present appeal of the agency's alleged 'substantive errors.' … There simply is no legal basis to allow IGWA to continue to litigate defenses that have already been denied." (p. 24-25; excerpt attached as Appendix C.)

Judicial estoppel prevents A&B from this type of "shifting of positions to suit the exigencies of a particular action." *Med. Recovery Servs., LLC v. Eddins*, 169 Idaho 236, 243, 494 P.3d 784, 791 (2021) (quoting Lawrence v. Hutchinson, 146 Idaho 892, 900, 204 P.3d 532, 540 (Ct. App. 2009)).

3. *Quasi-estoppel* bars A&B's attack on steady-state modeling for the purpose of calculating proportionate storage water mitigation obligations.

In response to IGWA's *quasi-estoppel* argument, A&B argues that method by which the storage water obligations of the ground water districts are calculated was the "choice" of the districts, and that "A&B did not agree that steady-state modeling is the appropriate method for allocating storage water mitigation obligations among groundwater users." (A&B Resp., p. 31.) Not so. The parties' prior mitigation plan—the so-called 2015 plan—failed due to certain key terms not being clearly defined, including the mitigation obligations of the ground water districts. This was remedied in the 2024 Stipulated Mitigation Plan which explicitly requires that storage water mitigation obligations be calculated "based on their respective steady-state impact to the Near Blackfoot to Minidoka reach of the Snake River as defined by the current version of the ESPA Model." (Joint Mot. for Order Approving 2025 Stip. Mit. Plan, IDWR Docket No. CM-MP-2024-003 (Nov. 19, 2024), Appx. A, p, 3, § 6.2 (excerpt attached as Appendix D.) This was not simply a decision of the ground water districts; it is—unlike the 2024 plan—a material term of the agreement. The 2024 Plan would not have been signed had mitigation obligations been based on transient-state modeling.

A&B now seeks to have its storage water mitigation obligation calculated under transient-state modeling, which is more favorable to A&B. This is precisely the type of double standard the *quasi-estoppel* doctrine is designed to prevent.

Conclusion

For the reasons above, IGWA respectfully asks the hearing officer to grant *IGWA's Motion for Summary Judgment* and deny A&B's request to re-litigate the Director's use of steady-state modeling to calculate storage-water mitigation obligations.

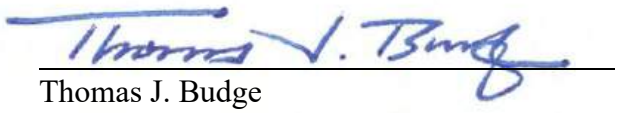
Dated this 16th day of December, 2025.

RACINE OLSON, PLLP

By: _____
Thomas J. Budge
Attorneys for IGWA

CERTIFICATE OF SERVICE

I hereby certify that on this 16th day of December, 2025, I caused the foregoing document to be served on the persons below via email:



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APPENDIX A

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BEFORE THE DEPARTMENT OF WATER RESOUCES

OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY OR FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY	Docket No. CM-DC-2010-001 **SURFACE WATER COALITION'S RESPONSE TO CITIES' REQUEST FOR HEARING AND ORDER AUTHORIZING DISCOVERY**

COME NOW, A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, and TWIN FALLS CANAL COMPANY ("Surface Water Coalition" or "Coalition"), by and through counsel of record, and hereby respond to the *City of Pocatello's, City of Idaho Falls', and Coalition of Cities' Request for Hearing and Order Authorizing Discovery* ("Request") filed on August 3,

ARGUMENT

I. IDWR Already Provided a Hearing on the Cities' Issues and the Statute Does Not Provide for a Second Hearing.

The Cities have erroneously petitioned for an administrative hearing on the Sixth Methodology Order pursuant to Idaho Code § 42-1701A(3). The statute only allows an aggrieved person to have a hearing on a director's action or order when that person "has not previously been afforded an opportunity for hearing on the matter." *See* I.C. § 42-1701A(3). The Cities do not fall into that category. Instead, IDWR provided the Cities with an opportunity for hearing on the issues listed in their recent *Request for Hearing* June 6-9, 2023. Issues related to the SWC's reasonable use of water, irrigated acres, supplemental groundwater, and enlargement rights were all subject to the hearing on the Fifth Amended Methodology Order held before the Director this past June. The Director specifically addressed these issues in the Post-Hearing Order. *See Post-Hearing Order* at 17-23. Although the Cities may disagree with the Director's decision, their remedy is not a "second" administrative hearing. Since the Cities had an opportunity for a hearing on their issues, Idaho law does not afford them a right to a "second" hearing. The Cities' request should be denied accordingly.

Moreover, the Sixth Methodology Order was issued as a "final" agency order. Pursuant to section 42-1701A(4) the Cities' statutory remedy is judicial review of that order. Idaho's APA provides the right to ask for reconsideration and/or appeal that decision to district court. The Cities did not ask for reconsideration and have yet to appeal the Sixth Methodology Order, however IGWA did ask for judicial review. *See IGWA's Petition for Judicial Review* (Ada County Dist. Ct., Fourth Jud. Dist., Case No. CV01-23-13713, Aug. 16, 2023). Since the Director's Sixth Methodology Order is on appeal to the district court it is not subject to any

further administrative process or hearing, unless ordered by the court. *See* I.R.C.P. 84. The Cities' request for a "second" hearing should be denied accordingly.

II. The Sixth Methodology Order Updates the Fifth Methodology Order Based on Information Produced at Hearing.

Notwithstanding the Sixth Methodology Order was issued as a "final" agency order subject to reconsideration and/or judicial review, the Director updated the Fifth Order based upon information produced at hearing. In other words, the issues that the Cities seek to address with a hearing on the Sixth Methodology Order were already addressed in the June hearing. There is nothing new in the final order that would warrant an additional administrative hearing. The Cities' request in this regard is unduly burdensome and would cost the parties and agency time and additional resources without any legal basis.

Notably, the Director stated "[t]his Sixth Methodology Order relies on the same data included in the Fifth Methodology Order." *See* Sixth Methodology Order at 8, n. 8, at 9, n. 9, at 10, n .10, at 15, n. 13, at 24, n. 18, at 26, n. 20, at 28-29, n. 21 (emphasis added). All of this information was available to the Cities as of April 21, 2023. However, the Director did identify certain limited corrections to the Fifth Methodology Order:

> As discussed in footnote 12, during the June 2023 Hearing the Department identified an error in AFRD's 2018 diversion data. Hr'g T. vol. IV, at 173-74. This correction was resolved in his Sixth Methodology Order, which relies on the updated data. The updated data did not result in an appreciable increase in 2018's diversion value.

Sixth Methodology Order at 12, n. 11.

> In this Sixth Methodology Order, AFRD2's 2018 diversion value has been increased by 5,000 acre-feet. This increase was necessary to remedy the error committed by Department staff in calculating AFRD2's 2018 adjusted diversion value for the Fifth Methodology Order, which was identified during the June 6 Hearing.

Id. at 13, n. 12.

APPENDIX B

RECEIVED
Sep 19, 2023
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BEFORE THE DEPARTMENT OF WATER RESOUCES

OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY OR FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY	Docket No. CM-DC-2010-001 **SURFACE WATER COALITION'S RESPONSE TO CITIES' MOTION FOR CLARIFICATION AND RECONSIDERATION**

COME NOW, A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, and TWIN FALLS CANAL COMPANY ("Surface Water Coalition" or "Coalition"), by and through counsel of record, and hereby respond to the *Motion for Clarification and Reconsideration of Denial of*

on the Sixth Methodology Order that fully addressed all of the information either presented at or before the administrative hearing. As such, the Director properly denied the requested hearing. *See Order Denying Request for Hearing and Motion Authorizing Discovery* at 2-3.

Moreover, the Cities have appealed the Director's *Post-Hearing Order* that addresses the issues raised on the Fifth Methodology Order, including the updated data the Director included in the Sixth Methodology Order. Although the Cities had a right to appeal the Sixth Methodology Order they failed to do so. Regardless, all of the Cities except Idaho Falls have appeared in IGWA's appeal of the Sixth Methodology Order.[2] Consequently, there is nothing to clarify and the petitions for judicial appeal will proceed pursuant to Idaho's civil rules.

II. The Director Properly Denied the Cities' Request for Discovery.

The Cities have also requested the Director to reconsider the denial of their motion to authorize discovery. *See* Motion at 2-3. Since the request for hearing was denied, the request to authorize discovery was properly denied as well. The Cities misconstrue this matter as a "continuing contested case" with no end. Motion at 2. Although the Director's methodology regarding the SWC delivery call may be updated at some point in time, that does not mean the prior contested cases resulting in "final orders" that have been appealed or are currently on appeal to the District Court are continuing *ad infinitum* as the Cities suggest. To find otherwise would keep the parties in a perpetual state of discovery, motion practice, and litigation, without any culminating hearing or end.[3] Such a scenario has no basis in statute or rule and would be unduly burdensome and mire the parties in endless litigation expense.

[2] Whether the City of Idaho Falls will file a notice of appearance is unknown. If the cases are ultimately consolidated it may not matter as all parties will be participating.

[3] It is curious why the Cities seem determined to re-litigate prior contested cases and outcomes in the face of their approved mitigation plan for the SWC delivery call and safe harbor from curtailment pursuant to the CM Rules. The request for discovery is unwarranted and would be overly burdensome in the context of what has already

APPENDIX C

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Fourth Judicial District, Ada County
Trent Tripple, Clerk of the Court
By: Caterina Moritz Gutierrez, Deputy Clerk

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

IDAHO GROUND WATER APPROPRIATORS, INC.,

Petitioner,

vs.

THE IDAHO DEPARTMENT OF WATER RESOURCES, and GARY SPACKMAN, in his capacity as Director of the Idaho Department of Water Resources,

Respondents,

and

AMERICAN FALLS RESERVOIR DISTRICT #2, MINIDOKA IRRIGATION DISTRICT, A&B IRRIGATION DISTRICT, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, TWIN FALLS CANAL COMPANY, CITY OF POCATELLO, CITY OF BLISS, CITY OF BURLEY, CITY OF CAREY, CITY OF DECLO, CITY OF DIETRICH, CITY OF GOODING, CITY OF HAZELTON, CITY OF HEYBURN, CITY OF JEROME, CITY OF PAUL, CITY OF RICHFIELD, CITY OF RUPERT, CITY OF SHOSHONE, CITY OF WENDELL, BONNEVILLE-JEFFERSON GROUND WATER DISTRICT, and BINGHAM GROUND WATER DISTRICT,

Intervenors.

IN THE MATTER OF DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY AND FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN

Case No. CV01-23-13173

> First, neither section (Art. XV § 4 and § 5) applies to the water user who has appropriated water directly from the water source. . . . Finally, neither section governs conjunctive management. . . . There is nothing in the wording of Article XV, § 7, that indicates that it grants the legislature or the Idaho Water Resource Board the authority to modify that portion of Article XV, § 3, which states, "Priority of appropriation shall give the better right as between those using the water" . . . The policy of securing the maximum use and benefit, and least wasteful use, of the State's water resources applies to both surface and underground waters, and it requires that they be managed conjunctively.

150 Idaho at 805-807, 252 P.3d at 86-88.

Accordingly, any claims of error related to the Director's application of the Ground Water Act or CM Rule 20 should be denied. Those provisions do not apply in the manner IGWA suggests and do not expose any errors in the Director's *Sixth Order* and the continued conjunctive water right administration in this case. Further, the following legal doctrines prohibit IGWA's attempts to re-challenge the methodology and the established burdens of proof and evidentiary standards adopted by the Idaho Supreme Court. *See A&B Irr. Dist.*, 155 Idaho at 655, 315 P.3d at 843.

II. Res Judicata and The Law of the Case Doctrines Preclude IGWA's Alleged Defenses.

IGWA attempts to impermissibly re-litigate certain defenses through its "substantive errors" portion of the opening brief. *See generally IGWA Br.* at 29-31, 36-44. These defenses, having been previously raised and litigated, are barred by both the *res judicata* and "law of the case" doctrines. In other words, IGWA cannot continue to regurgitate defenses that have already been denied by Idaho's judiciary. The Court should reject IGWA's arguments accordingly.

The doctrine of *res judicata* covers both claim preclusion and issue preclusion. *See Monitor Finance, L.C. v. Wildlife Ridge Estates, LLC*, 164 Idaho 555, 560, 433 P.3d 183, 188 (2019). Claim preclusion bars a subsequent action between the same parties upon the same claim or upon claims relating to the same cause of action. *See id.*

The three criteria are: 1) the original action ended in a final judgment on the merits; 2) the present claim involves the same parties; and 3) the present claim arises out of the same transaction or series of transactions as the original action. *See id.* The doctrine exists "to prevent the resurrection of a lawsuit already laid to rest." *See Byrd v. Idaho State Bd. of Land Comm'rs*, 169 Idaho 922, 931, 505 P.3d 708, 717 (2022). Further, the doctrine applies to administrative proceedings as well. *See id.* All three of the criteria are met here and therefore the Court should apply *res judicata* to deny IGWA's present appeal of the agency's alleged "substantive errors."

First, the appeal concerns the same parties, the Coalition, IGWA, and IDWR. Next, the claims arise out of the same transaction, the underlying delivery call proceeding and the Director's methodology for administration. IGWA collaterally attacks the Director's methodology for forecasting water supply, use of irrigated acreage, accounting for supplemental groundwater use, and calculating project efficiency and system improvements. *See IGWA Br.* at 32-39. IGWA also alleges the Director wrongly refused to deny the call on theories of "futile call" and "maximum beneficial use." *See id.* at 39-44. All of these claimed errors and defenses were previously litigated and denied.[23] Moreover, any challenges to the methodology steps and underlying analysis were fully adjudicated in the *382 Decision*. Consequently, the final criteria of a final judgment on the merits is met, and the Court can deny IGWA's appeal of these issues accordingly. There simply is no legal basis to allow IGWA to continue to litigate defenses that have already been denied.

[23] IGWA originally moved for summary judgment on "futile call" and its "maximum use" theories. *See* Addendum C (*Idaho Ground Water Appropriators' Motion for Summary Judgment and Memorandum in Support*, Mar. 23, 2005). The Director denied IGWA's motion. *See* Addendum D (*Order on Petition to Intervene and Denying Motion for Summary Judgment et al.*, Apr. 6, 2005). IGWA did not appeal the Director's decision on these issues, and the resulting order on judicial review and the Supreme Court opinion constitute a final adjudication on the merits of IGWA's claimed defenses. *See Order on Petition for Judicial Review* (Gooding County Dist. Ct., Fifth Jud. Dist., Case No 2008-551); *A&B Irr. Dist. v. IDWR*, 155 Idaho 640, 315 P.3d 828 (2013).

APPENDIX D

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

IN THE MATTER OF DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY OR FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY	Docket No. CM-MP-2024-003
IN THE MATTER OF THE SURFACE WATER COALITIONS' AND THE GROUND WATER DISTRICTS' 2024 STIPULATED MITIGATION PLAN	**JOINT MOTION FOR ORDER APPROVING 2024 STIPULATED MITIGATION PLAN**

Twin Falls Canal Company, North Side Canal Company, American Falls Reservoir District No. 2, Milner Irrigation District, Burley Irrigation District, A&B Irrigation District, and Minidoka Irrigation District (collectively, the "Surface Water Coalition"), and North Snake Ground Water District, Magic Valley Ground Water District, Carey Valley Ground Water District, Aberdeen-American Falls Ground Water District, Bingham Ground Water District, Bonneville-Jefferson Ground Water District, Jefferson-Clark Ground Water District, Madison Ground Water District, and Henry's Fork Ground Water District (collectively, the "Ground Water Districts"), through counsel, jointly move the director pursuant to rule 220 of the Rules of Procedure of the Idaho Department of Water Resources and rule 43 of the Rules for Conjunctive Management of Surface and Ground Water Resources for an order approving the 2024 Stipulated Mitigation Plan attached hereto as Appendix A (the "Plan").

Pursuant to Conjunctive Management Rule 43.01.a, the names and addresses of the entities submitting the Plan are:

- North Snake Ground Water District
  214 E. Yakima St., Suite A
  Jerome, Idaho 83338

4.8 Annual Report. By February 15 annually, the Districts will submit a report to the SWC and the Department documenting the Districts' compliance with section 4 during the previous calendar year.

5. Reach Gain Mitigation Fund. The parties understand that the Idaho Water Resource Board ("Board") will contribute $5,000,000 to develop projects that will target and maximize benefits to the reach gains in the Near Blackfoot to Minidoka reach. The projects will be selected by the Board with input from the parties as to the criteria for ranking proposed projects. The Board will make the final decision on projects. Beginning in 2035, the Districts will collectively deposit $250,000 annually into a bank account maintained by the Districts to fund development and implementation of projects designed to further increase reach gains to the Near Blackfoot to Minidoka reach of the Snake River. If, during the second compliance period (2028-2031) or any subsequent compliance period, the average annual reach gains to the Near Blackfoot to Minidoka reach of the Snake River for that compliance period drops below the 2023 reach gains, the Districts will then deposit $500,000 annually, until average annual reach gains over the most recent compliance period equal or exceed the 2023 reach gains. Each District shall be independently responsible to deposit its proportionate share of the $250,000 or $500,000 in proportion to its respective steady-state impacts to the Near Blackfoot to Minidoka reach of the Snake River under the current version of the Model (ESPAM 2.2) as set forth in Appendix B.

6. Storage Water Component. The Districts will collectively secure the volume of storage water required by section 6.1 to meet irrigation needs and carryover storage of the SWC in accordance with section 6.4.

6.1 Storage Water Volume. The Districts will secure 75,000 acre-feet of storage water for the 2025 and 2026 irrigation seasons. In 2027, the maximum volume of storage water the Districts are required to secure is capped at 82,500 acre-feet. If reach gains to the Near Blackfoot to Minidoka reach of the Snake River in 2026 are greater than 2023 reach gains, the Districts will secure 75,000 acre-feet of storage for the 2027 irrigation season. If reach gains to the Near Blackfoot to Minidoka reach of the Snake River in 2026 are less than or equal to 2023 reach gains, the Districts will secure 82,500 acre-feet of storage for the 2027 irrigation season. At the annual meeting held in 2027 pursuant to section 7, the parties shall commence discussions to determine the amount of storage the Districts will be required to secure in 2028 and subsequent years, which determination shall be documented by a written amendment to this Plan executed by the parties by September 15, 2027.

6.2 Storage Water Allocation. Each District will secure its proportionate share of the storage water required by section 6.1 based on their respective steady-state impact to the Near Blackfoot to Minidoka reach of the Snake River as defined by the current version of the ESPA Model. The Districts' respective steady-state impacts under the current version of the Model (ESPAM 2.2) are set forth in Appendix B. If the Districts' respective steady-state impacts set forth in Appendix B change due to Model updates adopted by the Department, or due to changes in the universe of water rights participating in this Plan (e.g., additions or removals of groundwater participating in this Plan through the Districts), the parties will revise Appendix B to reflect the most up-to-date calculation of their respective steady-state impacts. If additional organized groundwater groups join this Plan as contemplated in section 10, they will provide a proportionate share of the storage water required by this section 6.1, thereby reducing the proportionate obligations of the Districts, and the parties will revise Appendix B to reflect the most up-to-date calculation of the proportionate shares of the Districts and additional organized groundwater groups participating in this Plan.

6.3 Acquisition of Storage. Within twenty-one (21) days after the Water District 1 "day of allocation," the Districts will secure, to the satisfaction of the Department, leases or options to lease the volume of storage water required by section 6.1, or demonstrate the ability to supply water under alternative

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY OR FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY	**Docket No. CM-DC-2010-001** **ORDER DENYING AMERICAN FALLS-ABERDEEN GROUND WATER DISTRICT'S MOTION TO RECONSIDER ORDER GRANTING HEARING**

BACKGROUND

On July 19, 2023, the Director of the Idaho Department of Water Resources ("Department") issued the *Sixth Final Order Regarding Methodology for Determining Material Injury to Reasonable In-Season Demand and Reasonable Carryover* ("*Sixth Methodology Order*"). That order establishes nine steps for determining material injury to members of the Surface Water Coalition ("SWC").

On April 16, 2025, the Director issued the *Final Order Regarding April 2025 Forecast Supply (Methodology Steps 1–3)* ("*April Forecast Supply Order*"), finding that A&B Irrigation District ("A&B") must mitigate for its proportionate share (384 acre-feet) of the predicted in season demand shortfall (63,000 acre-feet) to Twin Falls Canal Company ("TFCC"). *April Forecast Supply Order*, at 5 n.8

On April 29, 2025, A&B filed a request for hearing to contest the *April Forecast Supply Order* and identified the following issues for hearing:

> (1) Whether the order identified proportionate share (384 acre-feet) of the predicted injury (63,000 acre-feet) to TFCC is calculated correctly based upon A&B's actual diversion and use of water rights that are subject to the identified curtailment date (junior to August 28, 1955).
> (2) Whether A&B should be allowed to mitigate for a portion of groundwater right 36-15127A (approximately 508.3 acres) that will be diverted [sic] used during the 2025 irrigation season, as opposed to mitigating for all 1,886.4 acres authorized by the water right.
> (3) Whether the steady-state use of the ESPAM 2.2 in identifying A&B's proportionate share is consistent with the transient use of the model in identifying ground water rights subject to curtailment as outlined in the *Sixth Methodology Order*.
> (4) For other issues and matters that may [sic] discovered in this proceeding.

A&B Req. for Hr'g, at 1–2 (Apr. 2025).

On May 16, 2025, the Director issued the *Final Order Curtailing Ground Water Rights Junior to August 28, 1955* ("*May Curtailment Order*"), including several of A&B's ground water rights subject to curtailment. *May Curtailment Order*, at 4, attach. A, at 1.

On July 10, 2025, the Director issued an *Order Revising April 2025 Forecast Supply and Continuing May 16, 2025 Curtailment Order (Methodology Steps 5 & 6)* ("*July As-Applied Order*"). In that order, the Director revised the predicted in-season demand shortfall, concluding that A&B's proportionate share of the predicted injury to TFCC is 5,039 acre-feet. *July As-Applied Order*, at 11 n.6.

On July 24, 2025, A&B filed another request for hearing, this time contesting the *July As-Applied Order*, and identified substantively similar issues to the April request and added the following issue:

> Whether the Director's failure to implement the May 16, 2025 curtailment order in accordance with Idaho law has injured A&B by subjecting its senior water right 36-2080 to curtailment and/or mitigation requirements during the 2025 irrigation season.

A&B Req. for Hr'g, at 1–2 (July 2025).

On September 3, 2025, the Director issued an *Order Granting A&B Irrigation District's Requests for Hearing, Consolidating Proceedings for Hearing, and Appointing Hearing Officer; Notice of Prehearing Conference* ("*Order Granting Hearing*"). In that order, the Director consolidated both A&B's hearing requests and concluded that "A&B has not previously been afforded an opportunity for a hearing to contest either the *April Forecast Supply Order* or *July As-Applied Order*." *Order Granting Hearing*, at 4. The Director also appointed former Idaho Supreme Court Chief Justice, Gerald Schroeder, as the hearing officer in this matter. *Id.* at 5.

On September 11, 2025, the Director issued the *Order Revising July 2025 Forecast Supply (Methodology Step 7-8)* ("*September Order*"), concluding that A&B satisfied its storage water delivery obligation, so it no longer needed to "establish that they can mitigate for its proportionate share of the predicted [in-season demand shortfall]." *September Order*, at 12 n.7.

On November 18, 2025, the Director received a motion from American Falls-Aberdeen Ground Water District ("AFA") asking him to reconsider his *Order Granting Hearing*. *See American Falls-Aberdeen Ground Water District's Motion to Reconsider Order Granting Hearing and Vacate Hearing or, Alternatively, to Clarify the Scope of Hearing; Request for Expedited Ruling; Brief in Support*, at 1–2 [hereinafter *AFA Motion*]. AFA requests that the Director reconsider the *Order Granting Hearing* and deny both of A&B's hearing requests because A&B is barred from relitigating issues that were already subject to a prior Department hearing and that one issue is moot based on the conclusions in the *September Order*. *Id.* at 2. In the alternative, AFA asks the Director to clarify the scope of the hearing to exclude the Hearing Officer's consideration of issues involving a ground water management area or plan. *Id.* at 3.

On November 18, 2025, Idaho Ground Water Appropriators, Inc. ("IGWA") also filed a motion for summary judgment with Hearing Officer Schroeder that contained substantively similar arguments as the *AFA Motion* regarding *res judicata. Idaho Ground Water Appropriator's, Inc.'s Mot. for Summ. J.*, at 6–7 [hereinafter *IGWA Motion*].

Pursuant to A&B's request to extend response deadlines to both the *AFA Motion* and the *IGWA Motion*, Hearing Officer Schroeder issued an order extending the deadline for A&B to respond to both motions to December 9, 2025, and any reply briefs to December 16, 2025. *Order Granting A&B's Motion to Amend Deadlines; Setting Deadline to Provide Staff Memo*, at 3 (Nov. 25, 2025).

On December 9, 2025, the Department received *A&B Irrigation District's Consolidated Response to AFA Motion / IGWA Motion for Summary Judgment* ("*A&B Response*"). A&B argued that the *AFA Motion* was procedurally misplaced since there is a hearing officer assigned to this matter who has the authority to consider such a motion. *A&B Response*, at 5–6. AFA filed its reply on December 12, 2025.

ANALYSIS

I. The Director will not review the *Order Granting Hearing* because a hearing officer has already been assigned to this matter.

The *Order Granting Hearing* was not issued as a recommended, preliminary, or final order as defined in Rules 720, 730, or 740 of the Department's Rules of Procedure (IDAPA 37.01.01). Therefore, that order is not subject to a petition for reconsideration. However, the Director will treat the *American Falls Motion* as a petition to review an interlocutory order under Rule 711. IDAPA 37.01.01.711.

AFA argues that A&B has already been afforded an opportunity for a hearing on the issues it now raises because it presented two issues at the June 2023 hearing that are substantively identical to five of the six issues for which it now seeks a hearing. *AFA Motion*, at 4. In addition, AFA argues that the remaining issue—Director's implementation of the *May Curtailment Order*—became moot when the Director issued the *September Order* finding that A&B did not need to "mitigate for its proportionate share of the predicted [in-season demand shortfall]." *Id.* at 6 (quoting *September Order*, at 12 n.7).

Pursuant to Rule 102, the Director may appoint a hearing officer to preside over a formal proceeding. IDAPA 37.01.01.102. After receiving A&B's hearing requests, the Director concluded that A&B has not previously had an opportunity to contest either the *April Forecast Supply Order* or the *July As-Applied Order*, and that formal proceedings are necessary because informal proceedings are unlikely to resolve A&B's issues. *Order Granting Hearing*, at 4–5. The Director acknowledges that A&B has raised the proportionate share calculation issue in the past. *See AFA Motion*, at 4–5.

However, the Director appointed Hearing Officer Schroeder to preside over this matter and consider the issues A&B has presented. *Id.* at 5. The arguments raised by AFA are similar to

the issues raised by the *IGWA Motion*. The Director is confident that Hearing Officer Schroeder can address these issues and that it is most appropriate for these issues to be considered within the context of the administrative proceeding before the Hearing Officer. Therefore, the Director will deny the *AFA Motion* and will leave it for Hearing Officer Schroeder to consider the issues raised in the *AFA Motion* and reply.

II. The Hearing Officer, not the Director, has the authority to clarify the scope of the hearing at this stage in the proceeding.

In the alternative, AFA asks the Director to clarify that any testimony or evidence pertaining to a ground water management area or related ground water management plan is outside the scope of the hearing. *AFA Motion*, at 7.

A hearing officer is authorized to exclude evidence that is irrelevant. IDAPA 37.01.01.600. The Director is not the hearing officer on this matter. Accordingly, Hearing Officer Schroeder is the one with authority to decide whether evidence is outside the scope of the hearing. Therefore, the Director will deny this alternative motion.

ORDER

IT IS HEREBY ORDERED that *American Falls-Aberdeen Ground Water District Motion to Reconsider Order Granting Hearing and Vacate Hearing or, Alternatively, to Clarify the Scope of Hearing; Request for Expedited Ruling; Brief in Support* is DENIED.

DATED this 22nd day of December 2025.

MATHEW WEAVER
Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 22nd day of December 2025, the above and foregoing, was served by the method indicated below, and addressed to the following:

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DEPARTMENT OF
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BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY OR FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY	**Docket No. CM-DC-2010-001** **NOTICE OF COMPLIANCE WITH ORDER TO PROVIDE STAFF MEMO**

On September 3, 2025, the Director of the Idaho Department of Water Resources issued an *Order Granting A&B Irrigation District's Requests for Hearing, Consolidating Proceedings for Hearing, and Appointing Hearing Officer; Notice of Prehearing Conference*. Within those consolidated proceedings, on November 25, 2025, Hearing Officer Schroeder ordered "that the Department staff identified to testify at the hearing shall file an agency staff memorandum pursuant to IDAPA 37.01.01.602 outlining the subjects of their expected testimony." *Order Granting A&B's Mot. to Am. Deadlines; Setting Deadline to Provide Staff Memo*, at 2. Further, the memorandum deadline was set for December 30th. *Id*. at 3. In compliance with the Hearing Officer's order and attached hereto, the Department hereby submits the following staff memorandums:

1) Memorandum from Jennifer Sukow, P.E., P.G. to Gerald F. Schroeder, Hearing Officer (Dec. 30, 2025).

2) Memorandum from Brian Ragen, Analyst 4 to Gerald F. Schroeder, Hearing Officer (December 30, 2025).

Dated this 30th day of December 2025.

STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL

GARRICK L. BAXTER
Deputy Attorney General

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on December 30, 2025, the above and foregoing, was served by the method indicated below, and addressed to the following:

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MEMO

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Date: December 30, 2025

To: Gerald F. Schroeder, Hearing Officer

From: Jennifer Sukow, P.E., P.G.

Subject: Agency staff memorandum for A&B Irrigation District hearing regarding the April 2025 and July 2025 As-Applied Orders for the Surface Water Coalition delivery call

Background and purpose

A&B Irrigation District (A&B) has contested the April[1] and July 2025[2] As-Applied Orders for the Surface Water Coalition (SWC) delivery call. Issues contested by A&B include:

- IDWR's calculation of A&B's proportionate share of the predicted in-season demand shortfall (IDS) for mitigation purposes,
- IDWR's position that historic and ongoing soft conversions do not offset A&B's proportionate share of the shortfall,
- IDWR's refusal to allow A&B to mitigate for a portion of a water right while placing the remainder of the water right on the curtailment list, and
- IDWR's implementation of the May 16, 2025 curtailment order and the effects of the implementation on the July 2025 IDS volume and July 2025 curtailment priority date.

I was identified by IDWR as a witness available to testify regarding Eastern Snake Plain Aquifer Model (ESPAM) simulations used to calculate the priority dates for curtailment and A&B's

[1] IDWR, 2025a. *Final Order Regarding April 2025 Forecast Supply (Methodology Steps 1-3)*. Docket No. CM-DC-2010-001, April 16, 2025, 6 p., https://idwr.idaho.gov/wp-content/uploads/sites/2/legal/CM-DC-2010-001/CM-DC-2010-001-20250416-Final-Order-Regarding-April-2025-Forecast-Supply-Methodology-Steps-1-3.pdf.

[2] IDWR, 2025b. *Order Revising April 2025 Forecast Supply and Continuing May 16, 2025 Curtailment Order Methodology Steps 5 & 6)*. Docket No. CM-DC-2010-001, July 10, 2025, 12 p., https://idwr.idaho.gov/wp-content/uploads/sites/2/legal/CM-DC-2010-001/CM-DC-2010-001-20250710-Order-Revising-April-2025-Forecast-Supply-Method.-Steps-5-6-July-2025-As-Applied.pdf.

proportionate share of the IDS for the April and July 2025 As-Applied Orders. I did not participate in IDWR's implementation of the May 16, 2025 curtailment order. IDWR identified Brian Ragan as a witness available to testify regarding implementation of the May 16, 2025 curtailment order. I was deposed by A&B on October 22, 2025, and identified as a witness by A&B on November 7, 2025. On November 25, 2025, Hearing Officer Gerald F. Schroeder ordered IDWR witnesses to provide "*an agency staff memorandum explaining what they anticipate testifying about at the hearing*."

This memorandum covers topics I anticipate testifying about at the hearing, based on the issues identified in A&B's hearing requests, topics addressed in my deposition on October 22, 2025, and topics addressed in expert reports filed on November 7, 2025 by LRE Water (Colvin, 2025a)[3] and Spronk Water Engineers (Sullivan and Horesh, 2025a)[4] and rebuttal expert reports filed on December 19, 2025 by LRE Water (Colvin, 2025b)[5], Spronk Water Engineers (Sullivan and Horesh, 2025b)[6], and Linker (Sigstedt, 2025)[7]. This memorandum does not cover what other agency staff may anticipate testifying about at the hearing.

Calculation of curtailment priority dates for in-season As-Applied Orders in the SWC delivery call

In-season As-Applied Orders are issued as described in the current version of the SWC Methodology Order[8] (Methodology). IDWR hydrologists calculate the predicted water supply and water demand using procedures described in the Methodology. If the predicted water supply for each member of the SWC is greater than the predicted water demand, the IDS is zero and IDWR's Director (Director) does not order a curtailment of junior groundwater use. No ESPAM modeling is needed if the IDS is zero.

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[3] Colvin, D., 2025a, *A&B Proportionate Share Expert Report, Docket No. CM-DC-2010-001*, LRE Water, prepared for A&B Irrigation District, November 2025, 14 p.

[4] Sullivan, G.K and N. Horesh, 2025a. *Expert Report for Aberdeen – American Falls Ground Water District, A&B's Requests for Hearing, SWC Delivery Call*, Spronk Water Engineers, prepared for Aberdeen – American Falls Ground Water District, November 7, 2025, 28 p.

[5] Colvin, D., 2025b, *A&B Proportionate Share Rebuttal Report, Docket No. CM-DC-2010-001, LRE Water, prepared for A&B Irrigation District*, December 2025, 6 p.

[6]Sullivan, G.K and N. Horesh, 2025b. Rebuttal *Expert Report for American Falls - Aberdeen Ground Water District, A&B's Requests for Hearing, SWC Delivery Call*, Spronk Water Engineers, prepared for American Falls - Aberdeen Ground Water District, December 19, 2025, 29 p.

[7] Sigstedt, S.C., 2025. *Review of A&B Proportionate Share Expert Report , Docket No. CM-DC-2010-001, by LRE,* Lynker, prepared on behalf of Idaho Ground Water Appropriators, Inc., December 19, 2025, p. 9.

[8] IDWR, 2023a. *Sixth Final Order Regarding Methodology for Determining Material Injury to Reasonable In-Season Demand and Reasonable Carryover*. Docket No. CM-DC-2010-001, July 19, 2023, 45 p., https://idwr.idaho.gov/wp-content/uploads/sites/2/legal/CM-DC-2010-001/CM-DC-2010-001-20230719-Sixth-Final-Order-Regarding-Methodology.pdf.

If the predicted water supply for any member of the SWC is less than the predicted water demand, the difference is the predicted IDS. The Methodology requires the Director to order a curtailment of junior groundwater use to remedy the predicted IDS.

Depending on the volume of the IDS and the timing of the curtailment, curtailing all junior groundwater use might not be necessary to produce the IDS volume and the Director will limit the number of junior groundwater users curtailed based on effective[9] water right priority dates. In other cases, curtailing all junior groundwater use may be insufficient to produce the full IDS volume during this irrigation season. The current version of ESPAM (ESPAM2.2) is used to calculate a priority date for curtailment. The question the Director needs the model to answer is "What subset of junior groundwater users must be curtailed to produce a volume of water equal to the IDS in the near Blackfoot to Minidoka reach by September 30 of this irrigation season?" Because the question asked of the model involves the response to a short-term action within a specific timeframe, a transient model run must be performed.

In the case of the April 2025 As-Applied Order, which predicted an IDS of approximately 63,000 acre-feet (AF) occurring over the irrigation season, curtailing all groundwater use junior to October 11, 1900, would produce more than the IDS volume and was not necessary. The Director limited the curtailment to water rights junior to August 28, 1955, based on an ESPAM2.2 calculation of how much water is predicted to accrue to the near Blackfoot to Minidoka reach between May 1 and September 30, 2025.

In the case of the July 2025 As-Applied Order, which predicted an IDS of approximately 75,300 AF occurring between July 1 and the end of the irrigation season, increasing the curtailment to include all groundwater use junior to October 11, 1900, was insufficient to produce the full IDS volume by September 30, 2025. The Director increased the curtailment to include use junior to October 11, 1900, to produce as much as possible of the July IDS volume.

Calculation of proportionate shares of the IDS for mitigation by direct delivery of storage water

As of April 2025, there were five approved mitigation plans responding to the SWC delivery call, (1) No. CM-MP-2015-003 for the benefit of A&B; (2) No. CM-MP-2010-001 for the benefit of Southwest Irrigation District and Goose Creek Irrigation District (collectively, "SWID"); (3) No. CM-MP-2024-003 for the benefit of the Ground Water Districts; (4) No. CM-MP-2019-001 for

[9] Water rights with enlargement conditions have an effective priority date of April 12, 1994 relative to non-enlargement water rights.

the benefit of the Coalition of Cities; and (5) No. CM-MP-2007-001 for the benefit of the Water Mitigation Coalition.[10]

Most plans include some aquifer enhancement projects (groundwater to surface water conversions, voluntary idling of irrigated acres, managed recharge) but recognize that these projects are insufficient to offset the full impact of groundwater use on aquifer discharge to the near Blackfoot to Minidoka reach and are insufficient to mitigate injury to the SWC's water supply in some years. Therefore, the mitigation plans also include direct delivery of storage water or monetary compensation to mitigate the injury that occurs in some years even though the aquifer enhancement projects are ongoing.

Because the effects of historic and ongoing aquifer enhancement projects are included in the data used in the Methodology to calculate the SWC members' Forecast Supply (FS), the IDS is a calculation of the predicted injury to the SWC's water supply that remains to be mitigated by direct delivery of storage water or other means.[11] The benefit of aquifer enhancement projects is that they reduce the frequency of shortfalls and the volume of the IDS. If the aquifer enhancement projects had not been implemented, the IDS (the remaining mitigation required) in the April and July 2025 As-Applied Orders would have been larger.

Because the groundwater users are mitigating under separate plans, IDWR needs to apportion the IDS among the mitigation plans to identify the proportionate share of the IDS for plans that include direct delivery of storage water to the SWC in an amount based on IDWR's calculation of injury. As of the 2025 irrigation season, A&B's mitigation plan is the only plan that includes actions that are dependent on IDWR's calculation of their proportionate share of the injury to the SWC. Other mitigation plans include negotiated terms that make the volume and timing of storage water delivery or monetary compensation independent of IDWR's calculation of their proportionate share of the IDS.

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[10] IDWR, 2025a. *Final Order Regarding April 2025 Forecast Supply (Methodology Steps 1-3)*. Docket No. CM-DC-2010-001, April 16, 2025, 6 p., https://idwr.idaho.gov/wp-content/uploads/sites/2/legal/CM-DC-2010-001/CM-DC-2010-001-20250416-Final-Order-Regarding-April-2025-Forecast-Supply-Methodology-Steps-1-3.pdf.

[11] IDWR, 2024a, *Final Order Denying IGWA's Request for Mitigation Credit for Aquifer Enhancement Activities (2024)*. CM-DC-2010-001, CM-MP-2009-006, May 15, 2024, p. 4-6, https://idwr.idaho.gov/wp-content/uploads/sites/2/legal/CM-DC-2010-001/CM-DC-2010-001-20240515-Final-Order-Denying-IGWAs-Request-for-Mitigation-Credit-for-Aquifer-Enhancement-Activities-2024.pdf.

The IDS is an injury resulting from reduced aquifer discharge to the near Blackfoot to Minidoka reach caused by the cumulative impacts of decades of groundwater use. The long-term response at the near Blackfoot to Minidoka reach to groundwater withdrawals at locations across the ESPA is shown in Figure 1 as a fraction of the annual average volume of groundwater withdrawn. While users closer to the reach generally have a higher percentage of impact to the reach, users more distant from the reach also have significant impacts. The modeled cumulative long-term impact on aquifer discharge to the near Blackfoot to Minidoka reach resulting from groundwater withdrawals at the locations of A&B's points of diversion ranges from 36 to 53% of the volume withdrawn (Figure 1), averaging 48%.

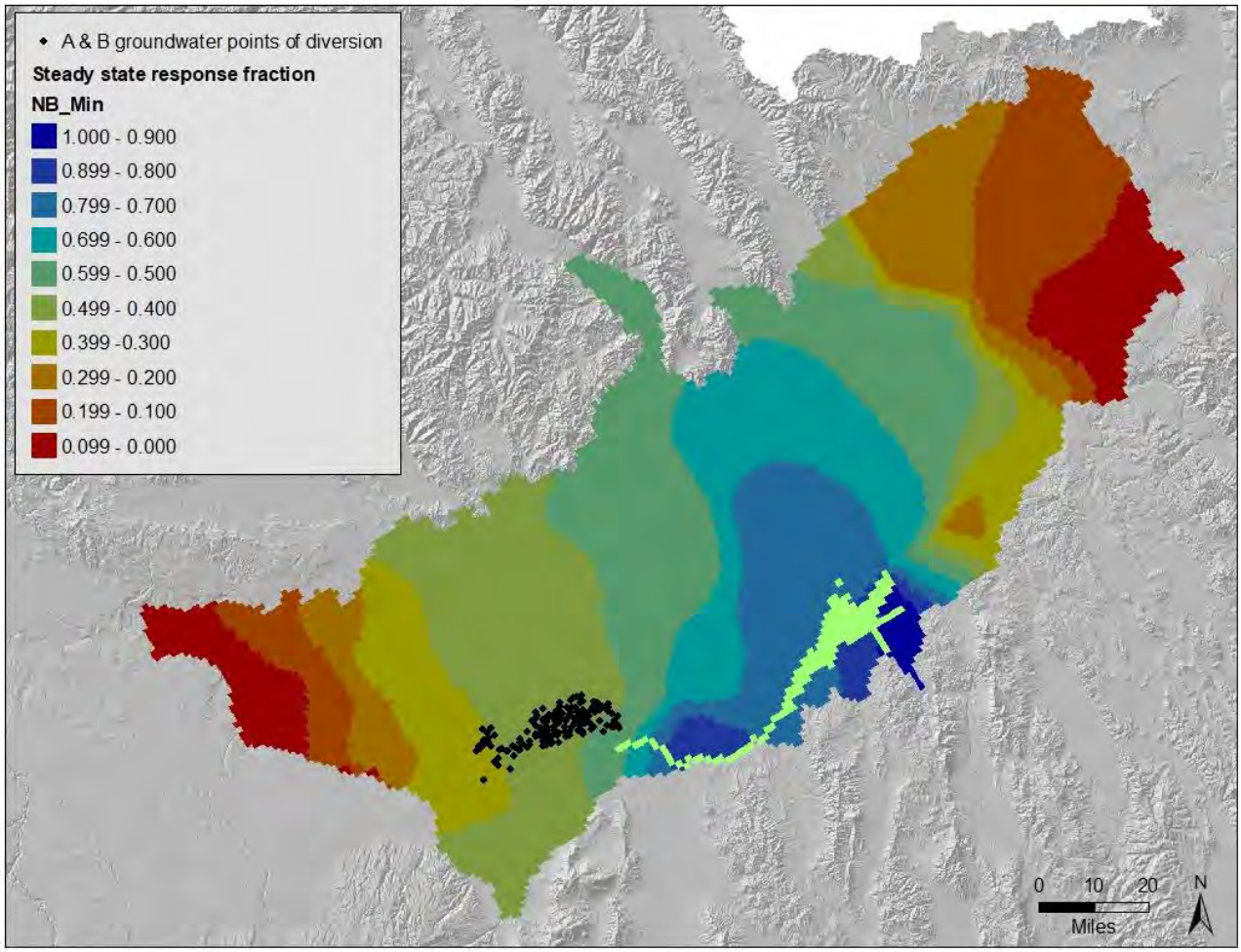

Figure 1. Long-term response at the near Blackfoot to Minidoka reach

Figure 2 illustrates the timing of the cumulative impacts of groundwater withdrawals within A&B as a percentage of the long-term average annual impact. Based on water right priority dates, A&B's water rights were developed between approximately 40 and 75 years ago. ESPAM2.2 simulations indicate after 40 years of pumping, the cumulative impact has reached approximately 93% of the long-term impact rate and after 75 years of pumping, the cumulative impact has reached approximately 98% of the long-term impact rate. The cumulative impacts of decades of A&B's groundwater use contributed to reduced aquifer discharge to the near Blackfoot to Minidoka reach during 2025. This reduced aquifer discharge results in a reduction of natural flow available for delivery to senior surface water rights.

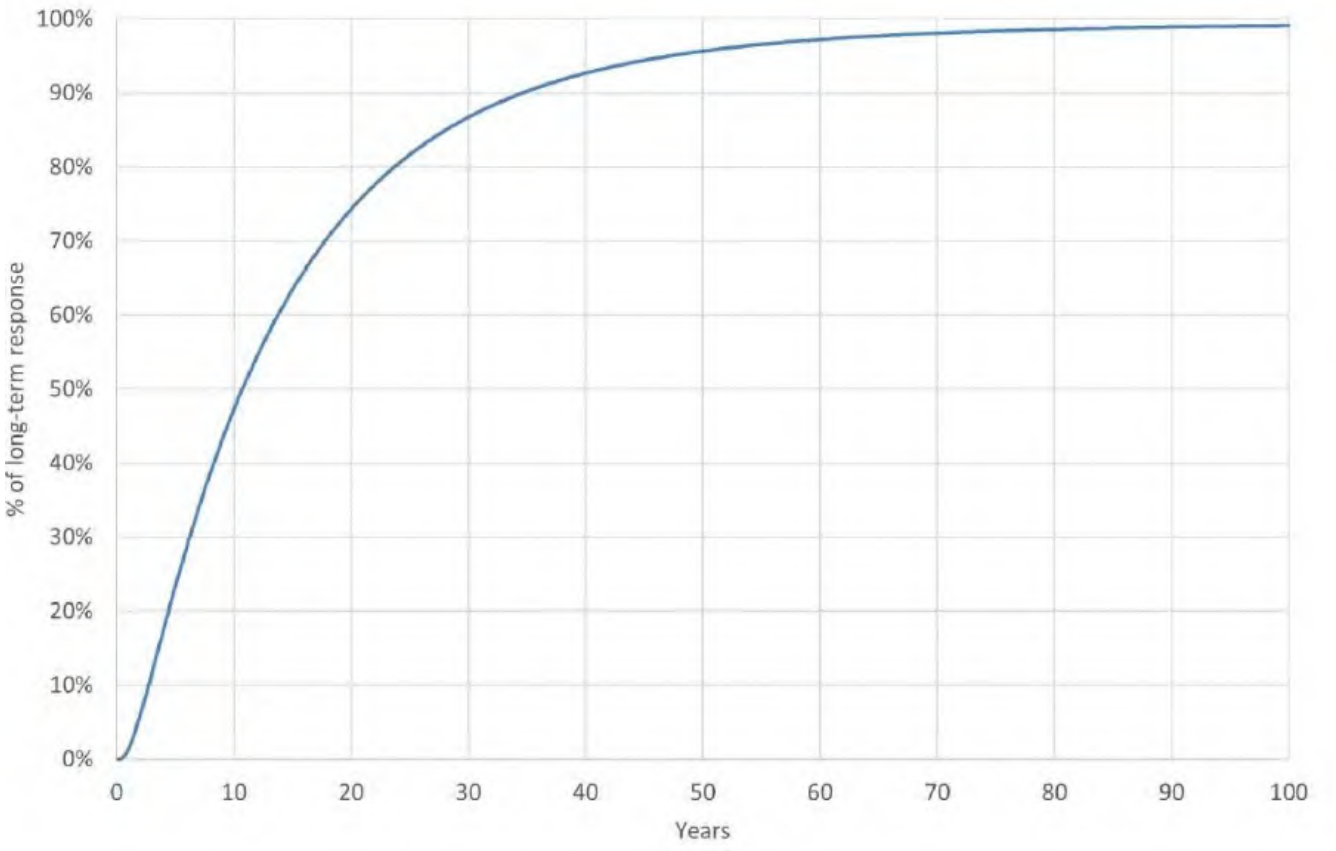

Figure 2. Years of A&B pumping required to reach long-term response rate at the near Blackfoot to Minidoka reach

Because the IDS is the result of the long-term cumulative impact of decades of pumping, ESPAM2.2 simulations used to calculate proportionate shares of the IDS for mitigation purposes are designed to answer the question, "What is the proportionate long-term impact of the junior groundwater use subject to curtailment and covered by this mitigation plan on aquifer discharge to the near Blackfoot to Minidoka reach?" Because the answer sought is based on long-term average annual impacts, either steady-state or transient model simulations could be employed to answer this question. In cases where either type of simulation is capable of answering the question, a steady-state model simulation is more efficient because model run times are faster and model file sizes are smaller.

For the April and July 2025 As-Applied Orders, A&B's proportionate share of the IDS was calculated by:

1. simulating the long-term average annual impact of groundwater use junior to the curtailment priority date within the ESPA area of common groundwater supply,
2. simulating the long-term average annual impact of A&B's water rights junior to the curtailment priority date,
3. calculating A&B's impact as a percentage of the total impact, and
4. multiplying A&B's percentage by the IDS volume.

Response to LRE Water expert report

The expert report prepared by LRE Water on behalf of A&B includes nine opinions from David Colvin, P.G., regarding the A&B proportionate share analysis.

Colvin Opinion 1 – "A&B's mitigation plan specifies that storage water is only required to cover the in-season demand shortfall (IDS) beyond the benefits of other mitigation measures."

The *"other mitigation measure"* specified in A&B's 2023 stipulated mitigation plan is soft conversion of irrigation water supply from groundwater to surface water.[12] A&B reported soft conversion of 1,378 acres in their 2015 mitigation plan. A&B has increased its capacity to deliver surface water to lands historically irrigated with groundwater and currently reports 3,573.6 acres of soft conversions. Soft conversions benefit the Eastern Snake Plain Aquifer water budget by reducing groundwater withdrawals to meet the consumptive demand of irrigated crops.

[12] A&B Irrigation District, 2023, *Stipulation Regarding A&B irrigation District's Amended Rule 43 Mitigation Plan*. CM-MP-2015-003, December 27, 2023, p. 3, https://idwr.idaho.gov/wp-content/uploads/sites/2/legal/CM-MP-2015-003/CM-MP-2015-003-20231227-Stipulation-Regarding-AB-Irrigation-Districts-Amended-Rule-43-Mitigation-Plan.pdf.

To the extent that historic and ongoing soft conversions benefit the ESPA water budget and the current year's water supply for SWC members, these benefits are included in the Forecast Supply (FS)[13] in the April 2025 and July 2025 AS-Applied Orders. Because the in-season demand shortfall (IDS) is calculated as the difference between the reasonable in-season demand (RISD) and the FS, the IDS is not mitigated by the soft conversions. The predicted IDS is a shortfall that is predicted to occur even after the effects of the soft conversions. The benefits of the soft conversions to near Blackfoot to Minidoka reach gains result in a larger FS and a smaller predicted IDS. The predicted IDS would be larger without the benefits of the soft conversions.

The Director has previously responded to this question regarding the benefits of aquifer enhancement mitigation projects and the predicted IDS for the Surface Water Coalition (SWC) delivery call. In 2016, the Director concluded,

> "*The predicted DS is the shortfall predicted after the benefits of ongoing aquifer enhancement activities performed by A&B and other entities have already been realized. In other words, the predicted DS already accounts for the benefits of ongoing aquifer enhancement activities performed by A&B and other entities. At this time, the Director will not reduce the predicted DS, or any entity's proportionate share thereof, because of the effects of aquifer enhancement activities. However, the Director will construe A&B's request to account for predicted responses to the Near Blackfoot to Minidoka reaches of the Snake River resulting from its aquifer enhancement activities and to reduce its proportionate share accordingly as a motion pursuant to the Department's Rule of Procedure 260 requesting the agency to take action in a contested case."*[14]

In 2024, the Director provided the following analysis describing how the regression models used to predict the IDS already account for the benefits of aquifer enhancement activities included in mitigation plans.

> *"The current methodology uses updated predictive models to forecast natural flow supply for the SWC. Because the Eastern Snake Plain Aquifer provides reach gains to the Snake River that sustain natural flow during late summer, the prediction of*

[13]The FS in the April 2025 order includes the predicted natural flow supply and the predicted storage allocation for each SWC member. The FS includes natural flow diverted through June 30, the predicted natural flow supply for the remainder of the irrigation season, and the preliminary storage allocation for each SWC member.

[14] IDWR, 2016. *Order Determining Deficiency in A&B Irrigation District's Notice of Mitigation*, CM-DC-2010-001, CM-MP-2015-003, May 11, 2016, p. 3, https://idwr.idaho.gov/wp-content/uploads/sites/2/legal/CM-DC-2010-001/CM-DC-2010-001-20160511-Order-Determining-Deficiency-in-AB-Irrigation-Districts-Notice-of-Mitigation.pdf.

natural flow supply for some of the SWC members was improved by incorporating parameters representing the status of the aquifer into the predictive models. See Third Amended Methodology Order, at 16–18. The parameters selected included flows at Box Canyon, flows at Spring Creek, and depth to water at Well 05S2E27ABA1 [05S 31E 27ABA1]. *See id.; Sixth Amended Methodology Order, at 19–21.*

The April Forecast Supply prediction for five of the SWC members, including TFCC, incorporates November-March flows at Box Canyon into a multi-linear regression to predict natural flow diversions during the upcoming irrigation season. Third Amended Methodology Order, at 16. The current Sixth Amended Methodology Order continues this practice. April 2024 As-Applied Order, at 3. The multi-linear regressions used to predict natural flow supply are updated yearly to include recent data.

The July Forecast Supply prediction for TFCC incorporates January–May flows at Spring Creek into a multi-linear regression to predict natural flow diversions during the remainder of the irrigation season. Third Amended Methodology Order, at 18. The July Forecast Supply prediction for three other members of the SWC incorporates depth to water at Well 05S2E27ABA1 [05S 31E 27ABA1] *into a multi-linear regression to predict natural flow diversions during the remainder of the irrigation season. Id. The current Sixth Amended Methodology Order continues this practice. Sixth Amended Methodology Order, at 21. The multi-linear regressions used to predict natural flow supply are updated yearly to include recent data.*

Because the parameters representing the aquifer's ability to sustain natural flow during late summer are included in the improved predictions of natural flow supply for several members of the SWC, the predicted IDS already accounts for the impacts of mitigation activities. Mitigation activities benefit the ground water users by reducing the predicted shortfall volume calculated by the current methodology. In the 2024 April Forecast Supply calculation, every 1,000 acre-feet of additional flow at Box Canyon increased the predicted natural flow supply for the SWC members by a total of 21,506 acre-feet, including an increase of 7,027 acre-feet per 1,000 acre-feet in the predicted natural flow supply for TFCC. See April 2024 As-Applied Order, Attach. A. The benefits of mitigation activities are accounted for in the predicted natural flow supply, which was subtracted from the baseline demand to calculate the IDS. Awarding the additional mitigation credit request by IGWA would double-count the benefits of mitigation.

The benefits of ongoing mitigation will also be accounted for in the July Forecast Supply prediction. Any benefits of mitigation to reach gains occurring between April and June will be accounted for in the natural flow diverted. Benefits of mitigation yet to accrue to reach gains will be accounted for in the predicted natural flow diversions for the remainder of the irrigation season. In the 2023 July Forecast Supply, every 1,000 acre-feet of additional flow at Spring Creek increased the predicted natural flow diversions for TFCC by 3,214 acre-feet. See Order Revising April 2023 Forecast Supply and Amending Curtailment Order (Methodology Steps 5 & 6), No. CM-DC-2010-001 (July 19, 2023) (Supp. 2023 July Background Information). Every foot of increase in water level at Well 05S2E27ABA1 [05S 31E 27ABA1] *increased the predicted natural flow diversions for three other members of the SWC by a total of 45,065 acrefeet. Id. Regression coefficients for the July 2024 Forecast Supply will be updated to account for recent data but are expected to be similar."*[15]

In 2024, the Director found,

"The regression models used to predict in-season demand shortfall already account for the benefits of the enhancement activities performed by IGWA…. The predicted IDS is the shortfall predicted after the benefits of ongoing aquifer enhancement activities performed by the ground water Districts have already been realized. In other words, the predicted IDS already accounts for the benefits of ongoing aquifer enhancement activities performed by the Districts. Essentially, the predicted IDS would be higher if the aquifer enhancement activities had not occurred…. Therefore, the Director will not reduce the predicted demand shortfall, or any entity's proportionate share thereof, because the models used to predict in-season demand shortfall already account for the benefits of the enhancement activities performed by IGWA."[15]

[15]IDWR, 2024a, *Final Order Denying IGWA's Request for Mitigation Credit for Aquifer Enhancement Activities (2024)*. CM-DC-2010-001, CM-MP-2009-006, May 15, 2024, p. 4-6, https://idwr.idaho.gov/wp-content/uploads/sites/2/legal/CM-DC-2010-001/CM-DC-2010-001-20240515-Final-Order-Denying-IGWAs-Request-for-Mitigation-Credit-for-Aquifer-Enhancement-Activities-2024.pdf.

Colvin Opinion 2 – "According to the terms and conditions of the A&B mitigation plan, they should only have to mitigate for groundwater use on the acres currently being diverted (e.g., approximately 508.3 acres of water right 36-15127A)."

While the LRE Water expert report asserts A&B "*intends to continue delivering surface water to approximately 3,573.6 acres formerly irrigation with groundwater*"[16], A&B describes these acres as "*soft conversions*"[17] which means that A&B retains the physical ability and the legal right to deliver groundwater to these acres (in the absence of a curtailment order). A&B has not provided evidence showing it has relinquished the physical ability to deliver groundwater to these acres, nor has it transferred the nature of use of any portion of its groundwater rights from irrigation to mitigation. Because these acres are soft conversions, the Director has required any of A&B's groundwater rights authorizing irrigation of the converted acres to be either fully mitigated or be included on the curtailment list so the Watermaster has the authority to curtail delivery of groundwater to the converted acres.

The LRE Water expert report also comments, "*IDWR has not demonstrated why it cannot calculate a partial mitigation obligation for only partial use of a groundwater right*".[18] In 2024 and 2025, the Director allowed A&B to provide less than the full volume of A&B's proportionate share and select which water rights to mitigate for and which to leave on the curtailment list. The Director decided not to allow A&B to mitigate for a partial water right while leaving a partial water right on the curtailment list. This was an administrative decision that is independent from the ability to "*calculate a partial mitigation obligation for only partial use of a groundwater right.*"

Colvin Opinion 3 – "An ESPA Groundwater Management Plan (GMP) could provide coordination of mitigation actions and curtailment, balancing in-season demands with the decades of historical junior groundwater pumping. A GMP could be structured to allow for transient modeling of the long-term mitigation obligations/actions and the in-season mitigation action benefits to reach gains."

Development of a GMP is outside the scope of this proceeding.

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[16] Colvin, D., 2025a, *A&B Proportionate Share Expert Report, Docket No. CM-DC-2010-001*, LRE Water, prepared for A&B Irrigation District, November 2025, p. 5.

[17] A&B Irrigation District, 2023, *Stipulation Regarding A&B irrigation District's Amended Rule 43 Mitigation Plan*. CM-MP-2015-003, December 27, 2023, p. 2, https://idwr.idaho.gov/wp-content/uploads/sites/2/legal/CM-MP-2015-003/CM-MP-2015-003-20231227-Stipulation-Regarding-AB-Irrigation-Districts-Amended-Rule-43-Mitigation-Plan.pdf.

[18] Colvin, D., 2025a, *A&B Proportionate Share Expert Report, Docket No. CM-DC-2010-001*, LRE Water, prepared for A&B Irrigation District, November 2025, p. 5.

Colvin Opinion 4 – "The IDWR methodology contains logical inconsistencies rooted in problems with attempts to constrain injury determination and defining mitigation requirements within a single irrigation season. ESPA methodology calculation of IDS is caused by decades of junior groundwater pumping, and the mitigation responsibility should consider priority."

The Methodology is confined to determining injury within a single irrigation season because of high variability in the SWC members' water supply. In some years, there is an ample supply of water from snowmelt runoff and the SWC members have no water supply shortfalls. In other years, ESPA discharge to the near Blackfoot to Minidoka reach of the Snake River is a larger fraction of the SWC members' water supply and shortfalls occur because of reduced ESPA discharge. Within years with shortfalls to the SWC members' water supply, there are significant variations in the shortfall volume. The Methodology was developed to adapt the curtailment of groundwater use or alternative mitigation with replacement water to the variations in water supply and predicted shortfalls to the SWC members.

Because the Methodology responds to this variability in water supply, the volume of groundwater use that would need to be curtailed to alleviate the IDS cannot reasonably be predicted in advance of the April 1 water supply forecast and curtailment cannot be reasonably implemented before May. Thus, the Methodology specifies the priority date for curtailment of groundwater use will be determined using a transient ESPAM simulation to calculate the curtailment priority date predicted to produce a volume of water equal to the IDS in the near Blackfoot to Minidoka reach between May 1 and September 30 of the current year.

Neither transient nor steady-state ESPAM simulations inherently consider water right priority dates. Consideration of water right priority dates is implemented by including or excluding the impacts of water right use in an input file to a ESPAM simulation. Input files compiled based on water right priority dates can be input into either a transient or a steady-state simulation. In the 2025 As-Applied Orders, the relative priority of junior groundwater rights was considered when compiling the input file for the ESPAM simulation used to calculate the curtailment priority date for each As-Applied Order. All groundwater rights junior to the calculated curtailment priority date were included when compiling input files for ESPAM simulations used to calculate proportionate shares for mitigation of the IDS with replacement water.

Colvin Opinion 5 – "The Methodology order does not specify how to calculate the proportionate amount of mitigation required by each junior groundwater right covered by a mitigation plan. IDWR should calculate proportionate share consistently."

While the Methodology order does not specify how to calculate a groundwater user's proportionate share of an IDS, the method used to calculate A&B's proportionate share for the April 2025 and

July 2025 orders is consistent with guidance provided by the post-hearing order and the Methodology order. In the post-hearing order, the Director contemplated arguments requesting a futile call determination and implementation of a trim line based on the timing of response to a single-season of curtailment.

> *"If the Director were to determine that curtailment of some ground water rights would not immediately accrue water to the senior priority surface water rights, even though the cumulative impact is significant, and that the delivery call is futile because there is no immediate benefit for the surface water rights, the holders of junior priority ground water rights could recurringly avoid curtailment. Avoiding obligation because of delayed cumulative impact is contrary to the intent of the CM* [Conjunctive Management] *Rules. The Director concludes the delivery call is not futile."*[19]

> *"The spatial distribution of long-term impacts of Ground Water Users on aquifer discharge to the near Blackfoot to Minidoka reach is documented in the record. In Ms. Sigstedt's expert report, Figure 3-6 shows the steady state response function, which is the long-term impact of pumping on the near Blackfoot to Minidoka reach as a percentage of the volume of ground water used. Ex. 837 at 38. Figure 3-6 shows that Ground Water Users on both sides of the Great Rift (the boundary applied to the Rangen delivery call trim line) have significant long-term impacts on aquifer discharge to the nB-Min reach. As a result, the Director concludes that a trimline is not appropriate."*[20]

These statements provide guidance that mitigation obligations should be calculated based on the long-term cumulative impacts of groundwater use. If mitigation obligations for replacement water were determined based on the short-term response to curtailment between May 1 and September 30 of this irrigation season, it would effectively implement a trimline or futile call because groundwater users with significant long-term impacts to the near Blackfoot to Minidoka reach would have minimal mitigation obligations. Most of the burden of mitigation for the long-term impacts of groundwater users more distant from the reach would be shifted to groundwater users located closer to the reach, effectively implementing a trimline. In years with IDS volumes larger than the volume that can be delivered through the reach by in-season curtailment, the resulting total mitigation volume would be less than the shortfall volume and would fail to fully mitigate

[19] IDWR, 2023b. *Post-Hearing Order Regarding Fifth Amended Methodology Order*, July 19, 2023, Docket No. CM-DC-2010-001, p. 26, https://idwr.idaho.gov/wp-content/uploads/sites/2/legal/CM-DC-2010-001/CM-DC-2010-001-20230719-Post-Hearing-Order-Regarding-Fifth-Amended-Methodology-Order.pdf.

[20] IDWR, 2023b. p. 27.

the injury to the senior surface water users, effectively implementing a futile call for a portion of the seniors' shortfall.

The Methodology order clarifies that a steady-state ESPAM simulation is an appropriate analysis for evaluating the long-term cumulative impacts of groundwater use.

> *"Steady-state simulations are appropriate for evaluating the average annual impact of aquifer stresses that have been, or will be, applied for decades (i.e., ground water pumping year after year…"*[21]

The effect of calculating mitigation obligations for replacement water based on the short-term response to in-season curtailments is illustrated in Table 1, which shows the modeled long-term average annual impact of A&B's junior groundwater use on the near Blackfoot to Minidoka reach, A&B's proportionate share calculated for the April and July 2025 orders, and an alternate proportionate share calculated based on the short-term impact of curtailing A&B's junior groundwater use. If the short-term impact of curtailing A&B's junior groundwater use was used to calculate the proportionate share, A&B would avoid most of their mitigation obligation to the senior water users because of delayed cumulative impact.

Table 1. Comparison of proportionate share calculation method results

Order	Priority date	Cumulative impact on nr Blackfoot to Minidoka reach	Proportionate share of IDS	Alternate share calculation method
April 2025	junior to 8/28/1955	10,600 AF/yr	384 AF (0.6%)	1.2 AF (0.002%)
July 2025	junior to 10/11/1900	82,200 AF/yr	5,039 AF (6.7%)	1.8 AF (0.002 %)

If A&B's proportionate share were calculated using this alternate method, 383 AF of their mitigation obligation calculated for the April 2025 order would be shifted to other groundwater users located closer to the near Blackfoot to Minidoka reach and 5,037 AF of their July 2025 mitigation obligation would be shifted to a combination of other groundwater users and

[21] IDWR, 2023a. *Sixth Final Order Regarding Methodology for Determining Material Injury to Reasonable In-Season Demand and Reasonable Carryover*. Docket No. CM-DC-2010-001, July 19, 2023, p. 33, https://idwr.idaho.gov/wp-content/uploads/sites/2/legal/CM-DC-2010-001/CM-DC-2010-001-20230719-Sixth-Final-Order-Regarding-Methodology.pdf.

unmitigated injury to the senior SWC water users.[22] This alternate method for calculating proportionate shares of the predicted shortfall was rejected because Director Spackman concluded the results of using this method would be contrary to the intent of the CM Rules.

The discussion of Methodology steps in the LRE Water expert report states, "*Use of the steady-state model does not account for priority between junior ground water rights, and how that should be apportioned*" and, "*the transient version of the model should be consistently used for implementing the steps and apportioning mitigation obligations that occur during an irrigation season.*"[23] As discussed previous in response to Colvin Opinion 4, neither transient nor steady-state ESPAM simulations inherently consider water right priority dates. Using the transient analysis (the alternate share calculation method in Table 1) does not account for the relative priority between the junior groundwater rights subject to curtailment. This method apportions the obligation solely based on which water users have the largest short-term impact to the near Blackfoot to Minidoka reach. Using this method would result in more senior groundwater users located closer to the near Blackfoot to Minidoka reach having to mitigate for a larger fraction of their long-term impact on the reach than a more junior groundwater user located more distant from the reach.

The LRE Water expert report also proposes a modification to the alternate approach for calculating proportionate shares when the IDS exceeds the volume that can be produced in-season by a single season of curtailment.[24] The proposed method would use the same transient simulation time discretization used to calculate the priority date for curtailment to calculate proportionate shares up to the volume that would be produced in-season. The remainder of the IDS would be apportioned among water users junior to a later priority date calculated using a steady-state or long-term transient simulation to produce the remainder of the IDS. While this approach would avoid shifting the impacts of groundwater use to unmitigated injury to the senior SWC water users, there are multiple pitfalls to this approach. This approach continues to shift a significant portion of the mitigation obligation for the long-term impacts of groundwater use from users distant from the reach to users closer to the reach. This approach would also result in many water users with later priority dates being required to mitigate for a volume exceeding their long-term average annual impact. In the example provided in the LRE water report, groundwater users with rights junior to November 27, 1984 would be assigned a portion of the IDS equal to their long-term impact plus the volume of their impacts that accrue to the reach during the first irrigation season.

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[22] If this alternate method had been used in the July 2025 order to calculate proportionate shares of the IDS for all groundwater users, the total mitigation obligation of all junior groundwater users would have been 17,224 AF less than the predicted injury to the senior SWC water users.

[23] Colvin, D., 2025a. *A&B Proportionate Share Expert Report, Docket No. CM-DC-2010-001*, LRE Water, prepared for A&B Irrigation District, November 2025, p. 7.

[24] Colvin, D., 2025a. p. 9-10.

For water users located very close to the reach, the calculated mitigation volume would be substantially larger than their long-term impact. This approach would still require groundwater users with earlier priority dates located close to the reach to mitigate a substantial fraction of their long-term impacts to the reach, while groundwater users with earlier priority dates located distant from the reach would mitigate for very little of their long-term impacts to the reach.

Colvin Opinion 6 – "A&B's mitigation plan is unique and should be treated as such in how IDWR calculates proportionate shares. According to the terms of the plan, consideration should be given to all A&B's mitigation activities."

Other stipulated mitigation plans are similar to A&B's mitigation plan in that the groundwater users have agreed to undertake aquifer enhancement projects (such as soft conversions, managed recharge, idling irrigated acres) regardless of the IDS or carryover shortfall calculated in any given year. Other stipulated mitigation plans also include direct delivery of storage water or monetary compensation to the SWC as a component of their mitigation plans to mitigate for injury beyond what is mitigated by their aquifer enhancement projects. One significant difference between A&B's mitigation plan and the other mitigation plans is that the volume of storage water or monetary compensation delivered to the SWC by other groundwater users is stipulated to be independent of IDWR's calculation of a proportionate share of the IDS or carryover shortfall in the other mitigation plans, while A&B's mitigation plan stipulates,

> *"A&B also holds rights to storage water in American Falls Reservoir (46,826 at) and Palisades Reservoir (90,800 at) and has the ability to participate in Water District 01 's Rental Pool. Available storage can be delivered to injured Coalition members to mitigate for any shortfalls caused by the District's junior priority ground water that are subject to curtailment beyond what may not be covered by the "soft conversions" described above. This action would only be necessary if the benefits of the above conversions do not satisfy the injury caused by A&B's ground water rights that are found to be subject to curtailment in any given year."*[25]

Unlike the other stipulated mitigation plans, A&B's mitigation plan specifies that delivery of storage will be dependent on the Director's determination of injury in any given year.

[25] A&B Irrigation District, 2023, *Stipulation Regarding A&B irrigation District's Amended Rule 43 Mitigation Plan*. CM-MP-2015-003, December 27, 2023, p. 2-3, https://idwr.idaho.gov/wp-content/uploads/sites/2/legal/CM-MP-2015-003/CM-MP-2015-003-20231227-Stipulation-Regarding-AB-Irrigation-Districts-Amended-Rule-43-Mitigation-Plan.pdf.

"*Unlike the SWID Mitigation Plan, the A&B Mitigation Plan does not provide safe harbor for specific activities. Instead, A&B's plan requires that A&B "mitigate for any shortfalls caused by" A&B's junior ground water diversions. A&B Mitigation Plan, at 3. Under its plan, A&B may undertake a series of different mitigation activities, and if those activities do not offset their depletive effect on the SWC, A&B has committed to provide storage water to make up the difference. Id. This has not changed in the Stipulated Mitigation Plan."*[26]

"In the SWC delivery call, the mitigation obligation owed by ground water users can vary from year to year and within an irrigation season depending on current water supply and crop need requirements. Only by applying current water supply and crop need requirements and the methodology order process can the Department determine A&B's proportionate share of any obligation, and whether A&B must provide storage water to offset the depletive effects of its pumping on the SWC."[26]

As previously noted in response to Colvin Opinion 1, to the extent that historic and ongoing soft conversions benefit the ESPA water budget and the current year's aquifer discharge to the near Blackfoot to Minidoka reach, these benefits are included in the Forecast Supply (FS)[27] in the April 2025 and July 2025 orders. Because the in-season demand shortfall (IDS) is calculated as the difference between the reasonable in-season demand (RISD) and the FS, the IDS is not mitigated by the soft conversions. The predicted IDS is a shortfall that is predicted to occur even after the effects of the soft conversions. The benefits of the soft conversions to near Blackfoot to Minidoka reach gains result in a larger FS and a smaller predicted IDS. The predicted IDS would be larger without the benefits of the soft conversions. Therefore, A&B's proportionate share of the IDS is a proportion of the calculated injury to the SWC that has not been mitigated by soft conversions or other aquifer enhancement projects. The IDS and A&B's proportionate share are already reduced as a result of the benefits of A&B's soft conversions and other aquifer enhancement activities.

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[26] IDWR, 2025c. *Final Order Approving Amended Mitigation Plan*, Docket No. CM-MP-2015-003, p. 4-5, https://idwr.idaho.gov/wp-content/uploads/sites/2/legal/CM-MP-2015-003/CM-MP-2015-003-20250110-Final-Order-Approving-Amended-Mitigation-Plan.pdf.

[27] The FS in the April 2025 order includes the predicted natural flow supply and the predicted storage allocation for each SWC member. The FS includes natural flow diverted through June 30, the predicted natural flow supply for the remainder of the irrigation season, and the preliminary storage allocation for each SWC member.

Colvin Opinion 7 - There was a time when the ESPA was in balance and groundwater pumping was not reducing the supplies of senior surface water rights and causing in-season demand shortfalls. Because IDWR continued to approve new groundwater rights without consideration of long-term impacts on the connected surface water sources, the system became over-appropriated and junior groundwater pumping began reducing the senior surface water supplies. IDWR should explain how the groundwater rights with a priority date senior to the time of over-appropriation are equally responsible for mitigating the IDS as groundwater rights junior to that time.

I disagree with the statement, "*There was a time when the ESPA was in balance and groundwater pumping was not reducing the supplies of senior surface water rights and causing in-season demand shortfalls."* Based on water right priority dates, groundwater rights were developed beginning prior to 1900. Moratoriums on the approval of new groundwater rights for consumptive uses have been in place for the ESPA since 1992[28]. There is no evidence that the ESPA water budget was in balance during this development period. The cumulative ESPA storage change calculated by Kjelstrom (year)[29] for 1912-1980 and McVay (1980-2025)[30] indicates continual imbalances in aquifer recharge and discharge throughout the period of groundwater development (Figure 3).

Prior to about 1950, ESPA recharge generally exceeded ESPA discharge, largely because of recharge incidental to very inefficient surface water irrigation practices. Since 1950, ESPA recharge has, on average, been less than ESPA discharge, largely because increases in the efficiency of surface water conveyance and irrigation practices resulted in a decrease in ESPA recharge while the development of groundwater pumping resulted in an increase in ESPA discharge. Improvements to irrigation technology and crop changes have also resulted in an increase in crop yields and evapotranspiration for both groundwater and surface water irrigated lands, further contributing to the imbalance in ESPA recharge and discharge. In the future, continued improvement in surface water conveyance and irrigation efficiency may continue to reduce ESPA recharge.

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[28] IDWR, 2024b. *Amended Snake River Basin Moratorium Order*, July 16, 2024, p. 15-18, https://idwr.idaho.gov/wp-content/uploads/sites/2/legal/SRB-Moratorium/SRB-Moratorium-20240716-Amended-Snake-River-Basin-Moratorium-Order.pdf.

[29] Kjelstrom, L.C., 1995. *Streamflow Gains and Losses in the Snake River and Ground-Water Budgets for the Snake River Plain, Idaho and Eastern Oregon*, U.S. Geological Survey Professional Paper 1408-C., p. C33, https://pubs.usgs.gov/publication/pp1408C,.

[30] McVay, M., 2025. *Eastern Snake Plain Aquifer Storage Update*, presented to the Idaho Water Resource Board Aquifer Stabilization Committee, September 10, 2025, p. 3-40, https://idwr.idaho.gov/wp-content/uploads/sites/2/iwrb//2025a/AquiferStabilizationCommitteeMeeting2-25MATERIALS.pdf.

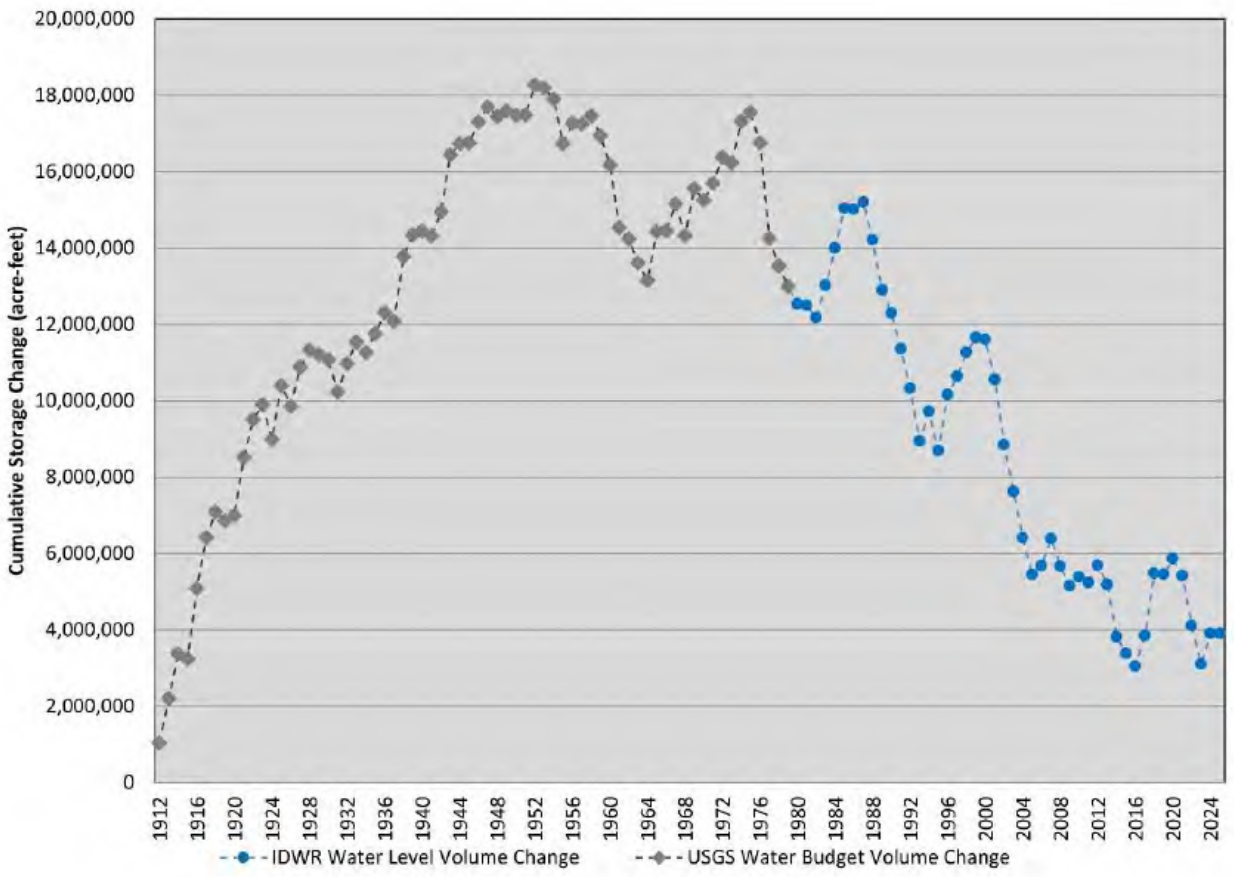


Figure 3. Cumulative change in ESPA storage volume since spring 1912

With respect to the SWC delivery call, the water supply is variable, and shortfalls do not occur every year. The Director has the authority to respond by curtailing junior water use or requiring compliance with an approved mitigation plan during times when shortfalls to the SWC members' water supply are predicted by applying the Methodology.

With respect to the SWC delivery call, all groundwater users with priority dates junior to October 11, 1900 are junior groundwater users and are potentially subject to the delivery call in years when an IDS or carryover shortfall is calculated. IDWR's Director accounts for priority date differences between the groundwater users when determining the subset of junior water users that is subject to curtailment in response to a specific IDS or carryover shortfall calculation. Once the subset of junior water users that is subject to curtailment is identified, those junior users are afforded the opportunity to continue out-of-priority diversions by participating in an approved mitigation plan. Proportionate mitigation obligations for providing replacement water pursuant to specific mitigation plans are calculated based on the long-term impacts of all junior users subject to curtailment.

Colvin Opinion 8 - When the IDS was estimated in July, IDWR recognized actual supply and demand conditions and that the May curtailment was not implemented. Partially because no May curtailment was implemented, the July IDS increased.

I disagree with the statement, "*IDWR recognized…that the May curtailment was not implemented.*" IDWR's Director issued an order on May 16, 2025, curtailing unmitigated groundwater rights junior to August 28, 1955, effective May 31, 2025. IDWR Compliance Section staff worked with ESPA Water District Watermasters to implement the May curtailment order. I do acknowledge that the May curtailment order was not effective until May 31, 2025, so any potential benefits of curtailing between May 1 and May 31 were not realized.

On July 25, 2025, the Director issued an order curtailing unmitigated groundwater rights junior to October 11, 1900, effective July 25, 2025. IDWR Compliance Section staff worked with ESPA Water District Watermasters to implement the July curtailment order.

Because unmitigated water rights represent a small fraction of ESPA groundwater use, the benefits of the curtailments are relatively small. I performed ESPAM2.2 simulations to estimate the following impacts on the near Blackfoot to Minidoka reach related to the implementation of the May and July 2025 curtailment orders. Compliance data used to generate input for the model simulations were provisional data provided by Brian Ragan on November 26, 2025. Only unmitigated water rights that do not meet the domestic exemption limits of Idaho Code 42-111 were subject to the curtailment orders. ESPAM2.2 simulations were performed to evaluate:

- impacts of groundwater use by seven entities who received notices of violation (NOVs) for continued use of junior water rights,
- potential impacts of potential continued use of junior water rights classified as "investigation ongoing,"
- benefits of curtailment of junior water rights classified as "curtailed by user" beginning in June, and
- impacts of May groundwater use by water rights junior to August 28, 1955.

Model simulation results are summarized in Table 2. The lack of curtailment during May is estimated to have contributed 7 AF to the July IDS. This is not a significant component of the 75,254 AF July IDS. If the July 2025 IDS had been 7 AF lower, the priority date for the July curtailment order would still have been junior October 11, 1900 and A&B's proportionate share would have been reduced by less than 1 AF.

Table 2. Estimated impact of 2025 curtailment implementation on near Blackfoot to Minidoka reach gains

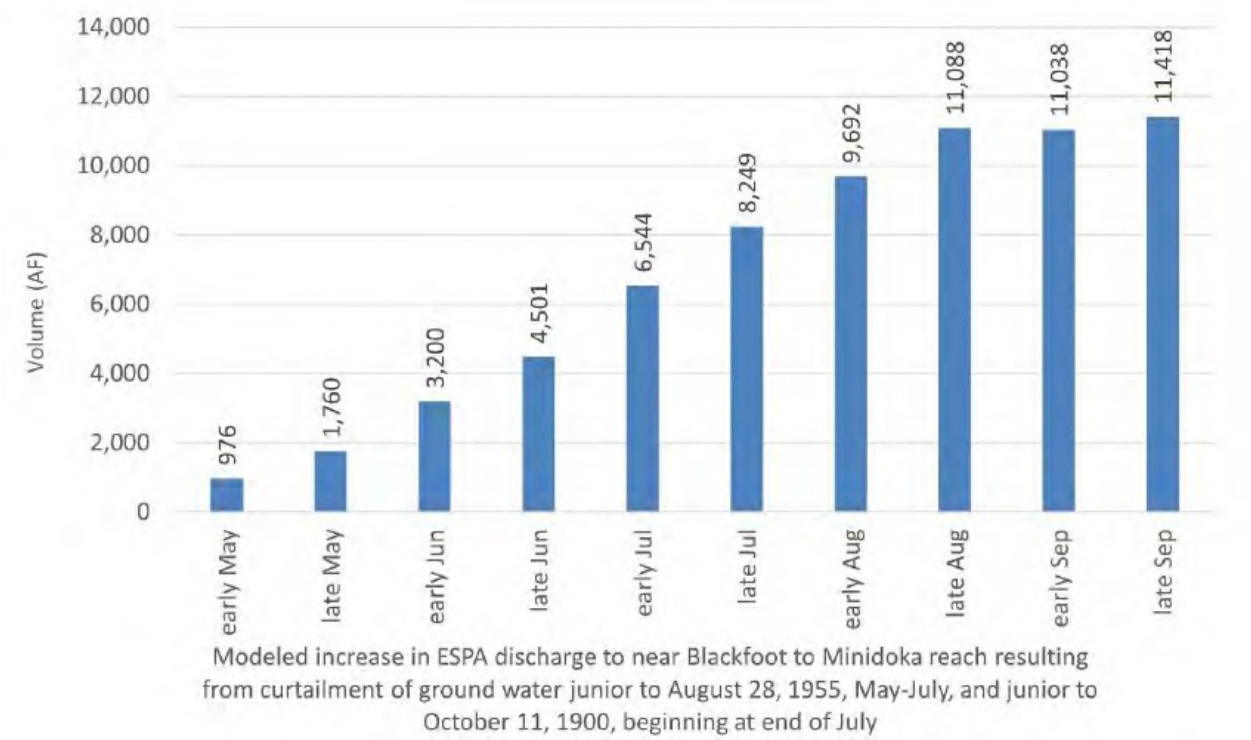
Group	Estimated acres junior to 8/28/1955	Estimated acres junior to 10/11/1900	Estimated consumptive use junior to 8/28/1955 (AF)	Estimated consumptive use junior to 10/11/1900 (AF)	Modeled impact through Jun 30 (AF)
NOVs	221	293	415	473	-20
Investigation ongoing	39	164	77	160	-3
Curtailed by user	-1,890	-4,538	-2,310	-5,901	5
May use of water rights curtailed by user	1,890	NA[31]	528	NA[31]	-7

Colvin Opinion 9 - If IDWR had implemented the May curtailment, the July IDS would have been less, and the curtailment date could have been more junior. IDWR's lack of curtailment action contributes to a reduction in the availability of groundwater rights junior to 1955.

As stated in the July 2025 order, the July IDS was large enough that increasing the curtailment to include all groundwater use junior to the SWC's injured natural flow water right was insufficient to produce a modeled volume of water equal to the July IDS by September 30, 2025.

> *"In July 2025, the Department ran the ESPAM2.2 to simulate the effect of adjusting the curtailment priority date at the end of July. The ESPAM2.2 simulation calculated that the curtailment of ground water rights junior to August 28, 1955, through the end of July followed by curtailment of groundwater rights junior to October 11, 1900, will produce a volume of water of 58,000 AF in the near Blackfoot to Minidoka reach between July 1 and September 30 of this irrigation season. The following figure summarizes the results of the ESPAM2.2 simulation:*

[31] Not applicable for evaluating the impacts of the May 31, 2025 effective date of the May 2025 curtailment.



The predicted July through September benefits to the near Blackfoot to Minidoka reach from curtailment of ground water rights bearing priority dates junior to August 28, 1955, through the end of July followed by curtailment of groundwater rights junior to October 11, 1900, are less than the July IDS of 75,300 acre-feet. Increasing the curtailment to include ground water rights junior to October 11, 1900, will offset as much of the July IDS as possible."[32]

Decreasing the July IDS by the 7 AF estimated impact of the May pumping of water users who curtailed in June (Table 2) would not have changed the priority date for the July 2025 curtailment order. The July 2025 IDS would have to be reduced by more than 17,000 AF to result in calculation of a later priority date.

[32] IDWR, 2025b. *Order Revising April 2025 Forecast Supply and Continuing May 16, 2025 Curtailment Order Methodology Steps 5 & 6).* Docket No. CM-DC-2010-001, July 10, 2025, p. 9-10, https://idwr.idaho.gov/wp-content/uploads/sites/2/legal/CM-DC-2010-001/CM-DC-2010-001-20250710-Order-Revising-April-2025-Forecast-Supply-Method.-Steps-5-6-July-2025-As-Applied.pdf.

Response to Spronk Water Engineers expert report

The expert report prepared by Spronk Water Engineers on behalf of Aberdeen – American Falls Ground Water District includes eight opinions from Gregory K. Sullivan, P.E. and Nathan Horesh, regarding the A&B proportionate share analysis.

Sullivan and Horesh Opinion 1 - Determination of the curtailment date and proportional allocation of the Shortfall to junior groundwater users are two separate issues. It is not essential that the same type of modeling (i.e., steady-state, or transient) be employed in the analyses for both processes.

I concur with this opinion. The time discretization of each ESPAM2.2 simulation is designed to answer a specific question. For determination of the curtailment priority date, the Director's question is, "What subset of junior groundwater users must be curtailed to produce a volume of water equal to the IDS in the near Blackfoot to Minidoka reach by September 30 of this irrigation season?" For determination of a proportionate share of the IDS for mitigation purposes, the Director's question is, "What is the proportionate long-term impact of the junior groundwater use subject to curtailment and covered by this mitigation plan on aquifer discharge to the near Blackfoot to Minidoka reach?" Different questions require use of different time discretization. This is reflected in the modeling approach IDWR used to answer each question.

Sullivan and Horesh Opinion 2 - There is no dispute that current depletions to the Snake River in the Near Blackfoot to Minidoka Reach from ESPA pumping result from pumping that occurred over many years and that ESPAM 2.2 is the best available tool to estimate the timing, location, and amount of Snake River depletions from ESPA pumping.

I concur with this opinion.

Sullivan and Horesh Opinion 3 - Proportionate allocation of the SWC Shortfall using ESPAM 2.2 transient runs would fail to consider the depletive effect that pumping in years prior to the current year have on Snake River flows. Transient modeling would only consider the effect that pumping during the current year is having on flows in the Near Blackfoot to Minidoka Reach.

Transient runs could be performed with a time discretization that would consider the depletive effect that pumping in years prior to the current year have on Snake River flows. Because pumping has been occurring for decades, the results would be nearly identical to the results obtained from the steady-state analysis, which provides a more efficient method for evaluating long-term impacts. Assuming this opinion is intended to pertain to a transient run with the same time discretization used to calculate the in-season response to a single-season of curtailment, I concur

with this opinion. A short-term transient simulation would fail to consider the long-term cumulative impacts of pumping on this year's streamflow and would transfer the mitigation obligations of users located more distant from the near Blackfoot to Minidoka reach to users located closer to the reach.

Sullivan and Horesh Opinion 4 - IDWR's use of steady-state runs of ESPAM 2.2 to proportionately allocate the SWC Shortfall, including the amount allocated to A&B, is appropriate because doing so acknowledges that the computed SWC Shortfalls in the current year result from impacts to Snake River flows in the Near Blackfoot to Minidoka Reach caused by present and past ESPA groundwater pumping.

I concur with this opinion.

Sullivan and Horesh Opinion 5 - Reliance on ESPAM 2.2 transient runs to proportionately allocate the SWC Shortfall would penalize groundwater users that are located in close proximity to the Near Blackfoot to Minidoka Reach of the Snake River because curtailment of their pumping would have a more immediate effect on that reach of the Snake River compared to groundwater users located more distant from the reach. Penalizing groundwater users located close the Near Blackfoot to Minidoka Reach is improper since impacts from pumping impacts to the river reach from groundwater users near and far have reached near steady-state.

I concur with this opinion, again assuming the opinion is intended to pertain to a short-term transient simulation with the same time discretization used to calculate the in-season response to a single-season of curtailment.

Sullivan and Horesh Opinion 6 - The effect of proximity to the Near Blackfoot to Minidoka Reach is illustrated in ***Figure 5.1****. The graph on the left shows the transient effect of pumping at different locations ranging from 10 miles to 45 miles from the Snake River in and near the AFA District. The inset map on the right shows the locations where pumping was simulated. The cumulative response of pumping 10 miles from the river reaches 90% of the steady-state response in approximately 12 years. At greater distances from the river, the transient response is slower with 90% of the steady-state response reached in about 25 years at a location 25 miles from the river and in about 33 years at a location 45 miles from the river.*

I have not verified the results of the model simulations presented in this opinion. The results appear to be reasonable.

Sullivan and Horesh Opinion 7 - Use of transient run results from ESPAM 2.2 from the first year of curtailment to allocate the SWC Shortfall volumes would disproportionately assign a greater portion of the SWC Shortfall to groundwater users located relatively close to the Near Blackfoot to Minidoka Reach with little or none of the SWC Shortfall assigned to groundwater users located distant from the reach.

I concur with this opinion.

Sullivan and Horesh Opinion 8 - We reserve the right to revise and supplement the foregoing opinions regarding use of transient runs of ESPAM 2.2 to apportion the SWC Shortfall among groundwater users with groundwater rights that are junior to the priority date of curtailment after A&B reveals the details of its opposition to IDWR's use of steady-state runs to apportion the SWC Shortfalls.

I have no comment on this opinion.

On page 8 of the Spronk Water Engineers' expert report, Sullivan and Horesh state, "*The J.R. Simplot Company ("Simplot") obtained approval of a mitigation plan to mitigate impacts to the TFCC from up to 704 AF of pumping under two groundwater rights during the 2025 irrigation season. The mitigation obligation will be computed based on Simplot's proportionate share of injury to the TFCC.*" I would like to clarify, that while I was asked to calculate a proportionate share of injury to the SWC during the Director's review of Simplot's mitigation plan, the plan does not state that the mitigation obligation will be computed based on a proportionate share. Simplot's 2025 mitigation plan provided storage water in considerable excess of the calculated proportionate share, in an amount equal to the maximum authorized diversion volume for the two water rights covered by the mitigation plan.

> *"To mitigate any impacts on the Snake River that may result from the applicant diverting water during the 2025 irrigation season pursuant to IDWR Water Right Nos. 29-7089 and 29-2515, 704 acre feet of groundwater stored in Palisades Reservoir will be credited to the storage accounts of the Twin Falls Canal Company for use as needed. The applicant will the divert no more than 704 acre feet during the 2025 irrigation season from the point of diversion authorized under IDWR Water Right Nos. 2-7089* [29-7089] *and 29-2515."*[33]

[33] Simplot, 2025. *Application for Approval of Mitigation Plan (J.R. Simplot Company)*. In the Matter of the Request of Administration in Water District 120 and the Request for Delivery of Water to Senior Surface Water Rights by the SWC. July 17, 2025, https://idwr.idaho.gov/wp-content/uploads/sites/2/legal//CM-MP-2025-002/CM-MP-2025-002-20250717-Application-for-Approval-of-Mitigation-Plan.pdf.

Response to LRE Water rebuttal report

The rebuttal report prepared by LRE Water on behalf of A&B includes six opinions from David Colvin, P.G., regarding the A&B proportionate share analysis.

Colvin Rebuttal Opinion 1 – "The A&B mitigation plan is unique in that their storage water delivery requirement is reduced by the historical impacts of surface water conversion and CREP activities."

As discussed previously in response to Colvin Opinions 1 and 6 from the first LRE Water expert report, the benefits of historic and ongoing surface water conversion and CREP activities are already included in the Forecast Supply (FS) and the IDS is the predicted injury that has not been mitigated by aquifer enhancement activities. A&B's proportionate share of the IDS is the remaining injury to be mitigated by A&B's delivery of storage water. Reducing A&B's storage delivery requirement by the impacts of surface water conversions and CREP would double-count the benefits of those mitigation actions.

Colvin Rebuttal Opinion 2 – "Surface water conversion and CREP are changes to the "equilibrium assumption" of groundwater pumping in the ESPA, which is cited as justification of steady state modeling. A&B's conversion and CREP changes to the equilibrium simplification need to be evaluated with a transient model."

Because the impacts of conversions and CREP are already accounted for in the calculation of the predicted FS and IDS, it is not necessary to evaluate the benefits of these activities with ESPAM. Reducing A&B's proportionate share of the IDS by the impacts of surface water conversions and CREP would double-count the benefits of those mitigation actions.

Colvin Rebuttal Opinion 3 – "IDWR should evaluate the A&B stipulated mitigation plan consistent with the terms of the plan."

As discussed previously in response to Colvin Opinion 6 from the first LRE Water expert report, IDWR's calculation of a proportionate share for A&B is consistent with the Director's evaluation of the plan's terms as described in the Final Order Approving Mitigation Plan.

Colvin Rebuttal Opinion 4 – "Mitigation plans should ideally address short-term in-season demand shortfalls (IDS) and long-term increases in aquifer storage."

CM Rule 43 includes factors to be considered by the Director in the evaluation of mitigation plans. The Director applied CM Rule 43 when reviewing and approving mitigation plans for the SWC

delivery call. Which factors mitigation plans *"should ideally address"* is not within the scope of this proceeding.

Colvin Rebuttal Opinion 5 – "Administering mitigation plans and curtailment to address IDS faces challenges, including the fair treatment and coordination of differences between stipulated mitigation plans. A Groundwater Management Plan (GMP) could be developed to coordinate consistent aquifer conservation standards that address short-term IDS and long-term aquifer storage recovery that will help mitigate future IDS."

Development of a GMP is outside the scope of this proceeding.

Colvin Rebuttal Opinion 6 – "If the proportionate share calculation is not changed, the benefits of A&B's mitigation actions (conversions, CREP) should reduce their proportionate share, consistent with their mitigation plan. A transient run of their mitigation actions is the appropriate method for calculating the mitigation action benefits. Our modeling calculations show that according to the terms of the A&B mitigation plan, their proportionate share should be reduced by 1,118.4 acre-feet (af), the impact of their conversion acres in the 2025 irrigation season."

As discussed previously in response to Colvin Opinions 1 and 6 from the first LRE Water expert report, the benefits of historic and ongoing surface water conversion and CREP activities are already included in the Forecast Supply (FS) and the IDS is the predicted injury that has not been mitigated by aquifer enhancement activities. A&B's proportionate share of the IDS is the remaining injury to be mitigated by A&B's delivery of storage water. Reducing A&B's proportionate share by the impacts of surface water conversions and CREP would double-count the benefits of those mitigation actions.

Response to Spronk Water Engineers rebuttal report

The Spronk Water Engineers rebuttal report responds to opinions offered in the LRE Water expert report. I disagree with the comments on page 10 and 13 which suggest that ESPAM modeling should be used for "*identification of which groundwater users are causing the projected shortage(s) to the SWC member(s)*" and state, *"the first 40,000 AF of shortage is caused by groundwater rights junior to 1990, the next 120,000 AF of shortage by groundwater rights between 1990 and 1980, the next 270,000 AF of shortage by groundwater rights between 1980 and 1970, etc".*

The Methodology requires the Director to evaluate whether there is a predicted shortfall to the senior SWC members' surface water supply for the current season and to curtail junior

groundwater rights as needed to address the predicted shortfall for the current season. In years where there is not a predicted shortfall, the Director does not curtail junior groundwater users. Use of ESPAM modeling to calculate a priority date for which the junior long-term average annual impacts are equal to the IDS was rejected by Director Spackman in the 2023 Post-Hearing Order[34] and is not part of the Methodology for addressing the SWC delivery call.

Response to Lynker rebuttal report

The Lynker rebuttal report responds to opinions offered in the LRE Water expert report. I have no comments on the Lynker rebuttal report.

Summary of IDWR staff opinions

In conclusion, I offer the following opinions regarding the calculation of proportionate shares of IDS and carryover shortfall volumes for As-Applied Orders in the SWC Delivery Call and other issues raised by A&B.

1. ESPAM2.2 simulations performed for the As-Applied Orders are designed to answer specific questions. Simulations used to calculate a priority date for curtailment are designed to answer the question, "What subset of junior groundwater users must be curtailed to produce a volume of water equal to the IDS in the near Blackfoot to Minidoka reach by September 30 of this irrigation season?" Simulations used to calculate proportionate shares of the IDS for mitigation by direct delivery of storage water are designed to answer the question, "What is the proportionate long-term impact of the junior groundwater use subject to curtailment and covered by this mitigation plan on aquifer discharge to the near Blackfoot to Minidoka reach?"

2. Steady-state ESPAM2.2 simulations are the most efficient method for calculating proportionate shares based on the cumulative impacts to the near Blackfoot to Minidoka reach resulting from long-term groundwater use pursuant to groundwater rights determined to be subject to curtailment.

[34] IDWR, 2023b. *Post-Hearing Order Regarding Fifth Amended Methodology Order*, July 19, 2023, Docket No. CM-DC-2010-001, p. 25, https://idwr.idaho.gov/wp-content/uploads/sites/2/legal/CM-DC-2010-001/CM-DC-2010-001-20230719-Post-Hearing-Order-Regarding-Fifth-Amended-Methodology-Order.pdf.

3. Calculating proportionate shares based on the long-term impacts of groundwater use pursuant to groundwater rights determined to be subject to curtailment is consistent with Director Spackman's conclusions that avoiding obligation because of delayed impact is contrary to the CM rules, the delivery call is not futile, and a trimline is not appropriate.

4. Calculating proportionate shares based on the short-term impacts of a single in-season curtailment would shift much of the burden of mitigation for the long-term impacts of groundwater use at locations distant from the reach to water users located closer to the reach. This approach does not account for relative water right priority between the juniors.

5. The alternative method for calculating proportionate shares suggested in the LRE Water expert report would shift much of the burden of mitigation for the long-term impacts of groundwater use at locations distant from the reach to water users located closer to the reach and would at times require some junior users located close to the reach to provide a mitigation volume greater than their average annual impact on the reach.

6. The apportionment of storage acquisition obligations between AFAGWD and other participants (GWDs) in the 2024 Ground Water District Mitigation Plan is a negotiated apportionment that was not prescribed by IDWR. However, the GWDs apparently agreed to apportion the storage acquisition based on their long-term impacts to the near Blackfoot to Minidoka reach calculated using steady-state ESPAM2.2 simulations. If the GWDs were to decide to apportion the storage acquisition based on the short-term impacts of a single-season curtailment, it is my opinion that AFAGWD would bear more than their fair share of the mitigation obligation while other GWDs would avoid some portion of their mitigation obligations because of delayed impact. This would be counter to Director Spackman's conclusion that avoiding obligation because of delayed impact is contrary to the CM rules.

7. The effects of historic and ongoing aquifer enhancement projects, including A&B's soft conversions, are accounted for in the calculation of the FS and IDS. The effects of the historic and ongoing aquifer enhancement projects are not sufficient to mitigate the injury to the SWC in some years. The IDS is a calculation of the remaining unmitigated injury.

8. The benefit of historic and ongoing aquifer enhancement projects, including A&B's soft conversions, is a reduction in the frequency and volume of IDS and carryover shortfalls. If the aquifer enhancement projects had not been implemented, the 2025 IDS volumes would have been higher.

9. The impact on the July 2025 IDS resulting from junior groundwater use not being curtailed until May 31, 2025, is estimated to be approximately seven acre-feet. A seven acre-foot decrease in the July 2025 IDS would not have changed the priority date for the July 2025 curtailment and would have reduced A&B's proportionate share by less than one acre-foot.

Staff Memorandum

To: Hearing Officer Gerald F. Schroeder
From: Brian Ragan, Analyst 4
Re: Request for Staff Memorandum
Date: December 30, 2025

Background

In your November 25, 2025 *Order Granting A&B's Motion to Amend Deadlines; Setting Deadline to Provide Staff Memo*, you asked Department staff "identified to testify at the hearing" to "file an agency staff memorandum … outlining the subjects of their expected testimony." The one issue identified in A&B's request for hearing which I have knowledge of relates to the Department's implementation of the May 16, 2025 curtailment order.

Subjects of Expected Testimony from Brian Ragan

1. Explain the Department's implementation of the May 16, 2025 curtailment order. This may include the following topics:
    a. How the Department created the list of ground water rights subject to the May curtailment order.
    b. How the Department's water rights database and data fields show inclusion in a water district, administration of that right by the water district, and mitigation plan affiliation for each water right.
    c. How the Department obtained information about mitigation plan affiliation for water rights subject to the May curtailment order.
    d. How the Department informed the water district watermasters of the May curtailment order.
    e. How the watermasters were instructed to initiate the curtailment process and tracked and reported their efforts to curtail ground water rights subject to the May curtailment order.
    f. How the Department generates a bi-weekly curtailment status summary report for posting to the Department's website.
    g. The Department's implementation efforts related to other curtailment orders.
    h. Internal coordination and implementation efforts of the May/July 2025 curtailment orders.

Brian Ragan

Brian W. Ragan, PG
IDWR Water Administration Bureau

RECEIVED
Dec 31, 2025
DEPARTMENT OF
WATER RESOURCES

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BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY OR FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY	Docket No. CM-DC-2010-001 **AMERICAN FALLS-ABERDEEN GROUND WATER DISTRICT'S UNOPPOSED MOTION FOR ADDITIONAL PREHEARING CONFERENCE**

COMES NOW American Falls-Aberdeen Ground Water District ("AFA"), by and through undersigned counsel of record, pursuant to Rule 220 of the Department's Rules of Procedure,[1] and hereby moves the Hearing Officer to convene a prehearing conference pursuant to Rules 412.01.e and 511. AFA conferred with the parties to this matter, including IDWR, and all parties consented to the filing of this motion.

[1] Unless stated otherwise, any "Rules" referenced herein are from the Department's Rules of Procedure located at IDAPA 37.01.01.

The parties seek resolution of the following issues by the Hearing Officer:

- Whether the Hearing Officer would like trial briefs;
- Whether AFA's Board President may testify remotely by zoom. All other AFA witnesses will be live;
- Whether the Department will present Ms. Sukow as a witness;
- Whether the Hearing Officer anticipates ruling on the pending motions in advance of trial;
- The order of presentation of the party's cases;
- Other procedural issues the parties may raise during the conference.

Resolution of these issues will simplify and expedite this proceeding set to commence on January 14, 2026. *See* Rule 510.

It appears that all parties, including IDWR representatives, would be available for a prehearing on the afternoons of January 5 at 3:00 or later, January 6 any time, or January 7, and possibly on other dates and times that the Hearing Officer might specify.

Accordingly, AFA respectfully requests that the Hearing Officer notice a prehearing conference at his earliest convenience. AFA anticipates the conference will take roughly one hour.

DATED this 31st day of December 2025.

SOMACH SIMMONS & DUNN

By _____
Sarah A. Klahn, ISB #7928

Attorneys for American Falls-Aberdeen Ground Water District

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 31st day of December 2025, I caused a true and correct copy of the foregoing document to be filed and served via electronic mail to the following:

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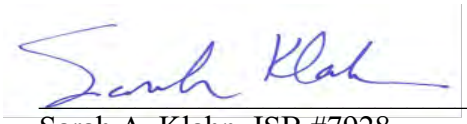

Sarah A. Klahn, ISB #7928

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY OR FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY	**Docket No. CM-DC-2010-001** **ORDER DENYING IDAHO GROUND WATER APPROPRIATORS, INC.'S MOTION FOR SUMMARY JUDGMENT**

Idaho Ground Water Appropriators, Inc. has moved for summary judgment in response to A&B Irrigation District's requests for hearing filed April 21 and July 24, 2025. Hearing has been set on the A&B requests which challenge the *Final Order Regarding April 2025 Forecast Supply* issued April 16, 2025. A&B challenges the method used by the Director to calculate A&B's storage water mitigation obligation under the Surface Water Coalition ("SWC") delivery call. The motion for summary judgment relies upon the record in this case and related contested cases, as well as Declarations submitted by Sophia Sigstedt and Thomas J. Budge which support the claim that positions taken by A&B in the past foreclose it from making the challenge in this proceeding. There is an extensive record that relates to the present proceeding.

BACKGROUND

On April 19, 2016, the Director of the Idaho Department of Water Resources ("Department") issued the *Fourth Amended Final Order Regarding Methodology For Determining Material Injury To Reasonable In-Season Demand And Reasonable Carryover* and the *Final Order Regarding April 2016 Forecast Supply (Methodology Steps 1 – 3)*. Following the issuance of those orders, A&B requested a hearing on May 2, 2016 and raised the following issue:

> To the extent the Director denies the above request for reconsideration to identify an accurate "proportionate share" regarding A&B's junior priority ground water rights with respect to the predicted demand shortfall, including appropriately identifying all hydraulically connected junior ground water rights, A&B requests a hearing on the same pursuant to Idaho Code§ 42- 170A(3).

A&B Irrigation District's Petition for Reconsideration and Request for Hearing Re: April 2016 As Applied Order, at 4 (May 2, 2016) [hereinafter *2016 Request*].

On April 21, 2023, the Director amended the methodology and issued the *Fifth Amended Final Order Regarding Methodology For Determining Material Injury To Reasonable In-Season*

Demand And Reasonable Carryover ("*Fifth Methodology Order*") which established nine steps for determining material injury to members of the SWC.[1] That same day, the Director issued the *Final Order Regarding April 2023 Forecast Supply Methodology Steps 1-3* ("*2023 April Forecast*") and a *Notice of Hearing, Notice of Prehearing Conference, and Order Authorizing Discovery* ("*2023 Notice*").

On May 5, 2023, the Department received the *Surface Water Coalition's Request For Hearing And Statement Of Issues* ("*2023 SWC Request*"). That request identified several issues for hearing, and among those issues, A&B specifically asked the Director to consider:

> (1) Whether the [*2023 April Forecast*] identified proportionate share (458 acre-feet) of the predicted injury (75,200 acre-feet) to TFCC is calculated correctly based upon A&B's actual diversion and use of water rights that are subject to the identified curtailment date (junior to December 30, 1953); and
> (2) Whether the steady-state use of the ESPAM 2.2 in identifying A&B's proportionate share is consistent with the transient use of the model in identifying ground water rights subject to curtailment as outlined in the *Fifth Methodology Order*.

2023 SWC Request, at 2–3.

The Director held a hearing on the *Fifth Methodology Order* and the *2023 April Forecast o*n June 6–9, followed by a *Post-Hearing Order Regarding Fifth Amended Methodology Order* ("*Post-Hearing Order*") and the *Sixth Final Order Regarding Methodology for Determining Material Injury to Reasonable In-Season Demand and Reasonable Carryover* ("*Sixth Methodology Order*") issued on July 19, 2023.

On November 19, 2024, the Department received a *Joint Motion for Order Approving 2024 Stipulated Mitigation Plan* ("*2024 Plan*") from the SWC and various Ground Water Districts.[2] The Director issued an amended approval of the plan on February 7, 2025.

Pursuant to the *Sixth Methodology Order*, the Director issued the *Final Order Regarding April 2025 Forecast Supply (Methodology Steps 1–3)* ("*April Forecast Supply Order*") on April 16, 2025, finding that A&B must mitigate for its proportionate share of the predicted in season demand shortfall. *April Forecast Supply Order*, at 5 n.8

On April 29, 2025, A&B filed a request for hearing contesting the *April Forecast Supply Order* and identifying the following issues for hearing:

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[1] The SWC is comprised of A&B Irrigation District, American Falls Reservoir District #2, Burley Irrigation District, Milner Irrigation District, Minidoka Irrigation District, North Side Canal Company, and Twin Falls Canal Company ("TFCC").

[2] The Ground Water Districts are comprised of North Snake Ground Water District, Magic Valley Ground Water District, Carey Valley Ground Water District, Aberdeen-American Falls Ground Water District, Bingham Ground Water District, Bonneville-Jefferson Ground Water District, Jefferson-Clark Ground Water District, Madison Ground Water District, and Henry's Fork Ground Water District.

(1) Whether the [*April Forecast Supply Order*] identified proportionate share (384 acre-feet) of the predicted injury (63,000 acre-feet) to TFCC is calculated correctly based upon A&B's actual diversion and use of water rights that are subject to the identified curtailment date (junior to August 28, 1955).
(2) Whether A&B should be allowed to mitigate for a portion of groundwater right 36-15127A (approximately 508.3 acres) that will be diverted [sic] used during the 2025 irrigation season, as opposed to mitigating for all 1,886.4 acres authorized by the water right.
(3) Whether the steady-state use of the ESPAM 2.2 in identifying A&B's proportionate share is consistent with the transient use of the model in identifying ground water rights subject to curtailment as outlined in the *Sixth Methodology Order*.
(4) For other issues and matters that may [sic] discovered in this proceeding.

A&B Req. for Hr'g, at 1–2 (Apr. 2025) [hereinafter *April Hearing Request*].

On May 16, 2025, the Director issued the *Final Order Curtailing Ground Water Rights Junior to August 28, 1955* ("*May Curtailment Order*"), including several of A&B's ground water rights subject to curtailment. *May Curtailment Order*, at 4, attach. A, at 1.

On July 10, 2025, the Director issued an *Order Revising April 2025 Forecast Supply and Continuing May 16, 2025 Curtailment Order (Methodology Steps 5 & 6)* ("*July As-Applied Order*") which revised the predicted in-season demand shortfall and updated A&B's proportionate share of the predicted injury to 5,039 acre-feet. *July As-Applied Order*, at 11 n.6.

On July 24, 2025, A&B filed another request for hearing, this time contesting the *July As-Applied Order* and identifying similar issues to the April request including:

(1) Whether the [*July As-Applied Order*] identified proportionate share (5,039 acre-feet) of the predicted injury (75,300 acre-feet) to TFCC is calculated correctly based upon A&B's actual diversion and use of water rights that are subject to the identified curtailment date (junior to October 11, 1900).
(2) Whether the steady-state use of the ESPAM 2.2 in identifying A&B's proportionate share of the estimated in-season demand shortfall is consistent with the transient use of the model in identifying ground water rights subject to curtailment as outlined in the *Sixth Methodology Order*.
(3) Whether the Director's failure to implement the [*May Curtailment Order*] in accordance with Idaho law has injured A&B by subjecting its senior water right 36-2080 to curtailment and/or mitigation requirements during the 2025 irrigation season.
(4) For other and further reasons as may be discovered prior to hearing. A&B reserves the right to identify additional issues as necessary in this proceeding.

A&B Req. for Hr'g, at 1–2 (July 2025) [hereinafter *July Hearing Request*].

On September 3, 2025, the Director issued an *Order Granting A&B Irrigation District's Requests for Hearing, Consolidating Proceedings for Hearing, and Appointing Hearing Officer; Notice Of Prehearing Conference* ("*Order Granting Hearing*"). The Director found that the issues identified in both of A&B's hearing requests relate to or mirror each other and that "A&B has not previously been afforded an opportunity for a hearing to contest either the *April Forecast Supply Order* or *July As-Applied Order*." *Order Granting Hearing*, at 4.

On September 11, 2025, the Director issued the *Order Revising July 2025 Forecast Supply (Methodology Step 7-8)* ("*September Order*"). The Director found that A&B satisfied its proportionate share obligation by delivering storage water to TFCC pursuant to a stipulation with the SWC and that A&B no longer needed to establish it could mitigate its proportionate share obligation. *September Order*, at 12 n.7.

On November 18, 2025, American Falls-Aberdeen Ground Water District ("AFA") filed a *Motion to Reconsider Order Granting Hearing and Vacate Hearing or, Alternatively, to Clarify the Scope of Hearing; Request for Expedited Ruling; Brief in Support* ("*AFA Motion*") with the Director. AFA requests that the Director reconsider the *Order Granting Hearing* and deny both of A&B's hearing requests because A&B is barred from relitigating issues that were already subject to a prior Department hearing and that one issue is moot. *AFA Motion*, at 2. In the alternative, AFA asks the Director to clarify the scope of the hearing to limit the Hearing Officer's consideration to issues related to calculating the in-season demand shortfall and to exclude issues involving a ground water management area or plan. *Id.* at 3. On that same date, the Hearing Officer received *Idaho Ground Water Appropriators, Inc.'s Motion for Summary Judgment* ("*IGWA Motion*"). IGWA argued that doctrines of *res judicata*, law of the case, and *quasi-estoppel* prevent A&B from now challenging how the Director calculates its proportionate share obligation. *IGWA Motion*, at 2.

Pursuant to A&B's request to extend response deadlines, the Hearing Officer issued an order extending the deadline for A&B to respond to the *AFA Motion* and the *IGWA Motion* to December 9, 2025. *Order Granting A&B's Motion to Amend Deadlines; Setting Deadline to Provide Staff Memo*, at 3 (Nov. 25, 2025).

On December 9, 2025, the Department received *A&B Irrigation District's Consolidated Response to AFA Motion / IGWA Motion for Summary Judgment* ("*A&B Response*"). A&B argues that it is not barred from litigating the issues raised because there was never a final judgment on the merits of those issues resulting from the 2023 hearing and that due process guarantees it a right to a hearing since its senior ground water right has never been curtailed prior to this year. *A&B Response*, at 3, 24.

On December 12, 2025, the Department received the *American Falls-Aberdeen Ground Water District's Reply in Support of Motion to Reconsider Order Granting Hearing and Vacate Hearing or, Alternatively, to Clarify the Scope of Hearing; Request for Expedited Ruling* ("*AFA Reply*"), arguing that A&B cannot now raise due process arguments in this SWC delivery call proceeding.

On December 16, 2025, the Hearing Officer received *IGWA's Reply Brief* ("*IGWA Reply*"), reiterating its arguments raised in the *IGWA Motion* and arguing that judicial estoppel also precludes A&B from raising the same arguments now.

On December 22, 2025, the Director issued an *Order Denying American Falls-Aberdeen Ground Water District's Motion to Reconsider Order Granting Hearing* ("*Order Denying AFA Motion*"). The Director concluded that he would not consider the issues raised by AFA because there has been a hearing officer already assigned to this matter. *Order Denying AFA Motion*, at 3–4. In addition, the Director authorized the Hearing Officer to consider any arguments raised by AFA in its motion and reply. *Id.* at 4.

FINDINGS OF FACT

1. On May 2, 2016, A&B raised similar issues to what it raised in 2023 and now regarding how its proportionate share of the mitigation obligation is calculated when the Director implements the methodology. *Compare 2016 Request*, at 4; *with 2023 SWC Request*, at 2–3; *April Hearing Request*, at 1–2; *July Hearing Request*, at 1–2.

2. On April 21, 2023, the Director revised the methodology that was in place from 2016 to 2022 when he issued the *Fifth Methodology Order*. *Fifth Methodology Order*, at 1–2. The Director changed the method for calculating curtailment dates by adopting a transient use of the ESPAM 2.2 model. *Id.* at 36.

3. Also on April 21, 2023, the Director issued the *2023 April Forecast* which identified A&B's proportionate share of the predicted in-season demand shortfall to be 458 acre-feet. *2023 April Forecast*, at 5.

4. Also on April 21, 2023, the Director anticipated that several parties associated with the SWC delivery call proceeding would request a hearing on the *Fifth Methodology Order*, so the Director issued the *2023 Notice* to preemptively schedule a hearing on that order. *2023 Notice*, at 1.

5. Following the issuance of those orders, several parties filed issue statements to be considered at the 2023 hearing, including the following issue statements filed by A&B:

> 1) Whether the order's identified proportionate share (458 acre-feet) of the predicted injury (75,200 acre-feet) to TFCC is calculated correctly based upon A&B's actual diversion and use of water rights that are subject to the identified curtailment date (junior to December 30, 1953); and
>
> 2) Whether the steady-state use of the ESPAM 2.2 in identifying A&B's proportionate share is consistent with the transient use of the model in identifying ground water rights subject to curtailment as outlined in the *Fifth Methodology Order*.

2023 SWC Request, at 2–3.

6. On June 6–9, 2023, the Director held a hearing on the matter on the various issues raised by the parties.

7. On July 19, 2023, the Director issued the *Post-Hearing Order* and the *Sixth Methodology Order*.

8. Following the hearing, the Director concluded that the transient model simulation is the appropriate method to calculate the curtailment dates. *Sixth Methodology Order*, at 38, 42, 44; *Post-Hearing Order*, at 25. Those orders did not address the issues raised by A&B.

9. On February 7, 2025, the Director issued an amended approval of the SWC and Ground Water Districts' *2024 Plan*.

10. In the *2024 Plan*, the Ground Water Districts agreed that "[e]ach District will secure its proportionate share of the storage water required [volume] based on their respective steady-state impact to the Near Blackfoot to Minidoka reach of the Snake River as defined by the current version of the ESPA Model." *2024 Plan*, at 4.

11. A&B is a signatory to the *2024 Plan* as a surface water user. *Id.* at 1.

12. In implementing the *Sixth Methodology Order*, the Director issued the *April Forecast Supply Order* and found that A&B's mitigation obligation for its proportionate share of the predicted in-season demand shortfall to TFCC is 384 acre-feet. *April Forecast Supply Order*, at 5 n.8.

13. In the *July As-Applied Order*, the Director found that A&B's mitigation obligation was 5,039 acre-feet.

14. In consolidating and simplifying, the *April Hearing Request* and the *July Hearing Request*, A&B raised similar issues to what it raised in the *2023 SWC Request*. *Compare April Hearing Request*, at 1–2; *July Hearing Request*, at 1–2; *with 2023 SWC Request*, at 2–3.

15. On September 11, 2025, the Director issued the *September Order*, concluding that:

> Given the nature of A&B's mitigation plan, the Department normally calculates A&B's proportionate share of the predicted IDS. However, A&B and the SWC entered into a stipulation to define A&B's mitigation obligation for the 2025 irrigation season. In the stipulation, A&B agreed to continue its ground water conversions projects and assign and deliver 1,252 acre-feet of storage water to TFCC. The Director has confirmed that 1,252 acre-feet of storage water has been assigned to A&B. Because the SWC agreed that the above actions satisfy A&B's obligation to the SWC for the 2025 irrigation season, A&B does not need to establish that they can mitigate for its proportionate share of the predicted IDS.

September Order, at 12 n.7.

LEGAL STANDARD

The Department's Rules of Procedure ("Rules"), IDAPA 37.01.01, govern the pending motion in this case. Rule 220.03 authorizes motions for summary judgment and states that "Rule 56(a), (c), (d), (e), and (f) of the Idaho Rules of Procedure, apply to such motions before the agency." IDAPA 37.01.01.220.03.

Summary judgment is appropriate "if the pleadings, depositions, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." *Lee v. Litster*, 161 Idaho 546, 549, 388 P.3d 61, 64 (2017) (quoting I.R.C.P. 56(c)). The moving party bears the burden of establishing the absence of a genuine issue of material fact belongs to the moving party. *Smith v. Meridian Joint Sch. Dist. No. 2*, 128 Idaho 714, 719, 918 P.2d 583, 588 (1996).

If the movant meets its burden, the movant is entitled to summary judgment unless the nonmovant presents "specific facts that demonstrate the existence of a genuine issue for trial"—a "mere scintilla of evidence" or "slightest doubt as to the facts" will not do. *Haight v. Idaho Dep't of Transp.*, 163 Idaho 383, 387, 414 P.3d 205, 209 (2018). "Disputed facts should be construed in favor of the non-moving party, and all reasonable inferences that can be drawn from the record are to be drawn in favor of the non-moving party." *Major v. Sec. Equip. Corp.*, 155 Idaho 199, 202, 307 P.3d 1225, 1228 (2013). "If the evidence reveals no disputed issues of material fact, then only a question of law remains . . . ." *Lee*, 161 Idaho at 549, 388 P.3d at 64 (quoting *Lapham v. Stewart*, 137 Idaho 582, 585, 51 P.3d 396, 399 (2002)).

ANALYSIS

I. The Hearing Officer takes official notice of the pleadings and orders raised in the *AFA Motion* and the *IGWA Motion* that pertain to the SWC delivery call proceeding.

Pursuant to Rule 602 of the Department's Rules of Procedure, a Hearing Officer is authorized to take official notice of specific facts or materials. IDAPA 37.01.01.602. Given the historical context in which the SWC delivery call operates, and the fact that the parties have been the same over the decades, it is proper to take official notice of the pleadings and orders cited within the *AFA Motion*, the *IGWA Motion*, the *A&B Response*, and the various reply briefs. This includes the *2024 Plan* as it relates to the SWC delivery call proceeding where the parties are substantially similar.

II. A&B is not barred from litigating the issues it raised under the res judicata doctrine because there has not been a final judgment on the merits of its issues.

In Idaho, res judicata applies in administrative proceedings. *Sagewillow, Inc. v. Idaho Dept. of Water Res.*, 138 Idaho 831,844 (2023). The purpose of res judicata is to prevent relitigation leading to inconsistent results, to serve the public interest and protect courts against

repetitious litigation, and to protect private interests from repeat claims. *Ticor Title Co. v. Stanion*, 144 Idaho 119, 123 (2007). Res judicata covers both claim preclusion and issue preclusion (i.e., collateral estoppel). *Id.*

A. Claim preclusion does not apply because there has never been a final judgment on the merits on the issues A&B raised in 2023.

IGWA claims that A&B raised issues pertaining to how the Director calculates its proportionate share of the storage water mitigation obligation to the SWC. *IGWA Motion*, at 7. Specifically, IGWA claims that A&B is barred from relitigating the issues under claim preclusion because (a) the same parties exist in the delivery call proceeding, (b) the methodology as-applied orders are the same transaction or occurrence, and (c) the 2023 hearing resulted in a final judgment on the merits on the issues A&B raised as well as other issues raised. *Id.*

A&B argues that the issues it raised in 2023 are not subject to res judicata because "it was not actually decided in a final judgment on the merits." *A&B Response*, at 24. Specifically, A&B argues that the Director's as-applied orders for implementing the *Sixth Methodology Order* do not address how ground water users' mitigation obligations are apportioned. *Id.*

Claim preclusion prohibits a claim in a subsequent action when: "(1) the original action ended in final judgment on the merits, (2) the present claim involves the same parties as the original transaction, and (3) the present claim arises out of the same transaction or series of transactions as the original action." *Elsaesser v. Riverside Farms, Inc.*, 170 Idaho 502, 508 (2022) (quoting *Berkshire Invs., LLC v. Taylor*, 153 Idaho 73, 81 (2012)). The second and third elements are not at issue here as the parties in this matter have been the same or similar since the SWC delivery call commenced two decades ago, and A&B's claims arise out of the same delivery call proceeding. As to the first element, a final judgment on the merits exists:

> in an action between the same parties upon the same claim or demand, the former adjudication concludes parties and privies not only as to every matter offered and received to sustain or defeat the claim but also as to every matter which might and should have been litigated in the first suit.

Ticor Title, 144 Idaho at 126 (quoting *Farmers Nat. Bank v. Shirey*, 126 Idaho 63, 70 (1994)) (alteration in original). The test does not require "the precise point or question in [the subsequent] action" to be "finally resolved and decided in the [prior] action." *Farmers Nat. Bank*, 126 Idaho at 70.

The Director did not decide or resolve the issues A&B raised for the 2023 hearing in his *Post-Hearing Order* or the *Sixth Methodology Order*. The purpose of the hearing was to determine the appropriate model simulation for calculating the curtailment date, and the issue of how A&B's proportionate share of the mitigation obligation was not discussed during the hearing. Accordingly, there was not a final judgment on the merits in 2023 discussing how A&B's proportionate share was calculated. Therefore, claim preclusion does not bar A&B from raising the issues again now.

B. Issue preclusion does not bar A&B from raising the issues now because the issues were never actually decided in 2023.

IGWA argues that A&B is barred from relitigating the issues under the doctrine of issue preclusion because the Director's issuance of the as-applied orders following the 2023 hearing actually decided the issues A&B raised by calculating A&B's proportionate share of the mitigation obligation. A&B responds that issue preclusion does not apply in an administrative action when an agency fails to answer a disputed issue in a previous action.

Issue preclusion bars a party from relitigating issues when:

> (1) the party against whom the earlier decision was asserted had a full and fair opportunity to litigate the issue decided in the earlier case; (2) the issue decided in the prior litigation was identical to the issue presented in the present action; (3) the issue sought to be precluded was actually decided in the prior litigation; (4) there was a final judgment on the merits in the prior litigation; and (5) the party against whom the issue is asserted was a party or in privity with a party to the litigation.

Elsaesser, 170 at 509 (quoting *Ticor Title*, 144 Idaho at 124).

A&B raised substantively similar issues in 2016 and 2023, and the parties are the same in this SWC delivery call proceeding. There were discussions and statements made that support the request for summary judgment, but there was not a final judgment on the merits in 2023 involving these issues, and those issues that IGWA and AFA now seek to preclude have never actually been decided in previous litigation. Accordingly, issue preclusion does not bar A&B from litigating these issues now.

III. The law of the case doctrine does not apply because there has never been a decision on the issues raised.

IGWA argues that the law of the case doctrine bars A&B "from raising issues that were or could have been litigated in this proceeding." A&B responds that IGWA inappropriately raised this issue because there has been no other appeal for judicial review on how ground water users' mitigation obligations are apportioned. *A&B Response*, at 29–30.

The law of the case doctrine functions like stare decisis and "exists to avoid relitigating issues that have already been decided." *Safaris Unlimited, LLC v. Jones*, 169 Idaho 644, 650–51 2021 (citing *Regan v. Owen*, 163 Idaho 359, 362 (2018)). The law of the case doctrine applies:

> When "an appellate court states a principle of law in deciding a case, that rule becomes the law of the case and is controlling both in the lower court and on subsequent appeals as long as the facts are substantially the same." Decisions on issues during one stage of the proceeding become precedent for later stages of the same litigation.

Id. at 651 (quoting *Swanson v. Swanson*, 134 Idaho 512, 516 (2000)).

The law of the case doctrine does not apply because there has never been a decision on the issues A&B raised in 2023, so no principle of law deciding those issues applies. Accordingly, the issues are not barred from litigation under the law of the case doctrine.

IV. A&B is not barred from raising the issues under quasi-estoppel because A&B as a surface user under the *2024 Plan* did not agree to calculate its storage water obligation as a ground water user under the plan.

IGWA argues that the quasi-estoppel doctrine bars A&B from asserting a right that is inconsistent with a previous position it has taken. IGWA asserts that as a signatory to the *2024 Plan*, A&B cannot now argue that transient state modeling is more appropriate to measure storage water mitigation obligations because the *2024 Plan* applies steady-state modeling to allocate those obligations. A&B responds that its ground water rights and how its mitigation obligations are apportioned have nothing to do with the *2024 Plan*. Further, it participated in the plan as a SWC member. Consequently, the mitigation plan only protected the participating Ground Water Districts which did not include it.

The quasi-estoppel doctrine functions to "prevent[] a party from asserting a right, to the detriment of another party, which is inconsistent with a position previously taken." *Gomez v. Hurtado*, 174 Idaho 1002, 1014 (2024) (quoting *Atwood v. Smith*, 143 Idaho 110, 114 (2006)). Quasi-estoppel applies when:

> (1) the offending party took a different position than his or her original position[;] and
> (2) either (a) the offending party gained an advantage or caused a disadvantage to the other party; (b) the other party was induced to change positions; or (c) it would be unconscionable to permit the offending party to maintain an inconsistent position from one he or she has already derived a benefit or acquiesced in.

Id. (quoting *Atwood*, 143 Idaho at 114).

The Ground Water Districts agreed to use steady-state modeling to calculate their share of the storage water obligations. *2024 Agreement*, at 4. Although A&B signed the *2024 Plan* as a surface water user, it did not agree to calculate its own ground water uses in the same manner as the other signatory Ground Water Districts. *Id.* at 1. The *2024 Plan* does not address how A&B calculates its storage water obligations as a ground water user. Accordingly, the issues A&B raises now are not inconsistent with the *2024 Plan*, so the issues are not barred from litigation under the quasi-estoppel doctrine.

V. The issue of how the Director implements the curtailment orders is not moot because it is a matter of substantial public interest.

AFA argues that the issue A&B raised regarding the Director's implementation of the *May Curtailment Order* is moot because the *September Order* relieved A&B from its obligation

to establish it could mitigate for its proportionate share of the shortfall. A&B responds that the issue is not moot because (a) it has a legally cognizable interest in the matter due to how A&B's mitigation obligation fluctuates throughout the year, and (b) the issue is capable of repetition yet evades review given the as-applied orders change throughout the irrigation season and renew each year.

"A case is moot if it presents no justiciable controversy and a judicial determination will have no practical effect upon the outcome." *In re Guardianship of Doe*, 157 Idaho 750, 754 (2014) (quoting *Goodson v. Nez Perce Bd. of Cnty. Comm'rs*, 133 Idaho 851, 853 (2000)). There are three exceptions to the mootness doctrine:

> (1) when there is the possibility of collateral legal consequences imposed on the person raising the issue; (2) when the challenged conduct is likely to evade judicial review and thus is capable of repetition; and (3) when an otherwise moot issue raises concerns of substantial public interest.

Id. (quoting *Ameritel Inns, Inc. v. Greater Boise Auditorium Dist.*, 141 Idaho 849, 851–52 (2005)). A matter is capable of repetition yet evades review when "(1) the challenged action was in its duration too short to be fully litigated prior to its cessation or expiration, and (2) there was a reasonable expectation that the same complaining party would be subject to the same action again." *Mitchell v. Ramlow*, 174 Idaho 723, 727 (2024) (quoting *Murphy v. Hunt*, 455 U.S. 478, 482 (1983)).

The *September Order* relieved A&B of its obligation to establish that it could mitigate for its proportionate share of the predicted shortfall because A&B stipulated with the SWC to accept a certain amount of storage water to satisfy its obligation for the 2025 irrigation season only. *September Order*, at 12. It is not clear whether that issue is evading review because there may not be another stipulation in future seasons, so A&B is not precluded from raising the issue again.

A&B argues that "understanding [the Department's] methodology and calculations as it applies amongst junior groundwater users is an important administrative matter that should be decided for purposes of future application." *A&B Response*, at 28. Although the issue is capable of repetition and likely does not evade review, how the Department calculates the mitigation obligations and how it implements the curtailment order raises a substantial public interest given the methodology resets every irrigation season. Accordingly, the issue is not moot because it raises a substantial public interest for interested parties to have a decision on this issue.

VI. It is not necessary to address A&B's due process argument.

A&B argues that its "water right 36-2080 has never been subject to curtailment and [the Department] has never apportioned a mitigation requirement to that water right until July 2025." *A&B Response*, at 21. As a result, A&B argues that "due process requires a hearing prior to curtailing a junior groundwater right for the first time, in this case A&B's 1948 water right 36-2080." *A&B Response*, at 25 (emphasis in original) (citing *Clear Springs Foods, Inc. v. Spackman*, 150 Idaho 790, 815 (2011)).

A hearing will be held which satisfies A&B's concerns. The relevance and effect upon water right 36-2080 will be addressed.

VII. The doctrine of judicial estoppel does not bar A&B from raising the issues because it has not deliberately shifted positions.

IGWA argues that judicial estoppel bars A&B from raising the issues because it has on several occasions asked the Director to resist perpetual relitigation. The purpose of judicial estoppel is "to prevent abuse of the judicial process by deliberate shifting of positions to suit the exigencies of a particular action." *Heinze v. Bauer*, 145 Idaho 232, 235 (2008). There has never been a decision on the issues A&B raised in 2023, and A&B is not requesting a second hearing on the decisions that the Director made following the issuance of the *Sixth Methodology Order*. Accordingly, judicial estoppel does not bar A&B from raising the issues now.

Conclusions of Law

The *IGWA Motion* is denied, and this matter will continue forth at the hearing scheduled for January 14 through 16, 2025 on the issues that A&B raised in its *April Hearing Request* and *July Hearing Request*.

ORDER

IT IS HEREBY ORDERED that the *Idaho Ground Water Appropriators, Inc.'s Motion for Summary Judgment* is DENIED.

DATED this 2nd day of January 2026.

GERALD F. SCHROEDER
Hearing Officer

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 2nd day of January 2026, the above and foregoing, was served by the method indicated below, and addressed to the following:

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Sara Ajeti
Deputy Attorney General

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY OR FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY	Docket No. CM-DC-2010-001 **ORDER GRANTING ADDITIONAL PREHEARING CONFERENCE**

BACKGROUND

On December 31, 2025, the Hearing Officer received *American Falls-Aberdeen Ground Water District's Unopposed Motion for Additional Prehearing Conference* ("*Motion*"). The parties agreed to and requested an additional prehearing conference to address:

- Whether the Hearing Officer would like trial briefs;
- Whether AFA's Board President may testify remotely by zoom. All other AFA witnesses will be live;
- Whether the Department will present Ms. Sukow as a witness;
- Whether the Hearing Officer anticipates ruling on the pending motions in advance of trial;
- The order of presentation of the party's cases;
- Other procedural issues the parties may raise during the conference.

Motion, at 2. Accordingly, the Hearing Officer is exercising his discretion to hold another prehearing conference in this matter to discuss these issues.

ORDER

IT IS HEREBY ORDERED that *American Falls-Aberdeen Ground Water District's Unopposed Motion for Additional Prehearing Conference* is GRANTED.

NOTICE OF ADDITIONAL PREHEARING CONFERENCE

NOTICE IS HEREBY GIVEN that a prehearing conference in this matter will be held on **January 5, 2026, at 3:30 p.m. (MT)**, at the Department's State Office, located at 322 E. Front Street, 6th Floor, Conference Room 648A, Boise, Idaho. All parties must be represented at the prehearing conference, whether in person or remote. Participants shall come prepared to discuss the issues identified in the *Motion*, listed above, and any other matters that could aid in the fair and efficient resolution of the contested cases.

To join the conference via computer or smartphone, please click the following Webex link and follow the prompts: https://idahogov.webex.com/idahogov/j.php?MTID=mf1f0ae026874ef8f698c1958499d88c6.

To join the conference via telephone, please dial 1(415) 655-0001 (US Toll) and enter the following meeting access code when prompted: 2630 746 6957.

The conference will be held in accordance with the provisions of Chapter 17, Title 42, and Chapter 52, Title 67, Idaho Code, and the Department's Rules of Procedure, IDAPA 37.01.01. A copy of the Rules of Procedure may be obtained from the Department upon request or at https://adminrules.idaho.gov/rules/current/37/370101.pdf.

The prehearing conference will be conducted in a facility that meets the accessibility requirements of the Americans with Disabilities Act. If you require reasonable accommodation to attend, participate in, or understand the conference, please advise the Department no later than 10 a.m. (MT) on the day of the conference. Inquiries for reasonable accommodations should be directed to Sarah Tschohl, telephone (208) 287-4815, or email sarah.tschohl@idwr.idaho.gov.

DATED this 2nd day of January 2026.

GERALD F. SCHROEDER
Hearing Officer

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 2nd day of January 2026, the above and foregoing, was served by the method indicated below, and addressed to the following:

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STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

IN THE MATTER OF DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY OR FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY	Docket No. CM-DC-2010-001 **IDAHO GROUND WATER APPROPRIATORS, INC.'S PETITION FOR RECONSIDERATION**

Idaho Ground Water Appropriators, Inc. ("IGWA"), by and through counsel, respectfully petitions for reconsideration of the *Order Denying IGWA's Motion for Summary Judgment* ("Order") dated January 2, 2026, pursuant to rule 710 of the rules of procedure of the Idaho Department of Water Resources.

IGWA appreciates the Hearing Officer's careful review of the record and the applicable legal standards. However, IGWA respectfully submits that the Order's analysis of claim preclusion does not reflect Idaho Supreme Court precedent.

The Order concludes that claim preclusion does not apply because "there has never been a final judgment on the merits on the issues A&B raised in 2023." (Order, p. 8.) It further states, "[t]he Director did not decide or resolve the issues A&B raised for the 2023 hearing in his *Post-Hearing Order* or the *Sixth Methodology Order*." *Id*. The premise of the Order is that claim preclusion applies only to issues that are explicitly discussed in the Director's decision.

The doctrine of claim preclusion is broader. It bars litigation not only of matters actually litigated, but also "every matter which might and should have been litigated in the first suit." *Ticor Title Co. v. Stanion*, 144 Idaho 119, 126 (2007); *Farmers Nat. Bank v. Shirey*, 126 Idaho 63, 70 (1994). The determining factor is whether the litigant "had a full and fair opportunity to litigate the issue decided in the earlier case." *Elsaesser v. Riverside Farms, Inc.*, 170 Idaho 502, 509 (2022) (quoting *Ticor Title Co. v. Stanion*, 144 Idaho 119, 124 (2007)).

The issue of how storage water mitigation obligations are calculated was decided when the Director performed the calculation and assigned storage water obligations in the As-Applied Orders. Whether or not the As-Applied Orders elaborate on the formula used to make the calculation, the calculation was made, and A&B was required to provide the required storage volume or suffer curtailment. If A&B disagreed with the calculation, A&B had a duty under Idaho Code § 42-1701A(3) to challenge it. Which is exactly what A&B did.

On May 2, 2016, after the Director issued the April 2016 As-Applied Order, A&B filed *A&B Petition for Reconsideration and Request for Hearing Re: April As-Applied Order* to "request[] reconsideration of the Director's calculation that A&B's 'proportionate share of the predicted DS of 44,200 acre-feet is 3,463 acre-feet.'" (P. 2.)

On May 5, 2023, after the Director issued the April 2023 As-Applied Order, A&B filed *Surface Water Coalition's Request for Hearing and Statement of Issues* to challenge whether A&B's storage obligation "is correctly based upon A&B's actual diversion and use of water rights that are subject to the identified curtailment date," and whether "the steady-state use of the ESPAM 2.2 in identifying A&B's proportionate share is consistent with the transient use of the model." (P. 2-3.)

A&B obviously had a full and fair opportunity to litigate the issue of how storage water obligations are calculated because it raised the issue. The Order acknowledges this, stating: "A&B raised substantively similar issues 2016 and again in 2023." (Order, p. 9.)

Since the method by which storage water obligations are calculated was decided when the Director performed the calculation and assigned storage water obligations in the 2016 and 2023 As-Applied Orders, and since A&B had a full and fair opportunity to challenge that decision, it matters not whether the Director substantively discussed A&B's arguments in the *Post-Hearing Order* or the *Sixth Methodology Order*.

If A&B believed that, after raising the issue, the Director failed to adequately explain or justify his decision, A&B could have appealed the *Post-Hearing Order* or the *Sixth Methodology Order*. What A&B cannot do is raise the issue, go through a lengthy and expensive evidentiary hearing on every issue that might or should have been raised, and then two years later seek to relitigate the same issue that A&B raised in 2023. This is precisely what claim preclusion bars.

Therefore, IGWA respectfully requests that the Hearing Officer reconsider the Order, and grant summary judgment in favor of IGWA, barring A&B from relitigating the method by which the Director calculates A&B's proportionate storage water mitigation obligation.

Granting this petition would serve the interests of judicial economy and administrative efficiency. The doctrine of claim preclusion exists not only to protect parties from repeated litigation, but also to conserve the resources of the parties by preventing unnecessary re-litigation of issues that have already been, or could have been, resolved. Allowing A&B to relitigate issues it previously raised would result in duplicative proceedings, increased costs, and unnecessary consumption of the parties' time and resources. Applying claim preclusion here would streamline the hearing, focus the parties' efforts on any genuinely new issues, and promote the orderly and efficient administration of justice.

With the hearing scheduled to begin January 14, 2026, and considering that the issue raised in this petition is straight-forward and has been thoroughly brief already, IGWA respectfully requests that written comment on this petition pursuant to IDAPA 37.01.01.711 be allowed until no later than Wednesday, January 7, 2026, and a decision be entered by Friday, January 9, 2026.

RESPECTFULLY SUBMITTED this 5th day of January, 2026.

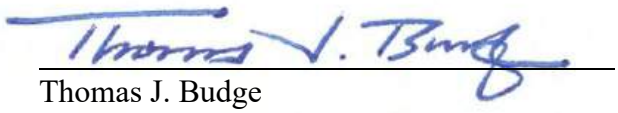
RACINE OLSON, PLLP

By:

Thomas J. Budge
Attorneys for IGWA

CERTIFICATE OF SERVICE

I hereby certify that on the 5th day of January, 2026, I caused the foregoing document to be served on the persons below via email at the address indicated.



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WATER RESOURCES

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BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY OR FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY	Docket No. CM-DC-2010-001 **AMERICAN FALLS-ABERDEEN GROUND WATER DISTRICT'S JOINDER IN SUPPORT OF IDAHO GROUND WATER APPROPRIATORS, INC.'S PETITION FOR RECONSIDERATION**

COMES NOW American Falls-Aberdeen Ground Water District ("AFA"), by and through its undersigned counsel, and hereby joins in support of *Idaho Ground Water Appropriators, Inc.'s Petition for Reconsideration* filed in this matter on January 5, 2026.

Additionally, AFA adds that *Berkshire Invs., Ltd. Liab. Co. v. Taylor*, 153 Idaho 73 (2012), a case cited by the Hearing Officer (*see Order Denying Idaho Ground Water Appropriators, Inc.'s Motion for Summary Judgment* at 8 (Jan. 2, 2026)), directly applies to this proceeding and precludes A&B from relitigating the issues that it raised, elicited testimony on,

and argued about to the Department in June 2023 and could have appealed to the District Court, but chose to not do so. The relevant provisions from *Berkshire Invs.*, which relies on *Ticor Title Co. v. Stanion*, 144 Idaho 119 (2007), also cited by the Hearing Officer (*see Order* at 8-9), include:

> Judge Greenwood dismissed the Mailes' numerous claims on summary judgment, finding that they were barred by *res judicata* because they were (1) actually litigated in the prior case before Judge Wilper, or (2) could have been raised in that case. . . .
>
> …
>
> [C]laim preclusion "bars a subsequent action between the same parties upon the same claim or upon claims 'relating to the same cause of action.'" [Citation.] Under this doctrine, a claim is also precluded if it could have been brought in the previous action, regardless of whether it was actually brought, where: (1) the original action ended in final judgment on the merits, (2) the present claim involves the same parties as the original action, and (2) the present claim arises out of the same transaction or series of transactions as the original action. *Ticor Title Co. v. Stanion*, 144 Idaho 119, 125-27, 157 P.3d 613, 618-20 (2007).
>
> …
>
> Here, the Mailes have asked Judge Greenwood—and now this Court—to breathe new life into a lawsuit already laid to rest. However, the doctrine of *res judicata* exists to prevent exactly the type of resurrection they seek. . . .
>
> …
>
> Further, the underlying issue pervading the present case is also identical to that in the Mailes' original action. Although the Mailes attempt to repackage it in terms of fraud, perjury, negligence, and even racketeering, the central issue underlying all of their claims is the interpretation of the Disclaimer and its effect on the Taylors' beneficial status. . . . Because that issue was actually decided by this Court and Judge Wilper's final judgment on the merits was affirmed, all of the elements of issue preclusion are satisfied and apply to preclude the Mailes' claims.
>
> The Mailes' action is also barred by claim preclusion. First, as indicated above, the prior case ended in a final judgment on the merits, which was affirmed by this Court, and involved the same parties (and their privies) as the present case. Secondly, all of the claims in the present case arise out of the same transaction as did the original action—the sale of the real property to the Mailes. As indicated above, such claims are barred by *res judicata* whether actually raised in the prior

litigation or not. *Ticor Title Co*., 144 Idaho at 125-27, 157 P.3d at 618-20. As the district court noted, the Mailes' claims for quiet title, tortious interference with contract, tortious interference with a prospective business advantage, equitable estoppel, and quasi-estoppel were all actually raised in the prior case. Thus, they are now barred from being raised a second time.

Likewise, the balance of the Mailes' claims—abuse of process, negligence, negligence *per se*, gross negligence, and violation of Idaho Code chapter 18, title 78—also stem from that transaction and the subsequent lawsuit over that transaction. Thus, they are similarly barred. The Mailes argue that those claims were not ripe until the alleged misrepresentation resulted in Judge Wilper's adverse judgment. However, all of the conduct on which those claims are based—the execution of the Disclaimer, the filing of the Taylors' petition for appointment as trustees, and the filing of the amended complaint—occurred and was made known to the Mailes while *Taylor I* was pending, before Judge Wilper even proceeded to the merits of the case. Accordingly, any claim arising from that conduct ripened at that time and should have been raised. Indeed, as indicated above, the issue underlying those claims *was* raised to this Court and decided in favor of the Taylors.

…

The Mailes had their day in court, and Judge Greenwood was correct in denying them another.

Berkshire Invs., 153 Idaho at 80-83 (underlines added).

DATED this 5th day of January 2026.

SOMACH SIMMONS & DUNN

By _____
Maximilian C. Bricker, ISB #12283
Sarah A. Klahn, ISB #7928

Attorneys for American Falls-Aberdeen Ground Water District

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 5th day of January 2026, I caused a true and correct copy of the foregoing document to be filed and served via electronic mail to the following:

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BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY OR FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY	**Docket No. CM-DC-2010-001** **PRELIMINARY ORDER GRANTING IGWA'S PETITION FOR RECONSIDERATION AND GRANTING IGWA'S MOTION FOR SUMMARY JUDGMENT**

BACKGROUND

This matter is on review following *IGWA's Petition for Reconsideration* ("*Petition*") of the *Order Denying IGWA's Motion for Summary Judgment* ("*Order*"). American Falls-Aberdeen Ground Water District has joined in support of the *Petition*. A&B Irrigation District ("A&B") and any other interested parties were offered the opportunity to submit additional briefing and elected to rely on the prior briefing. The *Petition* calls into question whether there were orders applying the methodology at issue which were appealable but not appealed, thereby precluding A&B from challenging the methodology utilized by the Department in determining A&B's mitigation obligation. The *Petition* presents authority and arguments that require re-examination of the preclusive effect of Department decisions.

The Department's Rules of Procedure authorize the filing of motions for summary judgment. IDAPA 37.01.01.220.03. A&B's initial petition requesting hearing challenges the method used by the Director to calculate A&B's mitigation obligation under the SWC delivery call. An administrative decision is appealable to the district court and ultimately to the Idaho Supreme Court. The record established in the administrative agency is the basis upon which a court decision will be made which will affirm the agency action unless that action was in violation of constitutional or statutory provisions, in excess of statutory authority, not supported by substantial evidence on the record, or arbitrary, capricious or an abuse of discretion. I.C. § 67-5279(3); *see Dupont v. Idaho State Bd. of Land Comm'rs*, 134 Idaho 618, 621 (2000); *Erickson v. Idaho Bd. of Licensure of Pro. Engineers & Pro. Land Surveyors*, 165 Idaho 644, 647 (2019). The opportunity to assert an issue is not open ended.

There have been proceedings in which the methodology at issue has been applied in final as-applied orders. That issue has not been appealed, although it was before the participants in this on-going litigation.

The detailed procedural background and findings of fact set forth in the *Order* apply here and are incorporated by reference.

LEGAL STANDARDS

Rule 220.03 authorizes the filing of motions for summary judgment in which the rules of civil procedure apply. Summary judgment is appropriate "if the pleadings, depositions, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." *Lee v. Litster*, 161 Idaho 546, 549 (2017) (quoting I.R.C.P. 56(c)). "If the evidence reveals no disputed issues of material fact, then only a question of law remains . . . ." *Id.*

ANALYSIS

IGWA maintains that claim preclusion bars A&B from raising the issues addressed in its petition because it had a full and fair opportunity to litigate how its proportionate share of the mitigation obligation is calculated during the 2023 methodology hearing. A&B argues that res judicata does not apply because the Director did not decide the mitigation obligation apportionment issue in a final judgment on the merits.

Claim preclusion prohibits a claim in a subsequent action when: "(1) the original action ended in final judgment on the merits, (2) the present claim involves the same parties as the original transaction, and (3) the present claim arises out of the same transaction or series of transactions as the original action." *Elsaesser v. Riverside Farms, Inc.*, 170 Idaho 502, 508 (2022) (quoting *Berkshire Invs., LLC v. Taylor*, 153 Idaho 73, 81 (2012)). Once these elements are met, "claim preclusion bars 'every matter offered and received to sustain or defeat the claim *but also as to every matter which might and should have been litigated* in the first suit.'" *Monitor Fin., L.C. v. Wildlife Ridge Ests., LLC*, 164 Idaho 555, 561 (2019) (quoting *Magic Valley Radiology, P.A. v. Kolouch*, 123 Idaho 434, 437 (1993)) (alteration in original).

The only disputed element[1] of claim preclusion is whether there was a final judgment on the merits. A final judgment does not require "the precise point or question in [the subsequent] action" to be "finally resolved and decided in the [prior] action." *Farmers Nat. Bank v. Shirey*, 126 Idaho 63, 70 (1994). Rather, the relevant inquiry is whether the party had a full and fair opportunity to litigate the issue. *Berkshire*, 153 Idaho at 82.

There is no dispute that A&B raised the same issues during the 2023 administrative proceeding. However, A&B did not develop the administrative record necessary to support those issues. In its post-hearing brief, A&B acknowledged that the Department calculated its proportionate share of the mitigation obligation using the steady-state method, but it did not develop any substantive argument beyond requesting consideration of acres that had transitioned from groundwater to surface water irrigation. *Surface Water Coalition Post-Hearing Brief*, at 12 (June 16, 2023). It is also undisputed that the Director did not address A&B's proportionate share issues in either the *Post-Hearing Order* or the *Sixth Methodology Order*. If A&B believed the Director erred by failing to address the issues, its remedy was to seek judicial review—similar to

[1] The first two elements are satisfied because the parties have remained the same, or have been similar, for the duration of the SWC delivery call proceeding, and A&B's issues relate to the methodology order applied in the delivery call proceeding.

how the Coalition of Cities sought judicial review of the *Post-Hearing Order*. *See City of Idaho Falls v. Idaho Dep't of Water Res.*, Docket No. 52102 (Dec. 31, 2025).

The 2023 hearing involved extensive testimony regarding transient and steady-state modeling for determining injury and calculating curtailment dates. When the Director amended the methodology order, he had no obligation to reexamine or modify the modeling used to calculate the proportionate share mitigation obligations in the absence of an administrative record supporting such a review. The responsibility to raise and pursue those issues rested with A&B. To the extent A&B objected to the implementation of the steps in the methodology order, such as adding senior groundwater rights to future curtailment lists, it had an opportunity to litigate those issues during the 2023 hearing as well.

A&B now challenges the method used by the Director to calculate A&B's mitigation obligation under the SWC delivery call. There has been a succession of proceedings in which the methodology at issue has been applied in final as-applied orders. The mitigation obligation issue has not been appealed, although it was clearly before the participants in this ongoing litigation. The method to calculate the mitigation obligation has been utilized in ongoing proceedings and has not been appealed. A&B had an obligation to develop the administrative record for the Director to consider the issues it raised in 2023, but A&B's failure to litigate the issues fully or seek judicial review precludes it from relitigating the matter now. Because A&B raised the issues in 2023, did not develop them in the administrative process to litigate them fully, and did not seek judicial review of the resulting orders from the 2023 hearing, all three elements of claim preclusion are satisfied. A&B is barred from relitigating these issues in this proceeding.

A&B raised a due process issue in its briefing. The order under review did not address this argument beyond determining it was moot. The record is clear that A&B had the opportunity to address its claims in earlier proceedings. There is no due process violation.

CONCLUSIONS OF LAW

The doctrine of claim preclusion bars A&B from raising the issues it raised in 2023 again in this proceeding. Accordingly, IGWA's motion for summary judgment is granted, and the hearing set for January 14 through 16, 2026, is vacated.

ORDER

IT IS HEREBY ORDERED that *Idaho Ground Water Appropriators, Inc.'s Petition for Reconsideration* and *Motion for Summary Judgment* is GRANTED.

IT IS FURTHER ORDERED that the hearing scheduled for January 14 through 16, 2026 in this matter is VACATED.

DATED this 8th day of January 2026.

GERALD F. SCHROEDER
Hearing Officer

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 8th day of January 2026, the above and foregoing, was served by the method indicated below, and addressed to the following:

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EXPLANATORY INFORMATION TO ACCOMPANY A PRELIMINARY ORDER

(To be used in connection with actions when a hearing was **not** held.)

The accompanying document is a "**Preliminary Order**" issued by the Idaho Department of Water Resources ("Department") pursuant to Idaho Code § 67-5243. **This preliminary order can and will become a final order without further action of the Department, unless a party petitions for reconsideration, petitions for review, or requests a hearing as further described below:**

PETITION FOR RECONSIDERATION

(*See* Idaho Code § 67-5243(3))

Any party may file a petition for reconsideration of this preliminary order with the Department 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 presiding officer 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.

PETITION FOR REVIEW (EXCEPTIONS)

(*See* Idaho Code § 67-5245)

Within fourteen (14) days after: (a) the service date of this preliminary order, (b) the service date of a denial of a petition for reconsideration of this preliminary order, or (c) the failure within twenty-one (21) days of the presiding officer to act on a petition for reconsideration of this preliminary order, any party may petition the Director in writing to review any part of this preliminary order by filing exceptions, and any supporting brief, with the Department.[1] Any parties opposing the exceptions shall have fourteen (14) days from the service date of the exceptions to file a brief. If the Director determines that oral argument is to be heard, the Director will provide reasonable notice to the parties of the place, date, and hour for the argument.

The Director will issue a final order on exceptions within fifty-six (56) days of receipt of the written briefs or oral argument, whichever is later, unless extended for good cause. The Director may remand the matter for or hold an evidentiary hearing if further factual development of the record is necessary before issuing a final order.

REQUEST FOR HEARING

(*See* Idaho Code § 42-1701A(3))

Unless a right to a hearing before the Department or the Water Resource Board is otherwise provided by statute, any person aggrieved by any final decision, determination, order or action of the Director of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to Idaho Code § 42-1701A(3). A written petition to the Director contesting the preliminary order and requesting a hearing must be filed with the Department

[1] The Director may decide to review this preliminary order upon his own motion. Should the Director decide to do so, the Director will provide written notice to the parties within the period the parties are allowed to petition the director for review of the preliminary order.

by any aggrieved person **within fifteen (15) days after service of this preliminary order**.

CERTIFICATE OF SERVICE

(*See* IDAPA 37.01.01.053, 37.01.01.202)

All documents filed with the Department in connection with a petition for reconsideration, petition for review, or a request for hearing of this preliminary order shall be served on all other parties to the proceedings in accordance with Rules of Procedure 53 and 202.

RECEIVED
Jan 22, 2026
DEPARTMENT OF
WATER RESOURCES

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BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY OR FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY	Docket No. CM-DC-2010-001 **A&B IRRIGATION DISTRICT'S EXCEPTIONS TO PRELIMINARY ORDER**

COMES NOW, A&B IRRIGATION DISTRICT ("A&B or "District"), by and through counsel of record, pursuant to Idaho Code § 67-5245 and IDAPA 37.01.01.730.02.c[1], and hereby submits the following *Exceptions to Preliminary Order* in this matter. For the reasons set forth below, the Director should reverse the Hearing Officer's *Preliminary Order Granting IGWA's Petition for Reconsideration and Granting IGWA's Motion for Summary Judgment* ("*Prelim. Order*") and reschedule the administrative hearing.

[1] Citations to the *Rules of Procedure of the Idaho Department of Water Resources and the Water Resource Board* (IDAPA 37.01.01 et seq.) (3-18-22) will hereinafter be referred to shorthand as "Rule."

PROCEDURAL BACKGROUND

The Director summarized the facts related to the 2025 As Applied Orders and A&B's requests for hearing in the *Order Granting A&B Irrigation District's Request for Hearing, Consolidating Proceedings for Hearing, and Appointing Hearing Officer* (Sept. 3, 2025). In a nutshell, the July 2025 As Applied Order was the first time A&B's senior groundwater right 36-2080 (Sept. 9, 1948 priority date) has ever been subject to curtailment or a mitigation obligation in response to the SWC delivery call. Exercising its statutory right to request a hearing under section 42-1701A(3), A&B filed a petition, and the Director granted the same.

Following the pre-hearing conference, the parties participated in discovery, filed expert reports, and various motions.[2] On November 18, 2025 IGWA filed a motion for summary judgment requesting the Hearing Officer to rule that A&B is barred by the doctrine of res judicata from "challenging the method used by the Director to calculate its storage water mitigation obligations under the Methodology Order." *IGWA Motion* at 10. A&B filed its *Consolidated Response to AFA Motion / IGWA Motion for Summary Judgment* ("*A&B Resp.*") on December 9, 2025.[3] The Hearing Officer initially denied IGWA's motion, finding there was no final judgment on the merits and that the issue raised by A&B was not moot because it "raises a substantial public interest for interested parties to have a decision on this issue." *See Order Denying Idaho Ground Water Appropriators, Inc.'s Motion for Summary Judgment* at 8-11 (*"SJ Order*"). IGWA requested reconsideration and the Hearing Officer reversed his prior decision and granted IGWA's motion. *See Prelim. Order* at 3.

[2] American Falls-Aberdeen Ground Water District ("AFA") requested the Director to reconsider the order granting the request for hearing. The Director denied AFA's motion. *See Order Denying American Falls-Aberdeen Ground Water District's Motion to Reconsider Order Granting Hearing* (Dec. 22, 2025).

[3] A&B incorporates its response and arguments as though fully set forth herein.

STANDARD OF REVIEW

Idaho's Administrative Procedure Act ("APA") authorizes the Director to review preliminary orders issued by hearing officers. *See* I.C. § 67-5245. Parties are provided fourteen (14) days from the date of the order to file a petition for review and exceptions. *See* I.C. § 67-5245(2)(3); Rule 730.02.c. Opposing parties have fourteen (14) days to respond to any exceptions and the Director may schedule oral argument before issuing a final order. *See* I.C. § 67-5245(6); Rule 730.02.d, e.

Summary judgment requires the movant to show that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law. *See Martin v. Thelma V. Garrett Living Trust*, 170 Idaho 1, 5, 506 P.3d 237, 241 (2022). The burden of proving the absence of material facts is on the moving party and the Department must liberally construe facts in the existing record in favor of the nonmoving party and draw all reasonable inferences from the record in favor of the nonmoving party. *See id.* When an action is tried before an agency without a jury, the Department can rule upon summary judgment despite the possibility of conflicting inferences arising from undisputed evidentiary facts. *See Nettleton v. Canyon Outdoor Media, LLC*, 163 Idaho 70, 73, 408 P.3d 68, 71 (2017).

Summary judgment is not appropriate in a case where there are disputed issues of material fact. *See American Land Title Co. v. Isaak*, 105 Idaho 600, 601, 671 P.2d 1063, 1064 (1983). This case concerns the mixed legal and technical question related to the Director's apportionment of a storage mitigation water obligation amongst junior priority ground water rights in 2025. The Hearing Officer erroneously granted IGWA's motion for summary judgment and A&B respectfully requests the Director to reverse for the reasons set forth below.

ARGUMENT

The context of A&B's prior requests for hearing and the various issues at play in 2023 is important for the Director's consideration. First, the apportionment of a storage water obligation to mitigate an in-season demand shortfall has never been the subject of a formal order from the Department. The issue has also never been heard or actually decided by the agency. Where IDWR previously used a steady-state application of ESPAM to identify a priority date for curtailment prior to 2023, that decision only affected groundwater rights with priorities junior to June 14, 1977.[4] IDWR changed to a transient state application of ESPA to identify a priority date for curtailment in the spring of 2023. The former Director changed his application of ESPAM to ensure that if curtailment was required, the predicted shortfall or injury would be remedied within the same irrigation season. Still, that decision did not impact any groundwater rights prior to December 30, 1953, that is until July 2025.

Although A&B requested a hearing on the April 2023 As Applied Order, the Director never formally granted that request or determined that the District's distinct issues would be heard. Instead, the Director scheduled a hearing on his own volition.[5] *See Notice of Hearing, Notice of Prehearing Conference, and Order Authorizing Discovery* (April 21, 2023). Jennifer Sukow's testimony was further limited to the change in model application for calculating a

[4] The highest predicted in-season shortfall occurred in the July 20, 2021 *Order Revising April Forecast Supply (Methodology Step 6*). That order predicted an in-season demand shortfall of 170,000 acre-feet, which only subjected rights junior to June 14, 1977 to curtailment or a mitigation obligation. A&B did not have to establish that it had to mitigate for any proportionate share predicted in that order. *See July 2021 Order* at 10, n. 3. All other predicted in-season demand shortfalls in the SWC delivery call impacted rights junior to June 19, 1977. Although the Director found a final demand shortfall of 246,100 acre-feet in the fall of 2021, no curtailment date or proportionate share of mitigation was ever determined in relation to that quantity. *See Final Order Establishing 2021 Reasonable Carryover (Methodology Step 9)* (Dec. 21, 2021).

[5] The April 2023 As Applied Order predicted an in-season demand shortfall of 75,200 acre-feet, implicating ground water rights junior to December 30, 1953. A&B's junior water rights subject to that order only affected 535 acres as it had previously converted the remaining 3,573 acres under those rights or portions thereof (36-15127A et al.) to a surface water supply beginning in 1995 and 2016.

curtailment priority date, not any issues related to apportioning a storage water mitigation obligation. *See Notice of Materials Department Witnesses May Rely Upon at Hearing and Intent to Take Official Notice* (May 5, 2023). The predicted in-season injury in 2023 was later reduced to "0 acre-feet" in July, and the state of what A&B was required to mitigate in 2024 was cast into uncertainty by the actions of the Ground Water Districts and their attempts to mitigate under numerous different plans over the course of several months. *See A&B Resp.* at 14-17.

A&B therefore had no reason to pursue any challenges against the Director's As Applied Orders in those years or request hearings that were unnecessary, particularly as they would have applied to water rights converted to a surface water supply that carried no mitigation obligation or curtailment impact. That all changed in 2025 when the July As Applied Order impacted A&B's senior groundwater right no. 36-2080. Where the Director concluded that A&B had to either curtail all 62,604 acres under its 1948 water right or mitigate its proportionate share of the storage obligation for the first time in the history of the SWC delivery call, the time was ripe to challenge that decision and have a full administrative hearing to create a record on the issue.

As explained below, A&B takes exception to the Hearing Officer's decision to grant IGWA's motion for summary judgment. The Director should reverse the Hearing Officer and either remand the proceeding for the previously scheduled hearing or preside over the hearing as authorized by Idaho law. *See* I.C. § 67-5245(6)(b), (c).

I. Res Judicata Does Not Bar A&B's Request for Hearing or the Director's Decision to Hold a Hearing and Receive Evidence Concerning the Proportionate Share Calculation for Storage Mitigation.

IGWA alleges that res judicata precludes "A&B from challenging the method by which the Director calculates A&B's proportionate storage water mitigation obligations because A&B could have and did raise these issues previously in this action." *IGWA's Motion for Summary*

Judgment at 6. The Hearing Officer summarized the elements of the defense as follows:

> Claim preclusion prohibits a claim in a subsequent action when: "(1) the original action ended in a final judgment on the merits, (2) the present claim involves the same parties as the original transaction, and (3) the present claim arises out of the same transaction or series of transactions as the original action." *Elsaesser v. Riverside Farms, Inc.*, 170 Idaho 502, 508 (2022) (quoting *Berkshire Invs., LLC v. Taylor*, 153 Idaho 73, 81 (2012)). Once these elements are met, "claim preclusion bars 'every matter offered and received to sustain or defeat the claim *but also every matter which might and should have been litigated* in the first suit." *Monitor Fin., L.C. v. Wildlife Ridge Ests., LLC*, 164 Idaho 555, 561 (2019) (quoting *Magic Valley Radiology, P.A. v. Kolouch*, 123 Idaho 434, 437 (1993) (alteration in original).

Prelim. Order at 2.

The Hearing Officer initially concluded there was no prior final judgment on the merits and therefore IGWA's motion should be denied. *See SJ Order* at 7-9. On reconsideration, the Hearing Officer reversed course and concluded that a final decision on the issue was not required and that "the relevant inquiry is whether the party had a full and fair opportunity to litigate the issue."[6] *Prelim. Order* at 2. Contrary to the Hearing Officer's conclusion, A&B has had no such opportunity, particularly since its 1948 water right has never been subject to curtailment or a defined mitigation obligation.[7]

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[6] The Hearing Officer relied upon this statement from *Berkshire Invs., LLC v. Taylor*, 153 Idaho 73, 82, 278 P.3d 943, 952 (2012), a case where the Idaho Supreme Court found the elements of issue preclusion applied because all of the Appellant's claims "hinge on a single issue that we already disposed of in *Taylor II* – whether the Disclaimer in fact divested the Taylors of standing to challenge the real estate transaction as beneficiaries." The Court found that it was "undisputed" that the Disclaimer "was raised as an issue to this Court and expressly resolved." 153 Idaho at 82, 278 P.3d at 952. The facts before the Director in this case are readily distinguishable as application of the curtailment order or a mitigation obligation to A&B's senior water right was not an "issue" previously raised or "expressly decided" by IDWR. Accordingly, the context of the Court's findings in *Berkshire* are unique and do not extend to the facts in this case.

[7] A&B's water rights are individual property right interests. *See* I.C. § 55-101; *see also*, *Eagle Creek Irr. Co. Inc. v. A.C. & C.E. Investments, Inc.*, 165 Idaho 467, 476, 447 P.3d 915, 924 (2019); *Clear Springs Foods. Inc. v. Spackman*, 150 Idaho 790, 707, 252 P.3d 71, 78 (2011) ("When one has legally acquired a water right, he has a property right that cannot be taken from him for public or private use except by due process of law and upon just compensation being paid therefor").

The Hearing Officer relied upon the fact A&B had requested a hearing on application of the proportionate share calculation to its water rights[8] junior to December 30, 1953 in 2023 to bar A&B's July 2025 request for hearing, which for the first time included water right no. 36-2080. *See id.* at 2. A&B's issues as they related to its junior water rights were not actually heard at the June 2023 hearing or determined by the Director, yet the Hearing Officer maintains that A&B should have appealed the Director's *Post-Hearing Order* or the *Sixth Methodology Order*. *See id.* The Hearing Officer is mistaken on both points.

First, an appeal of the *Post-Hearing Order* would have been denied as a fruitless exercise. *See City of Idaho Falls et al. v. IDWR*, 2025 WL 3771308, at *4-5 (Idaho 2025). The Supreme Court plainly held that the *Post-Hearing Order* was not an "operative order" that could be appealed. *Id.* Accordingly, that is not a valid reason to bar A&B's present request for hearing.

Next, the *Sixth Methodology Order* does not set out the procedure for determining a proportionate share of a storage mitigation obligation. Instead, the order only addressed how the model would be used to determine a curtailment priority date, the issue actually litigated and heard at the June 2023 hearing. *See Sixth Methodology Order* at 31-33, 42-45. The Hearing Officer believes that it was A&B's obligation to appeal the Director's decision not to include findings and a determination on an issue that was not actually heard. *See Prelim. Order* at 3. However, the remedy for any appeal would have been a remand to the agency to develop the missing record, the exact position the parties have been diligently progressing toward over the past six months. *See* I.C. § 67-5279(2).

[8] The only water rights subject to curtailment or a mitigation obligation pursuant to the April 2023 As Applied Order were the following: 36-16749, 36-15127A, 36-15192, 36-15193A, 36-15194A, 36-15195A, 36-15196A, 36-15193B, 36-15194B, 36-15195B, 36-15196B, and 36-15127B. A&B's senior water right 36-2080 was not subject to any order by the Director in 2023 or 2024.

The Hearing Officer completely overlooks the fact that the July 2025 As Applied Order directly impacted A&B's senior right 36-2080 and that the District had a statutory right to seek relief before the agency on that final order. *See Explanatory Information to Accompany Final Order* attached to *Order Revising April 2025 Forecast Supply and Continuing May 16, 2025 Curtailment Order (Methodology Steps 5 & 6)*; *see also*, I.C. § 42-1701A(3). A&B was required to request a hearing and could not have simply appealed the order to district court. *See* I.C. § 42-5271(1).

To that end, the *Prelim. Order* fails to address a key limitation to claim preclusion: lack of ripeness. The Idaho Supreme Court has long recognized that claim preclusion is "not applicable where matters raised in the second suit were not ripe for adjudication in the prior action." *See Bell Rapids Mut. Irr. Co. v. Hausner*, 126 Idaho 752, 753-54, 890 P.2d 338, 339-40 (1995) (quoting *Diamond v. Farmers Grp.*, Inc., 119 Idaho 146, 149, 804 P.2d 319, 322 (1990), which, in turn, cites *Duthie v. Lewiston* Gun Club, 104 Idaho 751, 663 P.2d 287 (1983)). This limitation was not addressed by the Hearing Officer even though it was raised in A&B's response brief. *See A&B Resp.* at 23. Because the *Prelim. Order* does not address lack of ripeness and because lack of ripeness precludes a finding a of claim preclusion, A&B respectfully takes exception with the Hearing Officer's decision.

"Ripeness asks whether there is any need for court action at the present time. The purpose of the ripeness requirement is to prevent courts from entangling themselves in *purely abstract disagreements*." *Roy v. Idaho Dep't of Health & Welfare*, 174 Idaho 375, 382, 555 P.3d 676, 683 (2024) (citations and internal quotation marks omitted) (italics in original). A case is ripe for adjudication when it poses "more than a theoretical or potential controversy." *Id.* A claim is considered to have been ripe in the "first/prior suit" only if all of the conduct that formed the

basis of the claim occurred or was known to the plaintiff before the court proceeded to the merits of the first suit. *See Berkshire Invs., LLC*, 153 Idaho at 83, 278 P.3d at 953 ("[A]ll of the conduct on which those claims are based … occurred and was made known to [plaintiffs] while [the first suit] was pending, before Judge Wilper even proceeded to the merits of the case. Accordingly, any claim arising from that conduct ripened at that time and should have been raised."); *see also, generally, Sadid v. Vailas*, 936 F. Supp. 2d 1207, 1219–21 (D. Idaho 2013) (examining, *inter alia*, *Berkshire* to identify governing contours of Idaho's ripeness doctrine).

Here, the *Prelim. Order* avers that A&B's present claim of injury to its senior water right—water right no. 36-2080—could have been raised in the 2023 proceedings. But the Hearing Officer fails to acknowledge that A&B's senior water right was *not actually subject to curtailment or any mitigation obligation* in 2023. The present injury-in-fact to the senior water right is the basis of A&B's July 2025 *Request for Hearing* and that was not known to A&B until the July 2025 As Applied Order was issued. Put another way, the conduct underlying A&B's *Request for Hearing* (an order of curtailment and mitigation obligation) was not known to A&B—and could not have been known, because it had not yet occurred—at the time the Department was evaluating challenges to the *Fifth Methodology Order* and the April 2023 As Applied Order. And such harm could not have been reasonably foreseen, a fact borne out by the fluxes in the mitigation framework from 2023 to 2025 (e.g., multiple mitigation plans filed by groundwater districts, ongoing uncertainty in the implementation and approval of mitigation plans, indeterminate mitigation obligations).

Indeed, if A&B had raised the specter of future curtailment to its senior water right as a claim in 2023, such claim would have been built on multi-layered a foundation of "what ifs" and hypothetical scenarios. This would have epitomized "a theoretical or potential controversy." *Roy*,

174 Idaho at 382, 555 P.3d at 683. Further, depending upon future water supply conditions it is possible that A&B's senior water right may have never been subject to curtailment or a storage mitigation obligation.

Because A&B's present claim challenging the curtailment of its senior water right was not ripe in 2023, the issue of claim preclusion falls to the wayside and cannot serve as a basis for granting IGWA's *Motion for Summary Judgment*. A&B respectfully takes exception with the *Prelim. Order* and asks the Director to reverse the Hearing Officer accordingly.

Even notwithstanding lack of ripeness, the claim preclusion analysis in the *Prelim. Order* contains material errors in that it applied the improper evaluation for claim preclusion. Under the applicable principles of claim preclusion, A&B's *Request for Hearing* is plainly not barred by *res judicata*.

In the claim preclusion analysis, the *Prelim. Order* provides that "the relevant inquiry is whether the party had a full and fair opportunity to litigate the issue." *Prelim. Order* at 2 (citing *Berkshire Invs., LLC*, 153 Idaho at 82). But this is not so. The "full and fair opportunity" inquiry is one of the enumerated factors for determining *issue preclusion*, not claim preclusion. *See, e.g.*, *Carter v. Gateway Parks, LLC*, 168 Idaho 428, 440, 483 P.3d 971, 983 (2020) ("To successfully assert issue preclusion as a bar to relitigation of a claim, one must show … the party against whom the earlier decision was asserted had a full and fair opportunity to litigate the issue decided in the earlier case…."); *Peterson v. Priv. Wilderness, LLC*, 152 Idaho 691, 695, 273 P.3d 1284, 1288 (2012); *Kootenai Elec. Co-op., Inc. v. Lamar Corp.*, 148 Idaho 116, 120, 219 P.3d 440, 444 (2009) (same). IGWA's motion fails the issue preclusion analysis as the Hearing Officer already concluded that "those issues that IGWA and AFA now seek to preclude have never actually been decided in previous litigation." *SJ Order* at 9.

The Hearing Officer did not reconsider that finding, thus collateral estoppel or issue preclusion does not apply in this case. *See Berkshire Invs., LLC*, 153 Idaho at 81, 278 P.3d at 951 ("Collateral estoppel bars relitigation of an issue previously determined when: (1) the party against whom the earlier decision was asserted had a full and fair opportunity to litigate the issue decided in the earlier case; (2) the issued decided in the prior litigation was identical to the issue presented in the present action; (3) the issue sought to be precluded was actually decided in the prior litigation; (4) there was a final judgment on the merits in the prior litigation; and (5) the party against whom the issue is asserted was a party or in privity with a party to the litigation").

The proper inquiry for claim preclusion is whether the claim "might and should have been litigated in the first suit." *Ticor Title Co. v. Stanion*, 144 Idaho 119, 126, 157 P.3d 613, 620 (2007). The Idaho Supreme Court evaluates claims that "might and should have been litigated" under the "transactional approach" from the Restatement (Second) of Judgments § 24:

> As we said in *Joyce v. Murphy Land & Irrigation Co.*, 35 Idaho 549, 553, 208 P. 241, 242–43 (1922), "[T]he former adjudication concludes parties and privies not only as to every matter offered and received to sustain or defeat the claim, but also as to every matter which might and should have been litigated in the first suit." The prior adjudication "extinguishes all claims arising out of the same transaction or series of transactions out of which the cause of action arose." *Diamond v. Farmers Group, Inc.*, 119 Idaho 146, 150, 804 P.2d 319, 323 (1990). The determination of whether a group of facts constitutes a "transaction" is to be made "pragmatically, giving weight to such considerations as **whether the facts are related in time, space, origin, or motivation, whether they form a convenient trial unit, and whether their treatment as a unit conforms to the parties' expectations or business understanding or usage**." Restatement (Second) of Judgments § 24 (1982).

Andrus v. Nicholson, 145 Idaho 774, 777, 186 P.3d 630, 633 (2008) (emphasis added).

The Idaho Supreme Court further described the test for claim and issue preclusion in *Farmers Nat. Bank v. Shirey*, 126 Idaho 63, 878 P.2d 762 (1994):

> Justice Budge distinguished cases where the issue arises upon the same claim or demand from those based upon a different claim or demand. In the former, in an action between the same parties upon the same claim or demand, the *Joyce* rule

> applies. In the second type, an action between the same parties upon a different claim or demand, the *Marshall* rule applies, and the judgment in the prior action operates as an estoppel only as to those precise matters which were in fact decided.

126 Idaho at 70, 878 P.2d at 769.

A&B's present claim is not barred by claim preclusion for the same reasons that it was unripe in 2023. Again, the crux of A&B's present claim is that its senior water right is actually subject to a curtailment—something did not happen in 2023 or the intervening period. The curtailment originated in a July 2025 order that was (obviously) not in existence in 2023. Absent an actual curtailment or order requiring a defined storage water mitigation obligation, A&B had no concrete motivation for bringing a claim in defense of its senior water right. Moreover, this is not a case involving the same property right interests. *See e.g. Monitor Finance, L.C. v. Wildlife Ridge Estates, LLC*, 164 Idaho 555, 561, 433 P.3d 183, 189 (2019) ("In the original action, Wildlife LLC sought to quiet title to the identical property encumbered by the deed of trust given by M&S to the Beneficiaries. Hence the present claim arises out of the same transaction as the original action").

Under the "transactional approach," A&B's present claim bears no temporal, motivational, or origin-of-claim connection to the matters adjudicated in 2023. Again, the issue was not actually heard or decided by the Director at the June 2023 hearing. Further, A&B's senior water right was not even implicated at that time. For these reasons, A&B respectfully takes exception to the Hearing Officer's finding of claim preclusion and requests the Director to reverse the decision.

Moreover, even if the Director finds that the res judicata doctrine applies, exceptions have been recognized, including specifically in IDWR administrative proceedings. In *Sagewillow, Inc. v. IDWR*, 138 Idaho 831, 70 P.3d 669 (2003), the applicant Sagewillow argued

that res judicata and collateral estoppel prevented the Department from declaring that its water right had been forfeited since the agency had approved a prior transfer. *See* 138 Idaho at 844, 70 P.3d at 682. The Court described previously recognized exceptions to res judicata as follows:

> For policy reasons, however, we have recognized certain exceptions to the rule stated in *Joyce*. *Heaney v. Bd. of Trustees of Garden Valley School Dist. No. 71*, 98 Idaho 900, 575 P.2d 498 (1978) (although former school superintendent could have joined his claim for damages for breach of contract with his petition in earlier action for writ of mandamus to compel reinstatement, his failure to do so did not bar his damages claim); *Duthie v. Lewiston Gun Club*, 104 Idaho 751, 663 (1983) (where gun club's lawsuit to recover damages in trespass based upon homeowner's connection to gun club's waterline was dismissed upon a finding that gun club had granted homeowner a license to do so, and homeowner subsequently brought a lawsuit against the gun club because it later cut and capped the waterline, the judgment in the first lawsuit did not preclude litigation in the second lawsuit of the issue of whether the license was revocable because that issue was not ripe for trial until the license was actually revoked); *Nash v. Overholser*, 114 Idaho 461, 757 P.2d 1180 (1988) (although tort action against spouse for assault and battery could have been brought in divorce proceeding, judgment in divorce action did not bar later tort action because mandatory joinder of tort claims with equitable divorce proceedings may be undesirable, as well as unfair).

138 Idaho at 844-45, 70 P.3d at 682-83.

The Court then concluded that res judicata did not apply to IDWR's forfeiture finding on the basis that "if forfeiture or abandonment is not actually raised as an issue in a proceeding to transfer the point of diversion or place of use of a water right, the final order in the transfer proceeding is not res judicata on the issue of whether the water right at issue had been forfeited or abandoned." *Id.* Similarly, there is no basis for the Department to conclude that the 2023 orders, including the *Sixth Methodology Order*, operate to bar A&B's challenge to the July 2025 As Applied Order as to curtailment or the storage water mitigation obligation assigned to A&B's senior water right. *See also*, *Bell Rapids Mutual Irr. Co.*, 126 Idaho 752, 890 P.2d 338 (Irrigation company's unsuccessful lawsuit to collect assessments from 1988-1991 did not bar company's subsequent claim and case to collect assessments levied in 1992).

Furthermore, the Hearing Officer initially recognized that it was in the public interest to have the issue fully heard by the agency, and such a finding further warrants application of an exception to res judicata in this case. *See SJ Order* at 11 ("how the Department calculates the mitigation obligations and how it implements the curtailment order raises a substantial public interest given the methodology resets every irrigation season").

Receiving evidence on IDWR's apportionment of the mitigation obligation, and how that relates to its identification of a curtailment priority date, is an important issue that should be analyzed by the Director with a complete administrative record. A&B filed a proper petition to exhaust its administrative remedies and at a minimum the Director can find that an exception to res judicata exists to reverse the Hearing Officer's decision and hold the hearing that was initially granted.

A&B respectfully requests the Director to reverse the *Prelim. Order* and find that res judicata does not bar the District's requests for hearing.

II. The Director Should Reverse the Hearing Officer's Decision on Due Process Grounds.

The Hearing Officer did not specifically address A&B's due process argument other than to generally conclude "A&B had the opportunity to address its claims in earlier proceedings."[9] *Prelim. Order* at 3. The Director should reverse this finding upon a thorough due process analysis. Such a determination warrants denying IGWA's motion for summary judgment.

The United States and Idaho Constitutions prevent state deprivations of "life, liberty, or property, without due process of law. U.S. Const., Amend XIV, § 1; Idaho Const., Art. 1, § 13; *see Manwaring Investments, L.C. v. City of Blackfoot*, 162 Idaho 763, 773, 405 P.3d 22, 32

[9] The Hearing Officer initially found it was not necessary to address A&B's due process arguments on the basis that "[a] hearing will be held which satisfies A&B's concerns." *See SJ Order* at 11-12.

(2017). Due process has a procedural and substantive component. *See id.* Under the two-step analysis a decision-maker must determine whether an individual's threatened interest is a liberty or property interest under the Fourteenth Amendment, and next what process is due. *See South Valley Ground Water Dist. v. IDWR*, 173 Idaho 762, 794, 548 P.3d 734, 766 (2024).

The Idaho Supreme Court described the due process standard as follows:

> The Fourteenth Amendment of the U.S. Constitution guarantees procedural due process of law. The minimal requirements of procedural due process relate to notice and hearing in the deprivation of a significant life, liberty, or property interest. A procedural due process inquiry is focused on determining whether the procedure employed is fair. Due process is not a rigid doctrine; rather, it calls for such procedural protections as are warranted by a particular situation. The procedure required is merely that to ensure that a person is not arbitrarily deprived of his or her rights. **The opportunity to be heard must occur at a meaningful time and in a meaningful manner.**

Doe I v. John Doe (2024-23), 175 Idaho 412, 566 P.3d 409, 429–30 (2025) (emphasis added).

Water rights in Idaho are real property interests. *See* I.C. § 55-101. The Idaho Supreme Court has specifically explained:

> We agree that **individual water rights** are real property rights which must be afforded the protection of due process of law before they may be taken by the state.

Nettleton v. Higginson, 98 Idaho 87, 90, 558 P.2d 1048, 1051 (1977) (emphasis added); *see also*, *In re Idaho Dept. of Water Resources Amended Final Order Creating Water Dist. No. 170*, 148 Idaho 200, 213, 220 P.3d 318, 331 (2009).

In the context of conjunctive administration cases, the Court has specifically found:

> Whether or not curtailment of water use can be ordered without prior notice or an opportunity for a hearing depends upon whether the three requirements are met under the circumstances of a particular delivery call or curtailment. *See Nettleton v. Higginson,* 98 Idaho 87, 92, 558 P.2d 1048, 1053 (1977) ("We find the above three requirements to be met in the *present case* ...."). (Emphasis added.) In the instant case, the record does not show that there was a special need for very prompt action without notice and an opportunity for a hearing. The groundwater pumping did not cause a sudden loss of water discharge from the springs. The flow from the springs at issue had been gradually declining over a number of years. Curtailment would not quickly restore the spring flows.

> The Director found that "[t]he effects of curtailment may be years to be realized." **Under these circumstances, the Director abused his discretion by issuing the curtailment orders without prior notice to those affected and an opportunity for a hearing**.
>
> However, that does not invalidate the curtailment orders that are the subject of this appeal. The Groundwater Users were given notice and a hearing before the Director issued his final order, and it is that order which is the subject of this appeal. That they may have initially been denied due process with respect to the curtailment orders issued in May and July 2005 does not invalidate the final order issued in July 2008 after the hearing.

Clear Springs Foods, Inc. v. Spackman, 150 Idaho 790, 815–16, 252 P.3d 71, 96–97 (2011) (emphasis added).

Providing a hearing on the challenged agency action is a common thread in the above-referenced cases.[10] In this case due process required IDWR to provide A&B with an opportunity for a hearing "at a meaningful time and in a meaningful manner" prior to curtailment or implementation of a required storage water mitigation obligation flowing from the July 2025 As Applied Order. The Director granted A&B's request for hearing. *See Order Granting A&B Irrigation District's Requests for Hearing* (Sept. 3, 2025). However, in order to satisfy the District's right to due process, an actual hearing must be held. *See e.g. City of Boise v. Industrial Com'n*, 129 Idaho 906, 910, 935 P.2d 169, 173 (1997) ("Procedural due process is an essential requirement of the administrative process . . .").

The Hearing Officer's decision to grant IGWA's motion and vacate the scheduled hearing, on the mistaken grounds of res judicata, violated A&B's constitutional right to a hearing. *See Prelim. Order* at 3. The Hearing Officer's reason that "A&B had the opportunity to address its claims in earlier proceedings" is incorrect. Again, at most, that basis would only

[10] The Idaho APA sets for the procedures required for a hearing that comport with due process. *See* I.C. § 67-5242.

apply to A&B's junior priority water rights, not its senior water right 36-2080.[11] Whereas the Idaho Supreme Court has expressly recognized that "individual" water rights are distinct property right interests protected by due process, the Hearing Officer had no legal basis to infer the 2023 hearing provided a hearing "at a meaningful time and a meaningful manner" as to A&B's senior water right.[12] *See Nettleton*, 98 Idaho at 90, 558 P.2d at 1051.

Although the June 2023 hearing involved the same parties, including A&B, that does not absolve the fact that the relevant agency orders had no application to water right 36-2080. The scope of the hearing did not address A&B's issue, and its senior 1948 water right not implicated in any way at that time. Accordingly, A&B had no basis to challenge IDWR's application of a proposed curtailment or mitigation obligation assigned to its senior water right. Any such request would have been "speculative," creating a "hypothetical" record that may have never been realized.

Clearly, the June 2023 hearing did not constitute a hearing "at a meaningful time and a meaningful manner" that would satisfy A&B's right to due process. The Hearing Officer's decision should be reversed for this reason as well.

[11] Since the Director never granted A&B's 2023 request for hearing, limited the scope of testimony of IDWR witnesses, and never received evidence on the issue, A&B submits that no hearing has been held on the issue as it relates to any of A&B's water rights. *See A&B Resp.* at 8-18. The fact that the Ground Water Districts were attempting, and initially allowed, to mitigate under a variety of mitigation plans clouded what IDWR would actually require A&B to mitigate for in 2023 and 2024 as well. *See id.* This overarching confusion, coupled with the fact A&B ultimately did not have a mitigation obligation in 2023 lends support to the fact there was no reason to pursue the issue to hearing at that time.

[12] For example, if a person owned separate parcels of property and requested approval for a land use change on one, the local government's decision as to that particular parcel would not be dispositive or preclude the person's proposed change or right to due process and a hearing on the other parcel.

III. If the Director Affirms the Preliminary Order he Should Consider Initiating a Proceeding to Address the Question for All Interested Parties.

If the Director affirms the Hearing Officer he should consider initiating a contested case to take evidence and evaluate what should be the proper and lawful standard for apportioning a storage water mitigation obligation to satisfy an in-season demand shortfall. *See* I.C. § 67-5240; Rule 104. The agency has previously initiated proceedings involving water right administration and accounting matters applicable to a broad swath of water users. *See e.g.*, *Notice of Administrative Proceeding, Pre-Hearing Conference, and Hearing* (Docket No. AA-WRA-2021-001) (May 4, 2021); *Notice of Contested Case and Formal Proceedings, and Notice of Status Conference* (Accounting for Federal On-Stream Reservoirs WD1) (Oct. 22, 2013); *Notice of Contested Case and Formal Proceedings, and Notice of Status Conference* (Accounting for Federal On-Stream Reservoirs WD63) (Oct. 22, 2013); *Notice of Intent to Issue License* (Water Right Permit No. 01-7011) (Sept. 5, 2007).

The agency currently has several pending mitigation plans filed by various groundwater users across the ESPA, and it is likely additional plans may be forthcoming with additional areas included within the ESPA area of common ground water supply. *See* I.C. § 42-233C. Providing any and all affected water users with a comprehensive and efficient forum to address this issue rather than piece-meal in multiple contested cases would be in the interests of the agency and water users.

As such, the Director should consider such an option in the event the *Prelim. Order* is affirmed. Although IGWA and AFA would presumably prefer to avoid the merits of this issue (even though it implicates their members' senior groundwater rights), it is an important matter for IDWR to finally address, particularly where changes have been made by prior Directors and having a full understanding of how all groundwater rights, both senior and junior, should be

properly administered moving forward is in the public interest. The Director, in an exercise of discretion, could initiate and hold such a proceeding to provide clarify and certainty for all water rights subject to the SWC delivery call.

CONCLUSION

The Hearing Officer misapplied the res judicata doctrine in reversing his initial summary judgment decision. A&B's issue related to the proportionate share of a mitigation obligation has never actually been heard or decided by the agency. In addition, the District's senior water right 36-2080, a separate and individual property right interest, has never been subject to curtailment or a mitigation obligation until the Director issued the July 2025 As Applied Order. For these reasons, as well as the paramount due process protections described above, the Director should reverse the *Prelim. Order* and remand or hold the administrative hearing as required by law.

A&B respectfully requests the Director to grant its exceptions.

DATED this 22nd day of January, 2026.

PARSONS BEHLE & LATIMER

/s/ Travis L. Thompson
Travis L. Thompson

Attorneys for A&B Irrigation District

CERTIFICATE OF SERVICE

I hereby certify that on this 22nd day of January, 2026, I served a true and correct copy of the foregoing *A&B Irrigation District's Exceptions to Preliminary Order* on the following by the method indicated:

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STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

IN THE MATTER OF DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY OR FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY	Docket No. CM-DC-2010-001 **IGWA'S RESPONSE TO A&B IRRIGATION DISTRICT'S EXCEPTIONS TO PRELIMINARY ORDER**

Idaho Ground Water Appropriators, Inc. ("IGWA"), through counsel, submits this brief in response to *A&B Irrigation District's Exceptions to Preliminary Order* ("A&B's Exceptions") filed January 22, 2026, in this matter. This brief is supported by pleadings and orders filed previously in this docket.

Introduction

A&B's Exceptions present this case as though the Department has never formally determined A&B's storage water mitigation obligations and as though A&B has never had an opportunity to litigate the method used to calculate those obligations. The administrative record proves otherwise.

For nearly a decade, the Department has issued as-applied orders calculating Demand Shortfall and assigning A&B a specific, enforceable storage water mitigation obligation. That occurred in 2016, in 2023, and again in 2024, each time using the same method A&B seeks to

challenge now. A&B understood that its proportionate share had been determined; it actively responded to those determinations by providing mitigation or by seeking agency review.

In 2023, A&B placed the storage apportionment method at issue, participated in a multi-day evidentiary hearing, and submitted briefing challenging the method's legality. The Director rejected A&B's position, and A&B chose not to appeal.

Nothing about the method changed in 2025. The set of water rights subject to curtailment expanded, but there was no change to the method used to calculate storage water obligations. The Director applied the same method in 2025 as he applied in 2016, 2023, and 2024. Idaho law does not permit a party to relitigate the same method every time it applies to a new water right.

A&B's attempts to avoid *res judicata* by invoking ripeness, due process, and distinctions between individual water rights fail as a matter of law. The hearing officer correctly concluded that A&B is barred from relitigating issues that were, or should have been, fully litigated years ago. Therefore, the Preliminary Order should be affirmed.

1. *Res judicata* bars A&B's challenge to the storage mitigation method applied in the 2025 As-Applied Orders.

A&B's principal argument rests on the premise that the Department has never formally decided how storage water mitigation obligations are apportioned and that the issue has never been heard. Both premises are incorrect.

a. The apportionment of storage water mitigation has been the subject of formal Department orders.

A&B asserts that "the apportionment of a storage water obligation to mitigate an in-season demand shortfall has never been the subject of a formal order from the Department." (A&B's Exceptions, p. 4.) That assertion is contradicted by the record.

As IGWA previously demonstrated, in 2016 the Director issued an as-applied order predicting a demand shortfall of 44,200 acre-feet and calculating a 3,463 acre-feet storage water mitigation obligation for A&B. (*Final Order Re April 2016 Forecast Supply*, Apr. 19, 2016, p. 5, fn. 4.) A&B challenged that calculation by petitioning for reconsideration. (*A&B Pet. for Recons./Req. for Hrg.*, May 2, 2016.) The Director partially granted relief by correcting the acreage use to calculate A&B's obligation. (*Order on Pet. for Recons. and Req. for Hrg.*, May 11, 2016.) Thus, contrary to A&B's assertion, the calculation of storage water obligations was the subject of a formal order from the Department.

The same occurred in 2023 when the director issued an as-applied order calculating a demand shortfall and assigning A&B a 498 acre-foot storage water mitigation obligation. (*Final Order Re April 2023 Forecast Supply*, Apr. 21, 2023, p. 5, fn. 5.) That was a final order, enforceable through curtailment.

These were formal agency orders applying a defined method to impose concrete obligations on A&B. A&B's statement to the contrary cannot be reconciled with the Department's own orders or A&B's response to them.

b. The storage mitigation method was decided when the Director performed and assigned the calculations.

A&B's related assertion that the issue "has never been heard or actually decided by the agency" misunderstands the nature of administrative decision making. (A&B's Exceptions, p. 4.)

The issue of how storage water obligations are calculated is decided when the Director performs the calculation and assigns a specific obligation in an as-applied order. Whether the order recounts the formula at length is immaterial; the determination is made when the obligation is imposed and backed by the threat of curtailment.

A&B's own conduct confirms this understanding. In 2016 and again in 2023, A&B challenged and, ultimately, complied with the assigned obligations. That conduct demonstrates that A&B knew its proportionate share had been determined.

c. A&B litigated the issue in the 2023 evidentiary hearing.

A&B contends that although it requested a hearing on the *April 2023 As-Applied Order*, the Director never formally granted the request or determined that A&B's distinct issues would be heard. (A&B's Exceptions, pp. 4-5.) The record shows otherwise.

In May 2023, A&B submitted a statement of issues challenging whether its proportionate storage water obligation was correctly calculated and whether the use of steady state modeling to determine A&B's share was legally appropriate. (*SWC's Req. for Hrg. and Stmt. of Issues*, May 5, 2023, pp. 2-3.) A four-day evidentiary hearing followed in June 2023. After the hearing, A&B filed a post-hearing brief again challenging the method used to calculate its proportionate share of the demand shortfall for storage mitigation purposes. (*SWC Post-Hrg. Br.*, June 16, 2023.) The Director then issued a post-hearing decision that did not grant the relief A&B requested. (*Post-Hrg. Order Re Fifth Amended Methodology Order*, July 19, 2023.) A&B did not appeal.

That sequence reflects full litigation of the issue, not its absence. A&B cannot now recast an unfavorable outcome and a decision not to appeal as a lack of opportunity to be heard.

The point is reinforced by the *April 2024 As-Applied Order*, which again calculated A&B's storage water mitigation obligation at 498 acre-feet using the same method applied in 2023. (*Final Order Re April 2024 Forecast Supply*, Apr. 18, 2024, p. 5, fn. 8.) A&B did not challenge that order either.

d. Nothing changed in 2025 about the storage mitigation method.

A&B argues that everything changed in 2025 because the As-Applied Order affected its senior groundwater right no. 36-2080. (A&B's Exceptions, p. 5.) What changed was only the number of water rights subject to curtailment, not the method by which storage mitigation obligations are calculated.

The Director applied the same method in 2025 that he applied to A&B in 2016, 2023, and 2024. The fact that the curtailment reached a more senior A&B water right does not mean A&B lacked a full and fair opportunity to challenge the method previously, when its other water rights were required to provide mitigation or face curtailment.

Under A&B's approach, the same party could relitigate the same method repeatedly as progressively senior rights are curtailed. The doctrine of *res judicata* exists to prevent exactly that result.

e. The as-applied orders issued in 2016, 2023 and 2024 were "operative."

A&B argues, citing *City of Idaho Falls et al. v. IDWR*, 2025 WL 3771308, at *4-5 (Idaho 2025), that it should be excused from appealing the As-Applied Orders because the *Post-Hearing Order* was not the "operative order" that could be appealed. (A&B's Exceptions, p. 7.) This argument is misplaced.

In *City of Idaho Falls*, the Supreme Court ruled that the appellants' challenge of the *Fifth Methodology Order* was ineffectual because it had been superseded by the *Sixth Methodology Order*. *Id*. By contrast, A&B is challenging as-applied orders that were not superseded.

f. The issue was ripe when A&B's rights were subject to curtailment in 2016 and 2023.

A&B further argues that the storage mitigation method was not ripe for review because only some of its rights were subject to curtailment in earlier years. (A&B's Exceptions, pp. 8-10.) Again, that argument fails.

The issue was ripe because A&B's water rights were in fact subject to curtailment and A&B was assigned defined, enforceable storage water obligations. The controversy was not hypothetical; it required A&B to act.

Ripeness does not require that every water right owned by a party be affected before a challenge may be brought. A&B's own challenges and compliance in 2016 and 2023 demonstrate that the issue was ripe well before 2025.

2. A&B's due process argument fails.

A&B contends that summary judgment violates due process because its 1948 water right was not subject to curtailment in 2023. (A&B's Exceptions, p. 14-17.) Due process requires notice and an opportunity to be heard at a meaningful time and in a meaningful manner, not a rehearing each time an existing method applies to an additional asset.

In 2023, A&B received notice, participated in a multi-day evidentiary hearing, presented argument, submitted post-hearing briefing, and obtained a final agency decision. That process satisfied due process requirements. A&B's preference to relitigate the same method when its impacts extend to other water rights does not create a constitutional deficiency.

3. The Director should reject A&B's call for a new Department initiated proceeding.

A&B asks the Director to initiate a new proceeding to litigate storage mitigation apportionment on a prospective basis. That request should be denied.

Res judicata applies with equal force to efforts to revive settled issues through new procedural vehicles. The questions A&B asks the Director to address now are the same questions A&B raised, or should have raised, and fully litigated in 2023. Launching a new proceeding would undermine finality and reward strategic delay.

Conclusion

The storage mitigation method A&B challenges has been repeatedly applied, formally ordered, and actually adjudicated. A&B raised the issue, participated in a full evidentiary hearing, and declined to appeal. Nothing about the method changed in 2025.

The hearing officer correctly applied *res judicata* and properly granted summary judgment. Therefore, the Director should deny A&B's Exceptions and affirm the Preliminary Order.

Dated this 3rd day of February, 2026.

RACINE OLSON, PLLP

By:
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CERTIFICATE OF SERVICE

I hereby certify that on this 3rd day of February, 2026, I caused the foregoing document to be served on the persons below via email:

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BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY OR FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY	Docket No. CM-DC-2010-001 **AMERICAN FALLS-ABERDEEN GROUND WATER DISTRICT'S RESPONSE TO A&B IRRIGATION DISTRICT'S EXCEPTIONS TO PRELIMINARY ORDER**

COMES NOW American Falls-Aberdeen Ground Water District ("AFA"), by and through its undersigned counsel, pursuant to Rule 730.02.d of the Rules of Procedure[1] of the Idaho Department of Water Resources ("IDWR" or "Department"), and hereby responds to *A&B Irrigation District's Exceptions to Preliminary Order* ("*Exceptions*") dated January 22, 2026.

[1] Unless stated otherwise, any "Rules" referenced herein are from the Department's Rules of Procedure located at IDAPA 37.01.01.

AFA supports the *Preliminary Order Granting IGWA's Petition for Reconsideration and Granting IGWA's Motion for Summary Judgment* ("*Prelim. Order*") issued by the Hearing Officer, Hon. Gerald F. Schroeder (J., Ret.), on January 8, 2026, and, for the reasons set forth below, respectfully requests that the Director issue a final order adopting or affirming the same.

INTRODUCTION / SUMMARY OF ARGUMENT

The Hearing Officer correctly held the legal doctrine of res judicata bars A&B Irrigation District ("A&B") from relitigating the method by which the Department determines a ground water user's proportionate share of the predicted in-season demand shortfall (the "proportionate share" issues). *Prelim. Order* at 2-3. A&B's proportionate share issues were among the issues litigated at the hearing held in the captioned matter from June 6-9, 2023 (the "2023 hearing"). A&B's issues not only "*might and should have been litigated*" in the 2023 hearing, *Elsaesser v. Riverside Farms, Inc.*, 170 Idaho 502, 508 (2022) (emphasis in original), they *were litigated* in that hearing. Additionally, the Director has ruled on proportionate share issues on two other occasions, in 2016 and in 2024 in matters in which A&B was a participant. *Notice of Compliance with Order to Provide Staff Memo* (Dec. 30, 2025) at 8-10 ("*Sukow Memo*"). The Idaho legislature has also recognized that res judicata constrains the Department's authority to hold a hearing in this matter—under Idaho Code ("I.C.") § 42-1701A(3), A&B is not entitled to a hearing because A&B has "previously been afforded an opportunity for a hearing on the matter[.]"

A&B's 36-2080 water right, along with all of A&B's other water rights, is subject to the agency's proportionate share methods because of its unusual mitigation plan, under which it agreed to provide its proportionate share of the Demand Shortfall. Moreover, it has been subject to administration by the Department's proportionate share methods since A&B's mitigation plan

was adopted nearly 10 years ago; the Department's adoption of the transient method for determining curtailment (endorsed by A&B) in 2023 made the chance of such administration more likely. Nonetheless, A&B takes exception to the *Prelim. Order*, and argues it deserves a hearing on the grounds that 36-2080 (with a 1948 priority date), was not at risk of curtailment in 2023, so the "issues" were not "ripe" at the 2023 hearing. A&B's theory should be rejected, as it is a distortion of Idaho's doctrine of res judicata which if adopted would allow water users to avoid theories of preclusion through clever scoping of what was "at issue" in a prior proceeding.

A&B also seeks reversal of the *Prelim. Order* on the basis of due process violations. However, A&B has had all the process it is due during the 2023 (and 2016 and 2024) hearings referenced above. It has not shown that res judicata does not apply in this instance, and so due process is not a defense.

The Director should adopt or affirm the *Prelim. Order*.[2]

BACKGROUND

I. Timeline and Procedural Posture

a. Timeline associated with A&B's efforts to get a hearing in 2026.

Date	Event
April 16, 2025	Director issues the Final Order Regarding April 2025 Forecast Supply (Methodology Steps 1–3) ("Steps 1-3 Order")
April 29, 2025	A&B files a *Request for Hearing*
May 16, 2025	Director issues the *Final Order Curtailing Ground Water Rights Junior to August 28, 1955*
July 10, 2025	Director issues the *Order Revising April 2025 Forecast Supply and Continuing May 16, 2025 Curtailment Order (Methodology Steps 5 & 6)* ("*Steps 5-6 Order*")

[2] AFA incorporates as though fully set forth herein the arguments made in its *Motion to Reconsider Order Granting Hearing and Vacate Hearing or, alternatively, to Clarify the Scope of Hearing; Request for Expedited Ruling; Brief in Support* (Nov. 18, 2025) ("*AFA Motion*"); its *Reply in Support of Motion to Reconsider Order Granting Hearing and Vacate Hearing or, alternatively, to Clarify the Scope of Hearing; Request for Expedited Ruling* (Dec. 12, 2025) ("*AFA Reply*"); and its *Joinder in Support of Idaho Groundwater Appropriators, Inc.'s Petition for Reconsideration* (Jan. 5, 2026) ("*AFA Joinder*").

July 24, 2025	A&B files another *Request for Hearing*
July 24, 2025	A&B and the SWC file a *Joint Motion for Order Approving 2025 Stipulation*
July 25, 2025	Director issues the *Order Approving 2025 Stipulation as Compliance with Approved Mitigation Plan*
July 25, 2025	Director issues the *Final Order Curtailing Ground Water Rights Junior to October 11, 1900*
September 3, 2025	Director issues the *Order Granting A&B Irrigation District's Requests for Hearing, Consolidating Proceedings for Hearing, and Appointing Hearing Officer; Notice of Prehearing Conference*
September 11, 2025	Director issues the *Order Revising July 2025 Forecast Supply (Methodology Step 7-8)* ("*Steps 7-8 Order*")
September 17, 2025	AFA files a *Petition to Intervene*
October 7, 2025	Hearing Officer issues the *Order on Intervention, Authorizing Discovery, Email Service, and Scheduling; Order Granting Motion for Subpoena; Notice of Hearing*
November 18, 2025	IGWA files its *Motion for Summary Judgment* ("*IGWA Motion*") with the Hearing Officer
November 18, 2025	AFA files its *Motion* with the Director
December 9, 2025	A&B files *A&B's Consolidated Response to AFA Motion / IGWA Motion for Summary Judgment* ("*A&B Response*")
December 12, 2025	AFA files its *Reply*
December 16, 2025	IGWA files its *Reply Brief* ("*IGWA Reply*")
December 22, 2025	Director issues the *Order Denying AFA Ground Water District's Motion to Reconsider Order Granting Hearing* ("*Order Denying AFA Motion*")
December 30, 2025	IDWR files its *Sukow Memo*
January 2, 2026	Hearing Officer issues the *Order Denying Idaho Ground Water Appropriators, Inc.'s Motion for Summary Judgment* ("*Order Denying IGWA Motion*")
January 5, 2026	IGWA files its *Petition for Reconsideration* ("*IGWA Petition*")

January 5, 2026	AFA files its *Joinder*
January 8, 2026	Hearing Officer issues the *Prelim. Order*
January 22, 2026	A&B files its *Exceptions*

b. Procedural Posture

On September 3, 2025, the Director granted A&B's requests for hearing and appointed the Hearing Officer. On October 7, 2025, the Hearing Officer granted AFA's and other parties' intervention and authorized discovery. During discovery, AFA and IGWA realized that the issues in this proceeding were all too familiar—A&B was attempting to relitigate matters that were at issue in the hearing held from June 6-9, 2023.

Accordingly, on November 18, 2025, AFA and IGWA filed separate motions that sought the same relief: summary disposition of A&B's claims and vacation of the hearing set for January 12-14, 2026. On December 22, 2025, the Director declined to rule on the merits of the *AFA Motion* because he concluded it was "most appropriate" for the Hearing Officer to address the arguments, and he was "confident" that the Hearing Officer could do so. *Order Denying AFA Motion* at 3-4. In that order, the Director "acknowledge[d] that A&B has raised the proportionate share calculation issue in the past." *Id.* at 3. The Director also noted the similarities between the *AFA Motion* and the *IGWA Motion*, and left it for the Hearing Officer to consider the arguments in the *AFA Motion* and *AFA Reply*. *Id.* at 4.

On January 2, 2026, the Hearing Officer issued the *Order Denying IGWA Motion*. While acknowledging the issues A&B raised in this proceeding were litigated in the 2023 hearing, the Hearing Officer held claim preclusion did not apply here because there was not a "final judgment on the merits" in the 2023 hearing with respect to proportionate share issues, since the Director

did not resolve them in the July 19, 2023 *Post-Hearing Order* or *Sixth Methodology Order*. *Order Denying IGWA Motion* at 8. This was a misapplication of Idaho law.

On January 5, 2026, IGWA filed its *Petition* seeking reconsideration and AFA filed a *Joinder* to show the Hearing Officer that there was a final judgment on the merits in the 2023 hearing (the *Post-Hearing Order*), and, under the Idaho authorities cited by the Hearing Officer, the final judgment need not have resolved A&B's issues to be preclusive.[3] *See Order Denying IGWA Motion* at 8 ("The test does not require 'the precise point or question in [the subsequent] action' to be 'finally resolved and decided in the [prior] action.'") (quoting *Farmers Nat. Bank v. Shirey*, 126 Idaho 63, 70 (1994)). IGWA and AFA also showed that, if A&B was aggrieved by the *Post-Hearing Order* because it did not resolve these issues, A&B was obliged to appeal the order. *See IGWA Petition* at 3; *AFA Reply* at 7 (quoting *McQuillen v. Ammon*, 113 Idaho 719, 721 (1987)).

On January 8, 2026, upon reconsideration, the Hearing Officer corrected the error regarding the first element of claim preclusion (regarding final judgment) and, since the Hearing Officer already held that the second and third elements were satisfied (*see Order Denying IGWA Motion* at 8), granted the *IGWA Motion* and vacated the hearing. *Prelim. Order* at 3.

On January 22, 2026, A&B filed its exceptions to the *Prelim. Order*. AFA responds to A&B's arguments below.

ARGUMENT

I. The Hearing Officer Correctly Held that Claim Preclusion Bars A&B From Relitigating Proportionate Share Issues

a. The Issues "*Might and Should Have Been Litigated*" in the 2023 Hearing, and A&B's Failure to Seek Judicial Review Precludes Relitigation of the Issues

[3] A&B's counsel informed the Hearing Officer and the parties at the January 5, 2026 prehearing conference that A&B would stand on its prior briefing and forgo a response to IGWA's *Petition* and AFA's *Joinder*.

The Idaho Supreme Court has described claim preclusion and defined its elements as follows:

> Claim preclusion bars a subsequent action between the same parties upon the same claim or upon claims relating to the same cause of action. There are three elements to a claim preclusion defense:
>
> > Under this doctrine, a claim is also precluded if it could have been brought in the previous action, regardless of whether it was actually brought, where: (1) the original action ended in final judgment on the merits, (2) the present claim involves the same parties as the original transaction, and (3) the present claim arises out of the same transaction or series of transactions as the original action.
>
> When the three elements are established, claim preclusion bars every matter offered and received to sustain or defeat the claim *but also as to every matter which might and should have been litigated in the first suit*.

Elsaesser, 170 Idaho at 508 (emphasis in original) (citations and quotations omitted). The Court continued:

> Claim preclusion does not require resolution on the precise point or question in the present suit that was resolved in the first one. Rather, it looks to the transaction underlying the prior action[.]
>
> …
>
> To determine what constitutes a transaction, the court looks to such considerations as whether the facts are related in time, space, origin, or motivation, whether they form a convenient trial unit, and whether their treatment as a unit conforms to the parties' expectations or business understanding or usage. Claim preclusion may apply even when there is not a substantial overlap between the theories advanced in support of a claim, or in the evidence relating to those theories.

Id. (citations and quotations omitted).

The Hearing Officer correctly held that the "second and third elements are not as issue here[,]" *Order Denying IGWA Motion* at 8, so the "only disputed element . . . is whether there was a final judgment on the merits." *Prelim. Order* at 2. Upon reconsideration, the Hearing Officer correctly held that this first element is also satisfied because, at the 2023 hearing, A&B

raised, analyzed, elicited testimony on, and argued about proportionate share issues, and "A&B's failure to litigate the issues fully or seek judicial review precludes it from relitigating the matter now." *Prelim. Order* at 2-3; *accord McQuillen*, 113 Idaho at 721 ("If a litigant chooses not to continue to assert his rights after an intermediate tribunal has decided against him, he has concluded his litigation as effectively as though he had proceeded through the highest tribunal available to him") (quoting *Angel v. Bullington*, 330 U.S. 183, 189 (1947)).

The law is clear—A&B's issues need not have been specifically resolved in the *Post-Hearing Order* or *Sixth Methodology Order* for claim preclusion to apply. *Elsaesser*, 170 Idaho at 508. Nor does it matter whether A&B's issues were "actually heard" (although the record shows they were). *A&B Exceptions* at 7, 12. What matters is whether the proportionate share issues "*might and should have been litigated*" in the 2023 hearing. *Elsaesser*, 170 Idaho at 508 (emphasis in original). The issues indeed should have been litigated then, as described below.

b. The Director Should Reject A&B's Arguments that Res Judicata Does Not Apply

A review of the 2023 and 2016 proceedings demonstrates that the elements of res judicata are met, and Hearing Officer properly determined that res judicata does apply.

i. The 2023 Hearing Proceeding

These documents identified below show proportionate share issues were "actually heard" at the 2023 hearing, and in a "meaningful manner." *A&B Exceptions* at 7, 12, 15-17.

- the subject of an email from IDWR's attorney to multiple attorneys (May 3, 2023);[4]
- raised in the SWC's *Request for Hearing and Statement of Issues* (May 5, 2023);[5]

[4] *See Declaration of Travis L. Thompson in Support of A&B Response*, Ex. B (Dec. 9, 2025).

[5] *See City of Idaho Falls v. IDWR*, Case No. CV01-23-13238, *Settled Agency Hearing Record on Appeal* at 0264-65 (4th Jud. Dist., Ada Cnty., Sep. 28, 2023), available at https://idwr.idaho.gov/wp-

- analyzed in the *Groundwater Expert Report – 2023 Methodology* (May 30, 2023);[6]
- testified about by Jennifer Sukow at the hearing (June 6, 2023);[7] and
- argued about in the SWC's *Post-Hearing Brief* (June 16, 2023).[8]

The Director did not resolve these issues in the *Post-Hearing Order* nor the *Sixth Methodology Order*. A&B did not appeal either order, however, like IGWA did.

ii. The 2016 and 2024 Rulings

In addition to the 2023 hearing, parties have raised, and the Director has ruled on, proportionate share issues in both 2016 and 2024. On May 2, 2016, A&B filed a *Notice of Mitigation* that asked the Director to adjust his proportionate share determination for A&B based on A&B's aquifer enhancement activities (i.e., enrollment of acres in CREP and conversions). The Director denied A&B's request based, at least in part, on the following:

> The predicted DS is the shortfall predicted after the benefits of ongoing aquifer enhancement activities performed by A&B and other entities have already been realized. In other words, the predicted DS already accounts for the benefits of ongoing aquifer enhancement activities performed by A&B and other entities. At this time, the Director will not reduce the predicted DS, or any entity's proportionate share thereof, because of the effects of aquifer enhancement activities. However, the Director will construe A&B's request to account for predicted responses to the Near Blackfoot to Minidoka reaches of the Snake River resulting from its aquifer enhancement activities and to reduce its proportionate share accordingly as a motion pursuant to the Department's Rule of Procedure 260 requesting the agency to take action in a contested case.

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content/uploads/sites/2/legal/CV01-23-13238/CV01-23-13238-20230928-Settled-Agency-Record-on-Appeal.pdf (last visited Jan. 30, 2026).

[6] *See id.* at 1209-10, 1214-15 (this expert report was co-authored by David Colvin, who authored A&B's expert reports in this proceeding).

[7] *See City of Idaho Falls v. IDWR*, Case No. CV01-23-13238, *Settled Agency Hearing Transcript on Appeal* at 100:23-102:7 (4th Jud. Dist., Ada Cnty., Sep. 28, 2023) (this testimony was elicited by Mr. Simpson, A&B's attorney in the 2023 hearing, on cross-examination), available at https://idwr.idaho.gov/wp-content/uploads/sites/2/legal/CV01-23-13238/CV01-23-13238-20230928-Settled-Agency-Hearing-Transcript-on-Appeal.pdf (last visited Jan. 30, 2026).

[8] *See Settled Agency Hearing Record on Appeal*, *supra* n.5, at 0935.

Order Determining Deficiency in A&B Irrigation District's Notice of Mitigation at 3 (May 11, 2016) ("*A&B Deficiency Order*"); *see also Sukow Memo* at 8 (quoting same). A&B requested a hearing but later elected to withdraw it. *See A&B Irrigation District's Notice of Withdrawal of Request for Hearing (Denial of Request Regarding Aquifer Actions)* (Jul. 1, 2016); *Order Granting A&B's Requests to Withdraw Request for Hearings Re: Credit for Aquifer Enhancement Activities and Standard of Mitigation* (Sep. 2, 2016).

On May 2, 2024, IGWA filed a *Request for Mitigation Credit for Aquifer Enhancement Activities (2024)* that was "like the mitigation credit request that was denied in the *A&B Deficiency Order*." *Final Order Denying IGWA's Request for Mitigation Credit for Aquifer Enhancement Activities (2024)* at 6 (May 15, 2024). In denying IGWA's request, the Director stated:

> The regression models used to predict in-season demand shortfall already account for the benefits of the enhancement activities performed by IGWA. . . . The predicted IDS is the shortfall predicted after the benefits of ongoing aquifer enhancement activities performed by the ground water Districts have already been realized. In other words, the predicted IDS already accounts for the benefits of ongoing aquifer enhancement activities performed by the Districts. Essentially, the predicted IDS would be higher if the aquifer enhancement activities had not occurred. . . . Therefore, the Director will not reduce the predicted demand shortfall, or any entity's proportionate share thereof, because the models used to predict in-season demand shortfall already account for the benefits of the enhancement activities performed by IGWA.

Id. at 4, 6; *see also Sukow Memo* at 10 (quoting same).

As noted in the *Sukow Memo*, the quoted conclusions address at least some of the issues that A&B seeks to relitigate here—whether A&B's proportionate share in 2025 should be adjusted based on, *inter alia*, A&B's aquifer enhancement activities. *See A&B Request for Hearing* at 1-2 (Apr. 29, 2025); *A&B Request for Hearing* at 1-2 (Jul. 24, 2025); *A&B Expert*

Rebuttal Report at 4-5 (Dec. 19, 2025) (purporting to quantify the benefits to the aquifer from A&B's soft conversions and enrollment in CREP).

iii. A&B's arguments that the issues were not "ripe" during the 2023 hearing should be rejected

A&B argues the 2023 hearing was not the right time or place to litigate proportionate share issues, asserting that its May 5, 2023 request for hearing was not formally granted and the scope of the hearing with respect to modeling was limited to determining curtailment dates (as opposed to determining proportionate shares). *A&B Exceptions* at 4-5, 17 n.11. First, there was no need for the Director to issue an order granting A&B's 2023 hearing request, as a hearing had already been set—a fact A&B acknowledges. *Id.* at 4. Second, A&B mischaracterizes the scope of the hearing, as the Director did not preclude Ms. Sukow from testifying about proportionate share issues (*see AFA Reply* at 4) and Ms. Sukow testified to such matters, including on cross-examination by A&B's counsel. *Id.*; *AFA Motion* at 4-5. These arguments should be rejected.

A&B further argues proportionate share issues were not "ripe" at the 2023 hearing because its 1948 water right was not at risk of curtailment at that time. This too should be rejected. At the 2023 hearing, A&B knew of the Department's method to determine proportionate shares. See *Declaration of Travis L. Thompson in Support of A&B Response*, Ex. B (May 3, 2023 email from G. Baxter to T. Budge et al.); *A&B Deficiency Order*. A&B was also fully aware at the 2023 hearing that it was a not a matter of if, but when, its 1948 water right would be at risk of curtailment due to the Department's switch to using transient modeling simulations to determine curtailment dates. *See AFA Reply* at 5-6 (discussing November 28, 2022 presentation showing that, if the demand shortfall exceeds 97,900 AF—which occurred in 2021 and 2022—all rights junior to 1900 are subject to curtailment). Notwithstanding, A&B

endorsed the Department's switch to transient modeling. *Id.* at 5 (citing *SWC's Post-hearing Brief* at 6-8 (June 16, 2023)).

Thus, A&B had all the "motivation" it needed to litigate proportionate share issues at the 2023 hearing, and it was a reasonable "expectation" that A&B would foreclose its chance to litigate them if it did not appeal the *Post-Hearing Order* or *Sixth Methodology Order*. *Elsaesser*, 170 Idaho at 508. The proportionate share issues were ripe in 2023, and A&B knew its 1948 water right would be at risk of curtailment in a future year, so no exception to the res judicata doctrine applies in this case. *See Berkshire Invs., Ltd. Liab. Co. v. Taylor*, 153 Idaho 73 (2012) (affirming district court's finding that claims "were barred by res judicata because they were (1) actually litigated in the prior case . . . or (2) could have been raised in that case," and rejecting appellant's argument that a ripeness exception applies because appellants knew of the conduct on which the claims were based at the time of the prior case, and thus "should have been raised").

Finally, A&B argues that it was not required to seek judicial review after the 2023 hearing because "the *Post-Hearing Order* was not an 'operative order' that could be appealed." *A&B Exceptions* at 7 (citing *City of Idaho Falls et al. v. IDWR*, 2025 WL 3771308, at *4-5 (Idaho 2025)). First, this argument takes the Idaho Supreme Court's statement out of context, as the court was focused on whether the *Sixth Methodology Order* was instead "the operative order" between the two orders. *Idaho Falls* at *8. Moreover, the Cities have sought rehearing in that case, so the ruling is not yet final. Second, to the extent the Court determines the Cities' appeal of the *Post-Hearing Order* was futile, A&B could have appealed the *Sixth Methodology Order*, like IGWA did[9], and raised issues about the Department's proportionate share methods. A&B did not.

[9] *See* Case No. CV01-23-13173 (4th Jud. Dist., Ada Cnty.).

In sum, the Hearing Officer correctly held that claim preclusion applies here. The proportionate share issues were ripe and should have been litigated, and, contrary to A&B's contention, those issues were "actually heard" at the 2023 hearing. A&B's failure to seek judicial review of the final orders following the 2023 hearing, even though the proportionate share issues were not resolved within, precludes A&B from relitigating them now.

c. Even if the Hearing Officer Conflated Claim Preclusion with Issue Preclusion, the Error was Harmless and the Director Should Affirm the *Prelim. Order* Regardless

A&B argues the *Prelim. Order* "contains material errors" because the Hearing Officer analyzed issue preclusion when discussing claim preclusion. *A&B Exceptions* at 10. While the Hearing Officer included statements about parties having an "opportunity to litigate" the issues, *Prelim. Order* at 2-3, the Hearing Officer correctly concluded that the "doctrine of claim preclusion bars A&B from raising the issues it raised in 2023 again in this proceeding." *Id.* at 3. As shown above, A&B *actually litigated* proportionate share issues at the 2023 hearing. Thus, regardless of whether the "full and fair opportunity to litigate," or "should have . . . litigated" standard applies, A&B easily meets it. *Id.* at 2.

Accordingly, any error in the Hearing Officer's analysis was harmless because it does not affect the result—a conclusion that claim preclusion applies in this proceeding—and does not warrant reversal of the *Prelim. Order*. *See Taylor v. AIA Servs. Corp.*, 151 Idaho 552, 559 (2011) ("This Court will not reverse the trial court if an alleged error is harmless. . . . [I]f an error did not affect a party's substantial rights or the error did not affect the result of the trial, the error is harmless and not grounds for reversal."). Additionally, the Director should affirm the *Prelim. Order* if there are any grounds to do so. *See Syringa Networks, Ltd. Liab. Co. v. Idaho Dep't of Admin.*, 159 Idaho 813, 827 (2016) (citations and quotations omitted) ("[I]t is well-settled that where an order of a lower court is correct, but based on an erroneous theory, the order will

be affirmed upon the correct theory. The Court will uphold the decision of a trial court if any alternative legal basis can be found to support it.").

d. The Director Should Reject A&B's Due Process Arguments

In addition to arguing res judicata does not apply, A&B alleges its rights to due process will be violated if a hearing is not held in this proceeding. *A&B Exceptions* at 14-17. These arguments rely on the false premise that res judicata does not apply because A&B's 1948 water right was not at risk of curtailment in 2023, discussed above. There is no due process violation for the Director to remedy here.

For the same reasons that proportionate share issues were "ripe" in the 2023 hearing, so too did A&B have a "meaningful" opportunity to litigate the issues at that time. The issues that A&B seeks to litigate now are virtually identical to those that A&B litigated in the 2023 hearing and had the opportunity to litigate in 2016. *See A&B Deficiency Order*. A&B has not shown that there is any difference in the issues simply because its 1948 water right became at risk of curtailment in 2025, nor has A&B alleged any change in the Department's method to determine proportionate shares between 2023, or even 2016, and now. *See AFA Reply* at 6. To grant a hearing every time a party requests a hearing, and allow it to relitigate issues previously raised and litigated, on the basis that one of the party's several water rights became at risk of curtailment would subject the Department and other parties to repetitious litigation, precisely what res judicata is designed to prevent. *Taylor*, 157 Idaho at 330-31; *Kootenai Elec.*, 148 Idaho at 122. Moreover, A&B's due process claims are rife with hypocrisy, as A&B is a member of the SWC that is urging the Department to vigorously regulate ground water pumping across the ESPA, and A&B also resisted the notion that the 2023 hearing violated the due process rights of

ground water users. *See Surface Water Coalition's Response Brief*, Case No. CV01-23-13173, at 11-19 (Ada Cnty. Dist. Ct., Jan. 19, 2024).[10]

II. The Director Should Reject A&B's Request to Initiate a New Contested Case to Review These Issues

In a last ditch effort to revive the its arguments about the Department's proportionate share methods, A&B requests in the alternative that the Director, in an exercise of discretion, initiate a new contested case to review A&B's issues. *A&B Exceptions* at 18-19. A&B contends that it is appropriate to do so for "matters applicable to a broad swath of water users." *Id.* at 18. As AFA explained in its *Reply* at page 9, however, there is not a substantial public interest in relitigating these issues because, *inter alia*, A&B is the only entity with an active approved mitigation plan that requires the Department to determine their proportionate share. *See, e.g.*, *Steps 1–3 Order* at 5 n.8; *A&B Expert Report* at 4, 7 (Nov. 7, 2025) (A&B's expert calling the district's mitigation plan "unique"). The Director should deny A&B's alternative request to initiate a new contested case.

CONCLUSION

The doctrine of res judicata has two "fundamental purposes": it (1) "serves the public interest in protecting the courts against the burdens of repetitious litigation," and (2) "advances the private interest in repose from the harassment of repetitive claims." *Taylor v. Riley*, 157 Idaho 323, 330-31 (2014); *Kootenai Elec. Coop., Inc. v. Lamar Corp.*, 148 Idaho 116, 122 (2009) ("A primary purpose of the res judicata doctrine is to prevent" a party from "obtain[ing] a further bite at the apple."). The Hearing Officer correctly concluded that res judicata (claim preclusion) applies in this proceeding. The Director should reject A&B's arguments, which it

[10] Available at https://idwr.idaho.gov/wp-content/uploads/sites/2/legal/CV01-23-13173/CV01-23-13173-20240119-Surface-Water-Coalitions-Response-Brief.pdf (last visited Feb. 2, 2026).

presented to the Hearing Officer and is now rehashing, that the doctrine does not apply and that its due process rights will be violated if the hearing remains vacated. The Director should issue a final order affirming or adopting the *Prelim. Order*.

DATED this 5th day of February 2026.

SOMACH SIMMONS & DUNN

By_____
Maximilian C. Bricker, ISB #12283
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Attorneys for American Falls-Aberdeen Ground Water District

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 5th day of February 2026, I caused a true and correct copy of the foregoing document to be filed and served via electronic mail to the following:

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BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY OR FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY	**Docket No. CM-DC-2010-001** **ORDER EXTENDING DEADLINE TO ISSUE FINAL ORDER**

BACKGROUND

On April 29, 2025, A&B Irrigation District ("A&B") filed a request for hearing contesting the *Final Order Regarding April 2025 Forecast Supply (Methodology Steps 1–3)*. Then, on July 24, 2025, A&B filed another request for hearing contesting the *Order Revising April 2025 Forecast Supply and Continuing May 16, 2025 Curtailment Order (Methodology Steps 5 & 6)*. Both requests for hearing raised similar issues generally pertaining to how A&B's proportionate share obligation is calculated in the methodology as-applied orders.

On September 3, 2025, the Director granted A&B's requests for hearing and appointed a hearing officer to the matter. The Surface Water Coalition, American-Falls Aberdeen Ground Water District ("AFA"), Bonneville-Jefferson Ground Water District, Coalition of Cities, and the Idaho Ground Water Appropriators, Inc. ("IGWA") intervened.

On January 2, 2026, Hearing Officer Schroeder denied IGWA's motion for summary judgment, concluding that res judicata did not bar A&B from raising the issues again because the Director did not resolve those issues when A&B raised them in 2023. *Order Denying Idaho Ground Water Appropriators, Inc.'s Motion for Summary Judgment*, at 8.

On January 8, 2026, the Hearing Officer issued a preliminary order granting reconsideration and concluding that claim preclusion bars A&B from relitigating the issues that it had the opportunity to litigate in 2023. *Preliminary Order Granting IGWA's Petition for Reconsideration and Granting IGWA's Motion for Summary Judgment*, at 3 [hereinafter *Preliminary Order*].

On January 22, 2026, the Director timely received *A&B Irrigation District's Exceptions to Preliminary Order* ("*Exceptions*"). A&B asks the Director to reverse the Hearing Officer's *Preliminary Order* and either remand the matter for further hearing or preside over the hearing himself. A&B argues that claim preclusion does not bar A&B from litigating these issues now and that due process entitles it to a hearing. *Exceptions*, at 5, 17.

On February 3, 2026, IGWA filed a response to the *Exceptions*. Then on February 5, 2026, AFA filed a response to the *Exceptions*. *See American Falls-Aberdeen Ground Water District's Response to A&B Irrigation District's Exceptions to Preliminary Order* [hereinafter *AFA Response*].

ANALYSIS

The Department's Rule of Procedure 730.02.e requires the Director to issue a final order within 56 days of receipt of written briefs or oral argument regarding exceptions to a preliminary order, "whichever is later, unless extended for good cause." IDAPA 37.01.01.730.02.e. The last responsive brief filed in this contested case was the *AFA Response* filed on February 5, 2026. Therefore, the Director is required to issue a final order by April 2, 2026, unless "good cause" is shown to extend the deadline. *Id.*

Good cause exists to extend the deadline for the Director to issue a final order. The *Exceptions* and both responses raise legal issues that require careful consideration and extensive legal research. Additional time is needed prior to issuing a final order. Accordingly, the Director will extend the deadline for issuing a final order to April 17, 2026.

ORDER

IT IS HEREBY ORDERED that the deadline for the Director to issue a final order is EXTENDED to April 17, 2026.

DATED this 1st day of April 2026.

MATHEW WEAVER
Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 1st day of April 2026, the above and foregoing, was served by the method indicated below, and addressed to the following:

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BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY OR FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY	**Docket No. CM-DC-2010-001** **FINAL ORDER DENYING A&B IRRIGATION DISTRICT'S EXCEPTIONS TO PRELIMINARY ORDER**

BACKGROUND

I. 2023 Procedural History

On April 21, 2023, the Director of the Idaho Department of Water Resources ("Department") issued the *Fifth Amended Final Order Regarding Methodology for Determining Material Injury to Reasonable In-Season Demand and Reasonable Carryover* ("*Fifth Methodology Order*") which established nine steps for determining material injury to members of the Surface Water Coalition ("SWC").[1] That same day, the Director issued the *Final Order Regarding April 2023 Forecast Supply Methodology Steps 1-3* ("*2023 April As-Applied Order*") and a *Notice of Hearing, Notice of Prehearing Conference, and Order Authorizing Discovery* ("*2023 Notice*"), anticipating the parties associated with the underlying SWC delivery call proceeding would file requests for hearing.[2]

On April 28, 2023, the Director held a prehearing conference. During that conference, the Director requested the parties to identify issues and file issue statements to be considered at the hearing. *Prehr'g Conf. Audio*, at 26:35–27:03 (Apr. 23, 2023).

On May 5, 2023, the Department received the *Surface Water Coalition's Request for Hearing and Statement of Issues* ("*2023 SWC Request*"). That request identified several issues for hearing, and among those issues, A&B Irrigation District ("A&B") specifically asked the Director to consider:

> (1) Whether the [*2023 April As-Applied Order*] identified proportionate share (458 acre-feet) of the predicted injury (75,200 acre-feet) to TFCC is calculated

[1] The SWC is comprised of A&B Irrigation District, American Falls Reservoir District #2, Burley Irrigation District, Milner Irrigation District, Minidoka Irrigation District, North Side Canal Company, and Twin Falls Canal Company ("TFCC").

[2] The SWC delivery call proceeding has an extensive history, and all documents referred to in this order can be found on the Department's webpage for this proceeding. *See* Surface Water Coalition Delivery Call, Docket No. CM-DC-2010-001 https://idwr.idaho.gov/legal-actions/delivery-call-actions/swc/.

correctly based upon A&B's actual diversion and use of water rights that are subject to the identified curtailment date (junior to December 30, 1953); and

(2) Whether the steady-state use of the ESPAM 2.2 in identifying A&B's proportionate share is consistent with the transient use of the model in identifying ground water rights subject to curtailment as outlined in the *Fifth Methodology Order*.

2023 SWC Request, at 2–3.

On May 5, 2023, the Director issued a *Notice of Materials Department Witnesses May Rely Upon at Hearing and Intent to Take Official Notice* ("*2023 Notice of Materials*"). In that notice, the Director identified topics that Department employee, Jennifer Sukow, may testify about at the hearing, including:

- Steady-state vs. transient modeling / simulations for the Eastern Snake Plain Aquifer Model (ESPAM).
- Calculation of curtailment priority dates for the SWC's delivery call.

2023 Notice of Materials, at 2.

On May 23, 2023, the Director granted the parties' requests for hearing, including the *2023 SWC Request*. *Order Granting Reqs. for Hr'g*, at 2.

On June 6–9, 2023, the Director held a hearing on the *Fifth Methodology Order* and the *2023 April As-Applied Order*.

On June 16, 2023, the Department received the *Surface Water Coalition's Post-Hearing Brief* ("*2023 SWC Post-Hearing Brief*"). In that brief, A&B identified that the *2023 April As-Applied Order* calculated A&B's proportionate share of the projected in-season demand shortfall ("IDS") using the steady-state ESPAM model. *2023 SWC Post-Hearing Brief*, at 12. A&B argued that its groundwater to surface water conversions should be taken into consideration when calculating its proportionate share of the IDS. *Id.*

On July 19, 2023, the Director issued the *Post-Hearing Order Regarding Fifth Amended Methodology Order* ("*Post-Hearing Order*") and the *Sixth Final Order Regarding Methodology for Determining Material Injury to Reasonable In-Season Demand and Reasonable Carryover* ("*Sixth Methodology Order*").

II. 2025 Procedural History

On April 16, 2025, pursuant to the *Sixth Methodology Order*, the Director issued the *Final Order Regarding April 2025 Forecast Supply (Methodology Steps 1–3)* ("*April Forecast Supply Order*"), finding that A&B must mitigate for its proportionate share of the predicted IDS. *April Forecast Supply Order*, at 5 n.8.

On April 29, 2025, A&B filed a request for hearing, contesting the *April Forecast Supply Order* and identifying the following issues for hearing:

> (1) Whether the [*April Forecast Supply Order*] identified proportionate share (384 acre-feet) of the predicted injury (63,000 acre-feet) to TFCC is calculated correctly based upon A&B's actual diversion and use of water rights that are subject to the identified curtailment date (junior to August 28, 1955).
> (2) Whether A&B should be allowed to mitigate for a portion of groundwater right 36-15127A (approximately 508.3 acres) that will be diverted used [sic] during the 2025 irrigation season, as opposed to mitigating for all 1,886.4 acres authorized by the water right.
> (3) Whether the steady-state use of the ESPAM 2.2 in identifying A&B's proportionate share is consistent with the transient use of the model in identifying ground water rights subject to curtailment as outlined in the *Sixth Methodology Order*.
> (4) For other issues and matters that may discovered [sic] in this proceeding.

A&B Req. for Hr'g, at 1–2 (Apr. 2025) [hereinafter *April Hearing Request*].

On May 16, 2025, the Director issued the *Final Order Curtailing Ground Water Rights Junior to August 28, 1955* ("*May Curtailment Order*"). Several of A&B's ground water rights[3] subject to curtailment were included on the curtailment list accompanying the order. *May Curtailment Order*, at 4, attach. A, at 1.

On July 10, 2025, the Director issued an *Order Revising April 2025 Forecast Supply and Continuing May 16, 2025 Curtailment Order (Methodology Steps 5 & 6)* ("*July As-Applied Order*") which revised the predicted IDS and updated A&B's proportionate share of the predicted injury. *July As-Applied Order*, at 11 n.6.

On July 24, 2025, A&B filed another request for hearing, this time contesting the *July As-Applied Order* and identifying similar issues to the April request including:

> (1) Whether the [*July As-Applied Order*] identified proportionate share (5,039 acre-feet) of the predicted injury (75,300 acre-feet) to TFCC is calculated correctly based upon A&B's actual diversion and use of water rights that are subject to the identified curtailment date (junior to October 11, 1900).
> (2) Whether the steady-state use of the ESPAM 2.2 in identifying A&B's proportionate share of the estimated in-season demand shortfall is consistent with the transient use of the model in identifying ground water rights subject to curtailment as outlined in the *Sixth Methodology Order*.
> (3) Whether the Director's failure to implement the [*May Curtailment Order*] in accordance with Idaho law has injured A&B by subjecting its senior water right

[3] These include ground water right nos. 36-16749, 36-15127A, 36-15192, 36-15193A, 36-15194A, 36-15195A, 36-15196A, 36-15193B, 36-15194B, 36-15195B, 36-15196B. *May Curtailment Order*, at 4, attach. A, at 1.

36-2080 to curtailment and/or mitigation requirements during the 2025 irrigation season.

(4) For other and further reasons as may be discovered prior to hearing. A&B reserves the right to identify additional issues as necessary in this proceeding.

A&B Req. for Hr'g, at 1–2 (July 2025) [hereinafter *July Hearing Request*].

On September 3, 2025, the Director issued an *Order Granting A&B Irrigation District's Requests for Hearing, Consolidating Proceedings for Hearing, and Appointing Hearing Officer; Notice of Prehearing Conference* ("*Order Granting Hearing*"), assigning former Supreme Court Chief Justice, Gerald Schroeder, as the hearing officer in this matter. *Order Granting Hearing*, at 5. The Director also found that the issues identified in both of A&B's hearing requests relate to or mirror each other and that "A&B has not previously been afforded an opportunity for a hearing to contest either the *April Forecast Supply Order* or *July As-Applied Order*." *Id.* at 4.

III. Following *Order Granting Hearing* Procedural History

On September 18, 2025, Hearing Officer Schroeder held a prehearing conference in this matter. Following that conference, he issued an order granting intervention to the SWC, American Falls-Aberdeen Ground Water District ("AFA"), the Bonneville-Jefferson Ground Water District, the Coalition of Cities ("Cities"),[4] and the Idaho Ground Water Appropriators, Inc. ("IGWA"). *Order on Intervention, Authorizing Discovery, Email Service, and Scheduling; Order Granting Motion for Subpoena; Notice of Hearing*, at 5 (Oct. 7, 2025).

On November 18, 2025, the Hearing Officer received *Idaho Ground Water Appropriators, Inc.'s Motion for Summary Judgment* ("*IGWA Motion*"), arguing that res judicata and other related legal defenses bar A&B from now challenging how the Director calculates its proportionate share obligation. *IGWA Motion*, at 2. On that same date, AFA filed a *Motion to Reconsider Order Granting Hearing and Vacate Hearing or, Alternatively, to Clarify the Scope of Hearing; Request for Expedited Ruling; Brief in Support* ("*AFA Motion*") with the Director, requesting the Director to reconsider the *Order Granting Hearing* and to deny both of A&B's hearing requests. *AFA Motion*, at 2.

On December 9, 2025, the Department received *A&B Irrigation District's Consolidated Response to AFA Motion / IGWA Motion for Summary Judgment* ("*A&B Response*").[5] A&B argued that it was not barred from litigating the issues raised because no final judgment on the merits of those issues resulted from the 2023 hearing, and that due process guarantees it the right to a hearing since its senior ground water right had never been curtailed prior to the 2025 irrigation season. *A&B Response*, at 3, 24. Following that response, the Director and the Hearing Officer received timely reply briefs from both AFA and IGWA.

[4] The Cities are comprised of the Cities of Bliss, Burley, Carey, Declo, Dietrich, Gooding, Hazelton, Heyburn, Idaho Falls, Jerome, Paul, Pocatello, Richfield, Rupert, Shoshone, and Wendell.

[5] A&B timely filed its response in accordance with Hearing Officer Schroeder's approval of A&B's motion to extend the response deadlines. *Order Granting A&B's Motion to Amend Deadlines; Setting Deadline to Provide Staff Memo*, at 2–3.

On December 22, 2025, the Director denied the *AFA Motion*, declined to address AFA's arguments since a hearing officer was assigned to the matter, and authorized the hearing officer to consider any of AFA's arguments in its motion and reply. *Order Denying American Falls-Aberdeen Ground Water District's Motion to Reconsider Order Granting Hearing*, at 3–4.

On January 2, 2026, the Hearing Officer issued an *Order Denying Idaho Ground Water Appropriators, Inc.'s Motion for Summary Judgment* ("*Order Denying IGWA Motion*"). The Hearing Officer concluded that res judicata did not bar A&B from raising the issues again because the Director did not resolve those issues when A&B raised them in 2023. *Order Denying IGWA Motion*, at 8.

On January 5, 2026, the Hearing Officer received *Idaho Ground Water Appropriators, Inc.'s Petition for Reconsideration* ("*IGWA Reconsideration Petition*"), arguing that claim preclusion barred A&B from raising the issues again in 2025 because claim preclusion applies to "every issue that might or should have been raised." *IGWA Reconsideration Petition*, at 3. That same day, AFA filed a joinder in support of reconsideration.

On January 8, 2026, the Hearing Officer issued a *Preliminary Order Granting IGWA's Petition for Reconsideration and Granting IGWA's Motion for Summary Judgment* ("*Preliminary Order*"), concluding that A&B had the opportunity to litigate these issues during the 2023 proceeding, and therefore claim preclusion bars A&B from relitigating them now. *Preliminary Order*, at 3.

On January 22, 2026, the Director timely received *A&B Irrigation District's Exceptions to Preliminary Order* ("*Exceptions*"). A&B asks the Director to reverse the Hearing Officer's *Preliminary Order* and either remand the matter for further hearing or preside over the hearing himself. A&B argues that claim preclusion does not preclude A&B from litigating these issues now and that due process entitles it to a hearing. *Exceptions*, at 5, 17.

On February 3, 2026, the Director received *IGWA's Response to A&B Irrigation District's Exceptions to Preliminary Order* ("*IGWA Response*"). IGWA asks the Director to affirm the *Preliminary Order*, asserting that res judicata applies because A&B raised the issue and participated in the 2023 hearing process without appealing any orders that resulted from that proceeding. *IGWA Response*, at 5.

On February 5, 2026, the Director received *American Falls-Aberdeen Ground Water District's Response to A&B Irrigation District's Exceptions to Preliminary Order* ("*AFA Response*"). AFA asks the Director to affirm the *Preliminary Order*, asserting that res judicata applies and precludes A&B from relitigating the issues now, and that due process does not entitle it to a hearing now since claim preclusion applies. *AFA Response*, at 15–16.

EXCEPTIONS

A&B asks the Director to reverse the Hearing Officer's *Preliminary Order* and to remand the proceeding to the previously scheduled hearing or preside over the hearing himself. *Exceptions*, at 5. A&B argues that claim preclusion does not preclude it from litigating the

proportionate share calculation issues now, and that due process entitles it to a hearing because its senior water right has never been subject to curtailment or a mitigation obligation before. *Id.* at 4, 17. In the alternative, if the Director affirms the *Preliminary Order*, A&B asks the Director to initiate proceedings to address these issues for interested parties as a matter of public interest. *Id.* at 18–19.

After careful consideration of the record, the Director concludes that the *Preliminary Order* should be affirmed for four reasons. First, A&B is precluded from relitigating these issues under claim preclusion because it should have fully litigated them in 2023 when it raised them. Second, no exceptions to claim preclusion apply. Third, A&B is not entitled to additional due process because it raised the issue in 2023. Fourth, A&B is the only party with an interest in this proceeding, as it has the only approved mitigation plan that requires the Department to calculate, consider, and enforce its proportionate share obligation in an as-applied step of the methodology order. Each reason is addressed in turn.

I. Claim preclusion bars A&B from relitigating the proportionate share issues raised during the 2023 proceeding.

In Idaho, res judicata applies in administrative proceedings. *Sagewillow, Inc. v. Idaho Dept. of Water Res.*, 138 Idaho 831,844 (2023). The purpose of res judicata is to prevent relitigation leading to inconsistent results, to serve the public interest and protect courts against repetitious litigation, and to protect private interests from repeat claims. *Ticor Title Co. v. Stanion*, 144 Idaho 119, 123 (2007). Res judicata covers both claim preclusion and issue preclusion (i.e., collateral estoppel). *Id.* Issue preclusion does not apply here, so this order will only address claim preclusion.

Claim preclusion prohibits a claim in a subsequent action when: "(1) the original action ended in final judgment on the merits, (2) the present claim involves the same parties as the original transaction, and (3) the present claim arises out of the same transaction or series of transactions as the original action." *Elsaesser v. Riverside Farms, Inc.*, 170 Idaho 502, 508 (2022) (quoting *Berkshire Invs., LLC v. Taylor*, 153 Idaho 73, 81 (2012)). To simplify, claim preclusion prohibits subsequent actions when three elements are met: (1) same parties, (2) same claim, and (3) there is a previous final judgment on the merits. *Ticor Title*, 144 Idaho at 124. The same parties element is satisfied because the SWC delivery call proceeding has been ongoing for decades with the same surface and ground water entities participating throughout. The same claim and previous final judgment elements will each be addressed in turn.

A. A&B challenged the same proportionate share calculation issue during the 2023 hearing.

The same claim test is met when "the present claim arises out of the same transaction or series of transactions as the original action." *Elsaesser*, 170 Idaho at 508. This transactional approach standard is broad and applies without "substantial overlap between the theories advanced in support of a claim, or in the evidence relating to those theories." *Ticor Title*, 144 Idaho at 126. The approach looks to "whether the facts are related in time, space, origin, or

motivation, whether they form a convenient trial unit, and whether their treatment as a unit conforms to the parties' expectations or business understanding or usage." *Id.*

A&B's current challenge to the proportionate share calculation issue arises from the same transaction as the 2023 proceeding. Both stem from the Department's administration of the SWC delivery call under the same version of the methodology orders, which govern how material injury, demand shortfalls, mitigation obligations, and curtailment priority dates are calculated. *Sixth Methodology Order*, at 1. After modifying that framework in 2023, the Director held a hearing to receive evidence on the Department's application of ESPAM modeling[6] among other issues. *Id.* at 2. A&B raised the proportionate share calculation issue both prior to and after the 2023 hearing. *2023 SWC Request*, at 2–3; *2023 SWC Post-Hearing Brief*, at 12. A&B now raises that same issue again in 2025. *See April Hearing Request*, at 1–2; *July Hearing Request*, at 1–2. It would have been practical and efficient to rely on overlapping facts, witnesses, and technical modeling evidence to be a part of one trial in 2023 to address the proportionate share calculation issue then. Accordingly, the current challenge bears a clear temporal and motivational connection to the 2023 proceeding.

A&B's attempt to distinguish the current claim based on the absence of actual curtailment to its senior water right in 2023 misses the mark. *See Exceptions*, at 12 ("Absent an actual curtailment or order requiring a defined storage water mitigation obligation, A&B had no concrete motivation for bringing a claim in defense of its senior water right."). The operative issue is not the priority date of the rights but how the Department calculates A&B's proportionate share under Step 3 of the Methodology Order. That issue was squarely raised in A&B's prior request for hearing, which was granted by the Director, briefed, and discussed in Ms. Sukow's testimony.[7] A&B is now attempting to recast the issue at an artificially narrow level by focusing on priority of the rights. But that distinction does not alter the underlying question: how is A&B's proportionate share calculated. The method is the same regardless of whether the right is a senior or junior water right. Accordingly, A&B's argument is simply an effort to relitigate the issue it had a chance to litigate in 2023. Therefore, the same claim element is met.

B. The 2023 hearing resulted in a final judgment on the merits.

The final judgment element of claim preclusion "does not require that the precise point or question in the present action be finally resolved in the prior proceeding." *Ticor Title*, 144 Idaho

[6] A&B argues that the scope of Ms. Sukow's testimony was limited to solely calculating the curtailment date. *Exceptions*, at 4–5. But that position is not supported by the record. Her testimony included ESPAM steady state vs. transient modeling simulations. *2023 Notice of Materials*, at 2. During the hearing, she even testified on proportionate share calculation modeling for IGWA. *See*, *e.g., AFA Motion*, at 5 n.2 ("Q. And then Mr. Budge was asking you about a calculation that you did with respect to dividing up the IGWA's proportionate share . . of the As-Applied Order . . . A. . . . it is just an apportioning of it based on their long-term impacts.") (quoting *City of Idaho Falls v. Idaho Dep't of Water Res.*, Case No. CV01-23-13238, *Settled Agency Hearing Transcript on Appeal*, at 100:23-102:7 (4th Jud. Dist., Ada Cnty., Sep. 28, 2023).

[7] *See Order Granting Reqs. for Hr'g*, at 2 (2023) (granting the *2023 SWC Request*); *2023 SWC Post-Hearing Brief*, at 12 (discussing the proportionate share table in the background information of the *2023 April As-Applied Order*); *see*, *e.g., AFA Motion*, at 5 n.2 (referencing Ms. Sukow's 2023 hearing testimony).

at 126. Instead, the relevant inquiry mirrors the same claim element and considers whether "the former adjudication concludes parties and privies not only as to every matter offered and received to sustain or defeat the claim but also as to every matter which might and should have been litigated in the first suit." *Id.* (citation omitted).

Following the 2023 hearing, the Director issued both the *Post-Hearing Order* and the *Sixth Methodology Order*. Those orders constituted a final agency action subject to judicial review pursuant to Idaho Code § 42-1701A(4). During the 2023 hearing, A&B challenged the Department's use of steady-state modeling when calculating proportionate share obligations, which were reflected through briefing, expert reports, and testimony as established above. If A&B believed the Director failed to resolve or adequately address its modeling arguments concerning proportionate share calculations, *Exceptions*, at 4, its remedy was to seek judicial review of the relevant final order.

In addition, even A&B previously took the position that challenges to the *Sixth Methodology Order* were barred by res judicata where the issues had been raised and addressed during the hearing, and that the appropriate statutory remedy was judicial review under Section 42-1701A(4). *See IGWA's Reply Brief*, at 3.[8] Having acknowledged that appropriate remedy, A&B cannot now avoid it.

Idaho Code § 42-1701A(4) establishes a defined procedural path for challenging final agency actions. A party may not decline to pursue judicial review of an allegedly incomplete order because it had "no concrete motivation" to challenge it at that time and later attempt to relitigate issues arising from the same administrative proceeding. If A&B believed the Director's 2023 orders failed to address its proportionate share arguments, that alleged omission was itself a basis for timely judicial review. Even A&B concedes that had it appealed a 2023 order for failing to address the proportionate share issue, the proper remedy "would have been a remand to the agency to develop the missing record," which is "the exact position the parties have been diligently progressing toward over the past six months." *Exceptions*, at 7. In other words, A&B acknowledges that it could have invoked judicial review and obtained a remand to further develop the record at that time.

Finally, A&B argues that it could not have appealed the *Post-Hearing Order* because the Idaho Supreme Court held that order was not the "operative order" to seek judicial review. *Exceptions*, at 7 (citing *City of Idaho Falls et al. v. Idaho Dep't of Water Res.*, 2026 WL 517848, at *4 (Idaho 2026) (substitute opinion)). However, A&B's proportionate share calculation issues here and in 2023 were not the same as the Cities' issues that failed to appeal the correct order. In addition, A&B could have appealed both orders and raised these issues like IGWA did in appealing both orders. *See IGWA's Pet. for Judicial Review*, *Idaho Ground Water Appropriators, Inc. v. Idaho Dep't of Water Res.*, No. CV01-23-13173 (Aug. 16, 2023).

[8] IGWA excerpted a similar argument raised by the SWC, including A&B, opposing the Cities' request for hearing because the proper remedy was to seek judicial review of a final order. *Surface Water Coalition's Response to Cities' Request for Hearing and Order Authorizing Discovery*, at 4 (Aug. 22, 2023).

Accordingly, because A&B did not pursue the appropriate and available remedy, and claim preclusion applies to those matters that "might and should have been litigated" in the first action, the final judgment element is satisfied.[9] Therefore, all three claim preclusion elements are satisfied, thereby barring A&B from attempting to relitigate the issues now.

II. No exceptions to claim preclusion apply in this proceeding.

A&B argues that two exceptions to claim preclusion apply in this matter: (1) not raised as an issue in the 2023 proceeding and (2) ripeness. *Exceptions*, at 8, 13. Neither exception applies here.

First, A&B argues that under *Sagewillow* it could not challenge the proportionate share calculation issue in 2023 because its senior rights were not subject to curtailment and it did not have a storage water mitigation obligation assigned to a senior right. *Exceptions*, at 13.

In *Sagewillow*, the Department approved a transfer application in 1992. 138 Idaho at 835. Two years later, after Sagewillow filed more transfer applications that were protested, the Department voided the earlier approval because certain water rights under the first transfer application were partially forfeited. *Id.* The Court held "that if forfeiture or abandonment is not actually raised as an issue in a proceeding to transfer the point of diversion or place of use of a water right, the final order in the transfer proceeding is not [claim preclusion] on the issue of whether the water right at issue had been forfeited or abandoned." *Id.* at 845. The Court reasoned that, when evaluating a transfer application under Idaho Code § 42-222(1), the Department is not required to evaluate for forfeiture unless the issue is raised by a third party. *Id.* In other words, under claim preclusion, the Department is not precluded from addressing forfeiture in a subsequent transfer proceeding when it was not raised in the first proceeding.

The narrow exception outlined in *Sagewillow* does not apply here. Unlike *Sagewillow*, A&B raised the proportionate share calculation issue in the 2023 proceeding. Further, unlike forfeiture in a transfer proceeding, which the Department does not need to evaluate unless raised, the Director calculates proportionate share obligations as part of implementing the methodology order annually. Once the Director amended the methodology, held a hearing to address modeling, and A&B challenged modeling associated with proportionate share calculations, the issue was before the Department in 2023. Accordingly, the *Sagewillow* exception does not apply.

Second, A&B argues that its claims were not ripe in 2023 because there was no actual curtailment or defined mitigation obligation to its 1948 water right at that time.[10] *Exceptions*, at 8–9 (referencing *Berkshire Invs.*, 153 Idaho at 83). "Ripeness asks whether there is any need for

[9] A&B argues that the Hearing Officer erred by applying the full and fair opportunity element in finding that claim preclusion barred A&B from relitigating the issues now. *Exceptions*, at 10. Even if the Hearing Officer's analysis is incorrect by considering the full and fair opportunity element, the error is harmless because claim preclusion still bars A&B from litigating the proportionate share issues now.

[10] A&B claims the Hearing Officer erred for failing to address ripeness because it was raised in its response brief. *Exceptions*, at 8. In its 34-page brief, A&B made one minor reference to ripeness when it stated: "The Idaho Supreme Court has found that res judicata does not bar litigation of issues that were not ripe for adjudication in the prior action." *A&B Response Brief*, at 23.

court action at the present time" and is designed "to prevent courts from entangling themselves in *purely abstract disagreements*." *Roy v. Idaho Dep't of Health & Welfare*, 174 Idaho 375, 382 (2024) (citations and internal quotations omitted) (emphasis in original).

In *Berkshire Investments*, the Idaho Supreme Court grappled with three separate appeals arising from a real estate transaction. 153 Idaho at 77. In the first action, the petitioners sought to rescind the sale of real property on the basis of breach of fiduciary duty and professional malpractice. *Id.* at 78. In the third action,[11] the petitioners sought to set aside a previous judgment on the basis of fraudulent misrepresentation and negligence of the same real estate transaction. *Id.* at 79, 83. The Court held that the negligence claims in the third action were ripe during the first action because "all of the conduct on which those claims are based" including executing the agreement, appointing trustees, and filing the amended complaint "occurred and was made known" while the first action was pending before the merits were even decided upon. *Id.* at 83. Accordingly, the Court concluded that "any claim arising from that conduct ripened at that time and should have been raised" in the first action. *Id.*

The same reasoning applies here. In 2023, A&B had a proportionate share mitigation obligation. *2023 April As-Applied Order*, at 5 n.5. The methodology's as-applied steps occur annually and rely on modeling to calculate proportionate share obligations. *Id.* at 5. Waiting for a specific curtailment order does not transform an existing modeling calculation into a newly ripened claim. As AFA indicated, "it was not a matter of if, but when, its 1948 water right would be at risk of curtailment" when switching to the transient model. *AFA Response*, at 11. Like *Berkshire Investments*, all conduct underlying A&B's current challenge occurred and was known during the 2023 proceeding, and A&B should have litigated the issue then when the parties were prepared to present evidence and the Department's expert was prepared to testify about the modeling. Accordingly, the proportionate share calculation issue was ripe for review in 2023.

Therefore, neither *Sagewillow* nor ripeness defeats claim preclusion from applying in this matter.

III. A&B is not denied due process because it already had an opportunity to challenge the modeling used to calculate proportionate share obligations during the 2023 proceeding.

A&B argues that because its senior 1948 groundwater right has never been curtailed before and was not subject to a mitigation obligation in 2023, due process entitles it to a hearing since water rights are real property rights. *Exceptions*, at 15. This is an oversimplification of water rights administration under the SWC delivery call proceeding.

The SWC delivery call has been ongoing for decades. During that time, the Director has conjunctively administered surface and ground water through successive iterations of a methodology order. *See Post-Hearing Order*, at 1–3 (summarizing the history of the SWC delivery call). When the Director amended the methodology in 2023 and addressed the use of

[11] The second action related to a standing issue and is not pertinent to this analysis. *Berkshire Investments*, 153 Idaho at 79.

transient rather than steady-state modeling to determine the curtailment date, A&B knew or reasonably should have known that the change could result in curtailment dates impacting more senior ground water rights. Now asserting that 2023 was not the appropriate time to challenge the modeling used to calculate its proportionate share obligation simply because it did not have a water right subject to curtailment is disingenuous. Accordingly, A&B could have challenged the modeling associated with calculating proportionate share obligations during the 2023 proceeding. Therefore, A&B already had a hearing on the matter.

IV. The Director will not initiate a new proceeding because only A&B's approved mitigation plan requires its proportionate share obligation in the as-applied orders.

A&B alternatively requests that, if the Director affirms the *Preliminary Order*, he should initiate "a contested case to take evidence and evaluate what should be the proper and lawful standard for apportioning a storage water mitigation obligation to satisfy an in-season demand shortfall." *Exceptions*, at 18. A&B asserts that because several mitigation plans are pending before the Department, a comprehensive forum to address this issue would serve the interests of all parties. *Id.*

As explained above, claim preclusion bars A&B from relitigating the proportionate share calculation issue at this stage. A&B challenged that issue during the 2023 hearing and failed to fully litigate the issue or seek judicial review following the issuance of the final orders. As a result, A&B cannot now ask the Director to reopen the issue in a new contested case.

Further, there are currently only five approved mitigation plans under the SWC delivery call—including A&B's plan. *April As-Applied Order*, at 5 n.8. A&B's mitigation plan requires the Department to calculate its proportionate share of the predicted IDS. *Id.* Meanwhile, other entities' approved mitigation plans "do not need to establish that they can mitigate for their proportionate share of the predicted IDS." *Id.* If A&B believed the standard for calculating proportionate share obligations required further evidentiary development, the appropriate time to raise the issue was during the 2023 hearing or during the course of its own mitigation plan action.[12]

Finally, the existence of other pending mitigation plans does not justify initiating a new contested case to revisit the issues. Each mitigation plan proceeds in its own action, where parties may raise issues relevant to those plans. The Director will not initiate a new contested case now because A&B failed to fully litigate the issues in 2023. Accordingly, A&B's alternative request to initiate a new contested case is denied.

CONCLUSIONS OF LAW

The Director concludes that A&B's *Exceptions* should be denied because (1) A&B fails to establish why claim preclusion does not bar it from relitigating the same issues now as it could have fully litigated in 2023; (2) due process does not entitle A&B to a hearing now since it

[12] *See* Surface Water Coalition Mitigation Plan Actions: A&B Irrigation, Docket No. CM-MP-2015-003 https://idwr.idaho.gov/legal-actions/mitigation-plan-actions/SWC/ABI/.

already had an opportunity for a hearing; and (3) A&B is not entitled to additional proceedings because it could have challenged the issue during the 2023 hearing or its own mitigation plan action.

ORDER

IT IS HEREBY ORDERED that *A&B Irrigation District's Exceptions to Preliminary Order* is DENIED.

DATED this 17th day of April 2026.

MATHEW WEAVER
Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 17th day of April 2026, the above and foregoing, was served by the method indicated below, and addressed to the following:

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EXPLANATORY INFORMATION TO ACCOMPANY A FINAL ORDER

(To be used in connection with actions when a hearing was held or actions that are decided on summary judgment)

The accompanying document is a "**Final Order"** issued by the Idaho Department of Water Resources ("Department") pursuant to Idaho Code § 67-5246. The following statements describe the procedures and time limits for seeking reconsideration or other administrative relief as required by Idaho Code § 67-5248.

PETITION FOR RECONSIDERATION

(*See* Idaho Code § 67-5246(4))

Any party may file a petition for reconsideration of this 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 presiding officer 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.

APPEAL TO DISTRICT COURT

(*See* Idaho Code §§ 67-5270 through 67-5279)

Within twenty-eight (28) days after: (a) the service date of this final order, (b) the service date of a denial of a petition for reconsideration of this final order, or (c) the failure within twenty-one (21) days of the presiding officer to act on a petition for reconsideration of this final order, any party may file a petition for judicial review of this final order with a district court. Filing an appeal to a district court does not in itself stay the effectiveness or enforcement of the final order appealed.

CERTIFICATE OF SERVICE

(*See* IDAPA 37.01.01.053, 37.01.01.202; I.R.C.P. 84)

All documents filed with the Department in connection with a petition for reconsideration or served on the Department in connection with an appeal of this final order shall be served on all parties to the proceeding in accordance with Rules 53 and 202 of the Department's Rules of Procedure or Idaho Rule of Civil Procedure 84.

RAÚL R. LABRADOR
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IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF MINIDOKA

A&B IRRIGATION DISTRICT, Petitioner, vs. THE IDAHO DEPARTMENT OF WATER RESOURCES, and MATHEW WEAVER in his capacity as the Director of the Idaho Department of Water Resources, Respondents.	Case No. CV34-26-00462 **NOTICE OF LODGING THE AGENCY RECORD WITH THE AGENCY**
IN THE MATTER OF DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY AND FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT NO. 2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, NORTHSIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY	

TO: THE DISTRICT COURT AND THE PARTIES OF RECORD

In accordance with I.R.C.P. 84(j), YOU ARE HEREBY NOTIFIED that the agency record, having been prepared pursuant to Idaho Code § 67-5249 and I.R.C.P. 84(f), is lodged with the Idaho Department of Water Resources for the purpose of settlement.

A copy of the agency record filed with the Department has been uploaded to the Department's website. The parties may visit https://idwr.idaho.gov/court-action/abi-v-idwr-2026/ and follow their browser's document download procedure to obtain a copy of the agency record after clicking on the PDF titled "Agency Record on Appeal."

The parties have fourteen (14) days from the date of this notice to file any objections to the record. The agency's decision on any objection timely filed along with all evidence, exhibits, and written presentations on the objection shall be determined by the agency within fourteen (14) days and included in the record. If no objections are filed within that time, the record shall be deemed settled. Subsequently, the agency will lodge the settled record with the District Court pursuant to I.R.C.P. 84(k) and the Court's May 14, 2026 *Procedural Order*.

DATED this 21st day of May 2026.

STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL

GARRICK L. BAXTER
Deputy Attorney General

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 21st day of May 2026, I caused to be served a true and correct copy of the foregoing *Notice of Lodging the Agency Record With the Agency*, via iCourt E-File and Serve, upon the following:

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IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT

OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF MINIDOKA

A&B IRRIGATION DISTRICT Petitioner, vs. IDAHO DEPARTMENT OF WATER RESOURCES, and MATHEW WEAVER, in his capacity as Director of the Idaho Department of Water Resources, Respondents.	**Case No. CV34-26-00462** **A&B IRRIGATION DISTRICT'S OBJECTION TO THE AGENCY RECORD**
IN THE MATTER OF DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY AND FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT NO. 2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY.	

COMES NOW, the Petitioner, A&B Irrigation District ("A&B" or "District"), by and through its undersigned counsel of record, and hereby files this *Objection to the Agency Record* pursuant to Civil Rule 84(j). On May 21, 2026, the Idaho Department of Water Resources ("Department") filed its *Notice of Lodging the Agency Record with the Agency* (the "agency record"). The agency record currently consists of documents contained at pages 1-2902, exhibits, and transcripts of the hearing in this matter. A&B submits that the record, as lodged by the Department, is in error as described below and should be corrected.

I. Documents Missing from the Agency Record

The following documents are missing from the record and should be included in proper sequence, by date:

1. Fifth Amended Final Order Regarding Methodology for Determining Material Injury to Reasonable In-Season Demand and Reasonable Carryover, and Background Information (April 21, 2023)

2. Final Order Regarding April 2023 Forecast Supply (Methodology Steps 1-3), April 21, 2023 and April Background Information (April 24, 2023)

3. IGWA's Amended Notice of Mitigation (June 1, 2023)

4. Surface Water Coalition's Response to IGWA's Amended Notice of Mitigation (June 5, 2023)

5. Order Revising April 2023 Forecast Supply and Amending Curtailment Order (Methodology Steps 5 & 6), and Background Information (July 19, 2023)

6. Post-Hearing Order Regarding Fifth Amended Methodology Order, and Background Information (July 19, 2023)

7. Sixth Final Order Regarding Methodology for Determining Material Injury to Reasonable In-Season Demand and Reasonable Carryover, and Background Information (July 19, 2023)

8. Surface Water Coalition's Petition for Reconsideration & Clarification; Request for Enforcement of Orders Approving 2016 Stipulated Plan (July 31, 2023)

9. Order Granting Petition for Reconsideration / Clarification in Part and Denying Request for Enforcement (August 11, 2023)

10. Order Denying Request for Hearing and Motion to Authorize Discovery (August 23, 2023)

11. Order Denying IGWA's Petition for Review (August 23, 2023)

12. Surface Water Coalition's Response to Cities' Request for Hearing and Order Authorizing Discovery (August 22, 2023)

13. IGWA's Response to Surface Water Coalition's Petition for Reconsideration and Request for Hearing (August 22, 2023)

14. Order Revising July 2023 Forecast Supply (Methodology Step 7-8), and Background Information (August 31, 2023)

15. Motion for Clarification and Reconsideration of Denial of Request for Hearing and to Engage in Discovery (September 5, 2023)

16. Order Denying Cities' Motion for Clarification and Reconsideration (September 25, 2023)

17. Final Order Establishing 2023 Reasonable Carryover (Methodology Step 9), and Background Information (November 30, 2023)

18. Final Order Regarding April 2024 Forecast Supply (Methodology Steps 1-3), and Background Information (April 18, 2024)

19. Falls Irrigation District Letter to Water District 01 Watermaster (April 30, 2024)

20. Joint Notice of Compliance – Magic Valley Ground Water District & North Snake Ground Water District's 2024 Irrigation Season Mitigation Commitments (May 2, 2024)

21. Declaration of Sophia Sigstedt (May 2, 2024)

22. IGWA's Request for Mitigation Credit for Aquifer Enhancement Activities (2024) (May 2, 2024)

23. IGWA's Petition for Reconsideration of Final Order Regarding April 2024 Forecast Supply (May 2, 2024)

24. BJGWD's Notice of Mitigation in Response to April 2024 As-Applied Order (Methodology Steps 1-3) (May 2, 2024)

25. Letter from IGWA to the Director (May 8, 2024)

26. Final Order Denying IGWA's Petition for Reconsideration of April As-Applied Order (May 10, 2024)

27. Order Determining Deficiency in Notices of Secured Water (May 10, 2024)

28. Final Order Denying IGWA's Request for Mitigation Credit for Aquifer Enhancement Activities (2024) (May 15, 2024)

29. IGWA's Notice of Storage Water Leases (May 17, 2024)

30. Surface Water Coalition's Response to American Falls-Aberdeen Ground Water District's Motion for Reconsideration (May 17, 2024)

31. SWC's Response to IGWA's Conditional Notice of Mitigation Compliance / Petition for Reconsideration (May 23, 2024)

32. Upper Valley Ground Water District's Response in Opposition to American Falls-Aberdeen Ground Water District's Motion for Reconsideration (May 24, 2024)

33. BGWD's Response to AFA's Motion for Reconsideration of Order Determining Deficiency in Notices of Secured Water (May 24, 2024)

34. Joinder in Support of Upper Valley Ground Water District's Response in Opposition to American Falls-Aberdeen Ground Water District's Motion for Reconsideration – Bonneville-Jefferson Ground Water District (May 24, 2024)

35. Response to American Falls-Aberdeen Ground Water District's Motion for Reconsideration of Order Determining Deficiency in Notices of Secured Water – Magic Valley Ground Water District and North Snake Ground Water District (May 24, 2024)

36. AFA's Response and Opposition to UVGWD's Petition to Intervene for Limited Purpose (May 24, 2024)

37. AFA's Reply to UVGWD's Response in Opposition to AFA's Motion for Reconsideration of Order Determining Deficiency in Notices of Secured Water (May 24, 2024)

38. AFA's Joinder in Support of SWC's Response to IGWA's Conditional Notice of Mitigation Compliance / Petition for Reconsideration (May 24, 2024)

39. IGWA's Reply to SWC's Response to IGWA's Conditional Notice of Mitigation Compliance / Petition for Reconsideration (May 24, 2024)

40. Order Granting Upper Valley District's Limited Intervention and AFA's Motion for Reconsideration (May 28, 2024)

41. Bingham Ground Water District, Bonneville Jefferson Ground Water District, and Jefferson Clark Ground Water District Amended Notice of Mitigation Compliance (May 29, 2024)

42. Notice of Compliance; Request for Clarification – Magic Valley Ground Water District and North Snake Ground Water District (May 29, 2024)

43. Notice of Intended Compliance with 2016 Mitigation Plan by Henry's Fork Ground Water District and Madison Ground Water District (May 29, 2024)

44. Final Order Curtailing Ground Water Rights Junior to March 31, 1954, and Background Information (May 30, 2024)

45. Order Amending Curtailment List, and Background Information (June 6, 2024)

46. Notice of Falls Irrigation District's Joinder and Participation in American Falls-Aberdeen Ground Water District's Mitigation Plan in 2024 (June 7, 2024)

47. Order Approving 2024 Stipulation as Compliance with Approved Mitigation Plan, and Background Information (June 20, 2024)

48. Second Order Amending Curtailment List, and Background Information (June 20, 2024)

49. Joint Motion for Order Approving 2024 Stipulation (June 20, 2024)

50. Order Regarding Mid-Season Change to Area of Common Ground Water Supply for Eastern Snake Plain Aquifer; Third Order Amending Curtailment List, and Background Information (June 28, 2024)

51. Order Revising April 2024 Forecast Supply and Amending Curtailment Order (Methodology Steps 5 & 6), and Background Information (July 17, 2024)

52. Order Granting Joint Motion to Extend Stay (October 4, 2024)

53. Final Order Establishing 2024 Reasonable Carryover (Methodology Step 9), and Background Information (November 29, 2024)

54. Final Order Curtailing Ground Water rights Junior to January 25, 1970, and Background Information (December 17, 2024)

55. Order Granting Stipulated Motion to Extend Stay, and Background Information, (December 23, 2024)

56. Order Revising April 2024 Forecast Supply and Amending Curtailment Order (Methodology Steps 5 &6) (January 3, 2025)

57. 2025 Step 1 Methodology Order Responses

58. Joint Forecast – USBR & USACE (April 2, 2025)

59. Final Order Regarding April 2025 Forecast Supply (Methodology Steps 1-3), and Background Information (April 16, 2025)

60. Response to the Department's April 2025 Forecast Supply Order Letter (April 29, 2025)

61. Cities Joint Request for Hearing on Final Order Regarding April 2025 Forecast Supply (Methodology Steps 1-3) (April 30, 2025)

62. Final Order Curtailing Ground Water Rights Junior to August 28, 1955, and Background Information (May 16, 2025)

63. Order Revising April 2025 Forecast Supply and Continuing May 16, 2025 Curtailment Order (Methodology Steps 5 & 6), and Background Information (July 10, 2025)

64. SWC's Request for Hearing on Steps 5/6 Order (July 24, 2025)

65. Joint Motion for Order Approving 2025 Stipulation (July 24, 2025)

66. Order Approving 2025 Stipulation as Compliance with Approved Mitigation Plan, and Background Information (July 25, 2025)

67. Final Order Curtailing Ground Water Rights Junior to October 11, 1900, and Background Information (July 25, 2025)

68. Final Order Curtailing Ground Water Right Junior to October 11, 1900 (July 25, 2025)

69. Order Approving 2025 Stipulation as Compliance with Approved Mitigation Plan (July 25, 2025)

70. Order Denying Surface Water Coalition's Request for Hearing on Steps 5/6 Order (September 3, 2025)

71. Order Revising July 2025 Forecast Supply (Methodology Steps 7-8), and Background Information (September 11, 2025)

72. Amended Notice of Additional Non-Signatory Cities Participating in the Cities' Joint Mitigation Plan in 2025 (October 3, 2025)

73. Order on Intervention, Authorizing Discovery, Email Service, and Scheduling; Order Granting Motion for Subpoena; Notice of Hearing (October 7, 2025)

74. Second Amended Notice of Additional Non-Signatory Cities Participating in the Cities' Joint Mitigation Plan in 2025 (October 7, 2025)

75. Notice of Deposition Duces Tecum of Jennifer Sukow (and associated exhibits for the Deposition) (October 15, 2025)

76. Jennifer Sukow Deposition & Exhibits (October 22, 2025)

77. A&B Irrigation District's First Set of Discovery Requests (October 22, 2025)

78. A&B Irrigation District's Expert Witness List (November 7, 2025)

79. A&B Irrigation District's Notice of Service (November 7, 2025)

80. IGWA's Expert Witness Disclosure (November 7, 2025)

81. A&B Proportionate Share Expert Report Docket No. CM-DC-2010-001 (November 7, 2025)

82. American Falls-Aberdeen Ground Water District's Disclosure of Expert Witness & Notice of Service of Expert Report (November 7, 2025)

83. Expert Report for Aberdeen-American Falls Ground Water District – A&B's Requests for Hearing – SWC Delivery Call (November 7, 2025)

84. IGWA's Expert Witness Disclosure (November 7, 2025)

85. A&B Irrigation District's First Set of Discovery Requests to American Falls-Aberdeen Ground Water District (November 7, 2025)

86. A&B Irrigation District's First Set of Discovery Requests to Bonneville-Jefferson Ground Water District (November 7, 2025)

87. A&B Irrigation District's First Set of Discovery Requests to IGWA (November 7, 2025)

88. Greg Sullivan Deposition & Exhibits (November 11-12, 2025)

89. Notice of Deposition Duces Tecum of Brian Ragan (November 13, 2025)

90. American Falls-Aberdeen Ground Water District's Motion to Reconsider Order Granting Hearing and Vacate Hearing (November 18, 2025)

91. Brian Ragan Deposition and Exhibits (November 21, 2025)

92. Final Order Establishing 2025 Reasonable Carryover (Methodology Step 9), and Background Information (November 21, 2025)

93. Notice of Deposition Duces Tecum of D. Colvin, P.G. (December 2, 2025)

94. Notice of Deposition Duces Tecum of Gregory K. Sullivan (December 3, 2025)

95. Notice of Change of Firm (December 4, 2025)

96. IGWA's Answers to A&B Irrigation District's First Set of Discovery Requests to IGWA (December 5, 2025)

97. Notice of Service of IGWA's Response to A&B Irrigation District's First Set of Discovery Requests to IGWA (December 5, 2025)

98. Coalition of Cities Answers to A&B Irrigation District's First Set of Discovery Requests (December 8, 2025)

99. Notice of Service of Coalition of Cities Answers to A&B Irrigation District's First Set of Discovery Requests (December 8, 2025)

100. Final Order Curtailing Ground Water Rights Junior to August 15, 1952, and Background Information (December 8, 2025)

101. American Falls-Aberdeen Ground Water District's Responses to A&B Irrigation District's First Set of Discovery Requests (December 10, 2025)

102. Notice of Service of American Falls-Aberdeen Ground Water District's Responses to A&B Irrigation District's First Discovery Requests (December 10, 2025)

103. Dave Colvin Deposition and Exhibits (December 11, 2025)

104. Notice of Withdrawal of Counsel (December 12, 2025)

105. A&B Irrigation District's Notice of Service (December 19, 2025)

106. Notice of Service American Falls-Aberdeen Ground Water District's Rebuttal Expert Report (December 19, 2025)

107. A&B Proportionate Share Rebuttal Report Docket No. CM-DC-2010-001 (December 19, 2025)

108. Rebuttal Expert Report for American Falls – Aberdeen Ground Water District – A&B Requests for Hearing (December 19, 2025)

109. Review of A&B Proportionate Share Expert Report Docket No. CM-DC-2010-001 By LRE (December 19, 2025)

110. Coalition of Cities Notice of Intent to Participate (December 22, 2025)

111. Order Phasing in Administration of Ground Water Rights Recently Included in the ESPA ACGWS (February 2, 2026)

112. Notice of Appeal and Petition for Judicial Review of Agency Action (May 13, 2026)

IDWR should correct the errors to the agency record as described above.

DATED this 3rd day of June, 2026.

PARSONS BEHLE & LATIMER

Abby R. Bitzenburg

Attorneys for A&B Irrigation District

CERTIFICATE OF SERVICE

I hereby certify that on this 3rd day of June, 2026, the foregoing was filed electronically using the Court's e-file system, and upon such filing the following parties were served electronically.

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IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT

OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF MINIDOKA

A&B IRRIGATION DISTRICT

Petitioner,

vs.

IDAHO DEPARTMENT OF WATER RESOURCES, and MATHEW WEAVER, in his capacity as Director of the Idaho Department of Water Resources,

Respondents,

and

AMERICAN FALLS-ABERDEEN GROUND WATER DISTRICT, IDAHO GROUND WATER APPROPRIATORS, INC., CITY OF BLISS, CITY OF BURLEY, CITY OF CAREY, CITY OF DECLO, CITY OF DIETRICH, CITY OF GOODING, CITY OF HAZELTON, CITY OF HEYBURN, CITY OF JEROME, CITY OF PAUL, CITY OF RICHFIELD, CITY OF RUPERT, CITY OF SHOSHONE, AND CITY OF WENDELL,

Intervenors.

Case No. CV34-26-00462
IDWR Docket No. CM-DC-2010-001

AMERICAN FALLS-ABERDEEN GROUND WATER DISTRICT'S OBJECTION TO AGENCY RECORD

IN THE MATTER OF DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY AND FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT NO. 2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY.

COMES NOW American Falls-Aberdeen Ground Water District ("AFA"), by and through its counsel of record, pursuant to I.R.C.P. 84(j) and the *Procedural Order* dated May 14, 2026, and hereby objects to the *Agency Record on Appeal* lodged by the Idaho Department of Water Resources ("Department") in the captioned case on May 21, 2026. Specifically, as described below, AFA requests that the Department add ten (10) documents to the record that AFA cited in briefing in the administrative contested case proceedings below.

The Department included many documents in the record that were filed in the Department's docket for the Surface Water Coalition ("SWC") Delivery Call many years prior to the commencement of the instant case in 2025. Based on a discussion with Department counsel, AFA understands that the Department included these documents (which extend as far back as 2008) in the record because the Hearing Officer took official notice of all documents cited in the parties' summary judgment briefs, which were filed between November 18, 2025, and December 16, 2025. *See* R. 2810.

However, it appears that four (4) documents cited in AFA's *Motion to Reconsider Order Granting Hearing and Vacate Hearing or, Alternatively, to Clarify the Scope of Hearing; Request for Expedited Ruling; Brief in Support* (Nov. 18, 2025) ("*AFA Motion*") and AFA's *Reply in Support of Motion to Reconsider Order Granting Hearing and Vacate Hearing or,*

Alternatively, to Clarify the Scope of Hearing; Request for Expedited Ruling (Dec. 12, 2025) ("*AFA Reply*") that the Hearing Officer also took judicial notice of were omitted from the record. Accordingly, AFA requests that the following documents from the SWC Delivery Call matter be added to the record:

Document	Location of Citation
1. *Order Denying Cities' Motion for Clarification and Reconsideration* (Sep. 25, 2023)	*AFA Motion* at 6 n.4 (R. 2443)
2. *Order Denying IGWA's Petition for Review* (Aug. 23, 2023)	*AFA Motion* at 6 n.7 (R. 2443)
3. *Joint Motion for Order Approving 2025 Stipulation* (Jul. 24, 2025)	*AFA Reply* at 8 (R. 2734)
4. *Order Approving 2025 Stipulation as Compliance with Approved Mitigation Plan* (Jul. 25, 2025)	*AFA Reply* at 8 (R. 2734)

Additionally, six (6) other documents from the SWC Delivery Call matter that AFA cited in its *Response to A&B Irrigation District's Exceptions to Preliminary Order* (Feb. 5, 2026) ("*AFA Response*") appear to have been omitted from the record. While the Director did not take official notice of all such documents cited in the parties' briefing like the Hearing Officer did, these documents should be added to the record for the reasons stated by the Hearing Officer—they provide important historical context for a delivery call that is over two decades in the making. *See* R. 2810. Further, many of these documents were also cited in the *Notice of Compliance with Order to Provide Staff Memo* (Dec. 30, 2025). Finally, the documents aided the Department in resolving the contested case matter on *res judicata* grounds because they demonstrate that A&B Irrigation District had previously litigated the issues. They may similarly aid the district court in resolving the issues on appeal.

Accordingly, AFA requests that the following documents also be added to the record:

Document	Location of Citation
1. *Groundwater Expert Report – 2023 Methodology* (May 30, 2023)[1]	*AFA Response* at 9 (R. 2873)
2. *A&B Irrigation District's Notice of Mitigation* (May 2, 2016)	*AFA Response* at 9 (R. 2873)
3. *Order Determining Deficiency in A&B Irrigation District's Notice of Mitigation* (May 11, 2016)	*AFA Response* at 10 (R. 2874)
4. *Order Granting A&B's Requests to Withdraw Request for Hearings Re: Credit for Aquifer Enhancement Activities and Standard of Mitigation* (Sep. 2, 2016)	*AFA Response* at 10 (R. 2874)
5. *IGWA's Request for Mitigation Credit for Aquifer Enhancement Activities (2024)* (May 2, 2024)	*AFA Response* at 10 (R. 2874)
6. *Final Order Denying IGWA's Request for Mitigation Credit for Aquifer Enhancement Activities (2024)* (May 15, 2024)	*AFA Response* at 10 (R. 2874)

In conclusion, AFA respectfully requests that the ten (10) documents identified above be added to the agency record to ensure the district court has a complete record when conducting judicial review of the Department's *Final Order Denying A&B Irrigation District's Exceptions to Preliminary Order* (Apr. 17, 2026).

DATED this 4th day of June, 2026.

SOMACH SIMMONS & DUNN, P.C.

Sarah A. Klahn, ISB #7928
Maximilian C. Bricker, ISB #12283

Attorneys for American Falls-Aberdeen Ground Water District

[1] This is the one document of the group that is not listed on the Department's webpage for the Surface Water Coalition Delivery Call. However, as noted in the *AFA Response* at 9 n.6 (R. 2873), the document is located in the *Settled Agency Hearing Record on Appeal* at 1208-31, *City of Idaho Falls v. IDWR*, Case No. CV01-23-13238 (4th Jud. Dist., Ada Cnty., Sep. 28, 2023), which is available at https://idwr.idaho.gov/wp-content/uploads/sites/2/legal/CV01-23-13238/CV01-23-13238-20230928-Settled-Agency-Record-on-Appeal.pdf (last visited June 2, 2026).

CERTIFICATE OF SERVICE

I hereby certify that on this 4th day of June, 2026, I served the foregoing document on the persons below via iCourt as indicated:

iCourt e-filing	
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Attorney for Respondents

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF MINIDOKA

A&B IRRIGATION DISTRICT, Petitioner, vs. THE IDAHO DEPARTMENT OF WATER RESOURCES, and MATHEW WEAVER in his capacity as the Director of the Idaho Department of Water Resources, Respondents, and IDAHO GROUND WATER APPROPRIATORS, INC., AMERICAN FALLS-ABERDEEN GROUND WATER DISTRICT, CITY OF BLISS, CITY OF BURLEY, CITY OF CAREY, CITY OF DECLO, CITY OF DIETRICH, CITY OF GOODING, CITY OF HAZELTON, CITY OF HEYBURN, CITY OF JEROME, CITY OF PAUL, CITY OF RICHFIELD, CITY OF RUPERT, CITY OF SHOSHONE, CITY OF WENDELL, Intervenors.	Case No. CV34-26-00462 **AGENCY DECISION ON OBJECTIONS AND ORDER SETTLING THE AGENCY RECORD**
IN THE MATTER OF DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY AND FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT NO. 2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, NORTHSIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY	

On May 21, 2026, the Idaho Department of Water Resources ("Department") served its *Notice of Lodging the Agency Record with the Agency* ("*Notice*") in this matter pursuant to I.R.C.P. 84(j)(1). The *Notice* gave the parties fourteen (14) days from the date of the *Notice* to file any objection to the agency record. On June 3, 2026, A&B Irrigation District ("A&B") filed *A&B Irrigation District's Objection to the Agency Record* ("*A&B Objection*")[1] and on June 4, 2026, American Falls-Aberdeen Ground Water District ("AFA") filed *American Falls-Aberdeen Ground Water District's Objection to Agency Record* ("*AFA Objection*"). In accordance with I.R.C.P. 84(j) and the Court's May 14, 2026 *Procedural Order*, the following constitutes the Department's decision on objections to the agency record and order settling the agency record.

In considering A&B's and AFA's objections, the Department refers to Idaho Code § 67-5249(3) which governs the contents of an agency record on appeal; it states:

> The record shall include:
> (a) The recording of the hearing;
> (b) All notices of the hearing and other conferences conducted by the presiding officer;
> (c) All prehearing orders;
> (d) All motions, pleadings, briefs, petitions, requests, and intermediate rulings;
> (e) All evidence received or considered;
> (f) A statement of all matters officially noticed and any related notices;
> (g) All offers of proof and objections and rulings thereon;
> (h) All proposed findings and requested orders;
> (i) Any transcript of the hearing, if prepared;
> (j) Staff memoranda or data submitted to the presiding officer or the agency head in connection with the consideration of the proceeding;
> (k) Any recommended order, preliminary order, final order, or order on reconsideration; and
> (l) All matters placed on the record after an ex parte communication pursuant to section 67-5253, Idaho Code.

[1] Idaho Appellate Rule 20 requires that "[a]t the time of the filing of any other document in the appellate process, the party filing the same shall serve a copy thereof upon all other parties to the action who are parties to the appeal, or who were parties in the proceeding below and who could be affected by the appeal . . . ." While A&B's objection was filed on June 3, 2026, it was served via iCourt on the Department two days later, on June 5, 2026. The Department will still consider the objection.

I. BACKGROUND

The agency record was prepared in connection with a request for judicial review of the Director's April 17, 2026 *Final Order Denying A&B Irrigation District's Exceptions to Preliminary Order* ("*Final Order*"). *Not. of Appeal & Pet. for Jud. Rev.* ¶ 10. The *Final Order* resolved the contested cases initiated by the filing of A&B's April 29, 2025 and July 24, 2025 petitions for hearing, which were consolidated for hearing. *See* R. 2384, 2888–91; *see also* R. 2333–36, 2376–79. Prior to the Director's review and issuance of the *Final Order* on exceptions, the Hearing Officer assigned to the matter issued an *Order Denying Idaho Ground Water Appropriators, Inc's Motion for Summary Judgment* ("*Order Denying IGWA Motion*"). R. 2890. Within that order, the Hearing Officer took "official notice of the pleadings and orders cited within the *AFA Motion*, the *IGWA Motion*, the *A&B Response*, and the various reply briefs. This includes the *2024 Plan* as it relates to the SWC delivery call proceeding where the parties are substantially similar." R. 2810. Those officially noticed documents have been included in the agency record on appeal. On reconsideration of the *Order Denying IGWA Motion*, the Hearing Officer subsequently issued his *Preliminary Order Granting IGWA's Petition for Reconsideration and Granting IGWA's Motion for Summary Judgment*, which the Director ultimately reviewed on exceptions. R. 2890. No administrative hearing was held by the Hearing Officer or the Director. *See* R. 2889–91.

II. AFA OBJECTION

The *AFA Objection* is broken into two grouped requests. First, AFA objects that the agency record is missing four documents officially noticed by the Hearing Officer:

1. *Order Denying Cities' Motion for Clarification and Reconsideration*, dated September 25, 2023;
2. *Order Denying IGWA's Petition for Review*, dated August 23, 2023;
3. *Joint Motion for Order Approving 2025 Stipulation*, dated July 24, 2025; and

4. *Order Approving 2025 Stipulation as Compliance with Approved Mitigation Plan*, dated July 25, 2025.

AFA Objection at 3. Upon review, the Director finds that all four documents were officially noticed by the Hearing Officer in his *Order Denying IGWA Motion*. *See* R. 2810, 2443, 2734. However, the first document is not missing as it is already included in the record in two locations. *See* R. 1710–16, 1731–37. This objection is overruled as it concerns the *Order Denying Cities' Motion for Clarification and Reconsideration* and sustained as it concerns the remaining three documents. The other three documents will be added to the record.

Second, AFA objects to the omission of six additional documents:

1. Groundwater Expert Report – 2023 Methodology, dated May 30, 2023;
2. *A&B Irrigation District's Notice of Mitigation*, dated May 2, 2016;
3. *Order Determining Deficiency in A&B Irrigation District's Notice of Mitigation*, dated May 11, 2016;
4. *Order Granting A&B's Requests to Withdraw Request for Hearings Re: Credit for Aquifer Enhancement Activities and Standard of Mitigation*, dated September 2, 2016;
5. *IGWA's Request for Mitigation Credit for Aquifer Enhancement Activities (2024)*, dated May 2, 2024; and
6. *Final Order Denying IGWA's Request for Mitigation Credit for Aquifer Enhancement Activities (2024)*, dated May 15, 2024.

AFA Objection at 3–4. AFA admits that the six additional documents were not officially noticed by the Hearing Officer or the Director, however, it argues that the documents provide "important historical context" and were relied upon in its February 5, 2026 *Response to A&B Irrigation District's Exceptions to Preliminary Order*. *Id.* at 3. The Director finds that all six documents were cited in AFA's response on exceptions, R. 2873–74, which the Director considered before issuing his *Final Order* currently on appeal. In the interest of ensuring a complete record that encompasses all evidence considered, this objection is sustained. These documents will be added to the record.

III. A&B OBJECTION

The *A&B Objection* lists 112 documents A&B suggests are "missing" and concludes with a statement that the Department "should correct the errors." *A&B Objection* at 2–9. Due to the large volume of allegedly missing documents, the Director has grouped the documents to reduce repetitive findings and decisions. Within the groupings, the documents maintain their original list numbers assigned in the *A&B Objection*.

A. Documents Already in the Agency Record

Upon review of the agency record, the Director finds that the documents listed below are already included in the record.[2] They are not missing. Therefore, A&B's objections concerning the following documents are overruled:

1. *Fifth Amended Final Order Regarding Methodology for Determining Material Injury to Reasonable In-Season Demand and Reasonable Carryover*, and Background Information, dated April 21, 2023. **R. 168–214**.

2. *Final Order Regarding April 2023 Forecast Supply (Methodology Steps 1-3)*, dated April 21, 2023, and April Background Information. **R. 154–167**.

3. *IGWA's Amended Notice of Mitigation*, dated June 1, 2023. **R. 276–348**.

5. *Order Revising April 2023 Forecast Supply and Amending Curtailment Order (Methodology Steps 5 & 6)* and Background Information, dated July 19, 2023. **R. 401–413**.

6. *Post-Hearing Order Regarding Fifth Amended Methodology Order* and Background Information, dated July 19, 2023. **R. 367–400**.

[2] For those documents listed by A&B that include "and Background Information," no background information is currently in the agency record or will be added. As an initial matter, A&B requested "Background Information" for several documents for which the Department does not generate background information. Nevertheless, of the methodology step orders listed by A&B for which the Department does generate background information files—the files are not missing and are properly excluded from the agency record. The files do not satisfy the requirements of Idaho Code § 67-5249(3). The files were not officially noticed by the Hearing Officer, *see* R. 2810, or cited in the *Final Order* or any of the briefing on exceptions. Further, A&B has provided no argument explaining why the inclusion of the files would be consistent with Idaho Code § 67-5249(3). Therefore, all objections concerning missing background information are overruled.

7. *Sixth Final Order Regarding Methodology for Determining Material Injury to Reasonable In-Season Demand and Reasonable Carryover* and Background Information, dated July 19, 2023. **R. 414–463**.

12. *Surface Water Coalition's Response to Cities' Request for Hearing and Order Authorizing Discovery*, dated August 22, 2023. **R. 471–479**.

15. *Motion for Clarification and Reconsideration of Denial of Request for Hearing and to Engage in Discovery*, dated September 5, 2023. **R. 1699–1703, 1718–22**.

16. *Order Denying Cities' Motion for Clarification and Reconsideration*, dated September 25, 2023. **R. 1710–16, 1731–37**.

17. *Final Order Establishing 2023 Reasonable Carryover (Methodology Step 9)* and Background Information, dated November 30, 2023. **R. 1739–48**.

18. *Final Order Regarding April 2024 Forecast Supply (Methodology Steps 1-3)* and Background Information, dated April 18, 2024. **R. 1906–19**.

20. *Joint Notice of Compliance—Magic Valley Ground Water District & North Snake Ground Water District's 2024 Irrigation Season Mitigation Commitments*, dated May 2, 2024. **R. 1932–42**.

44. *Final Order Curtailing Ground Water Rights Junior to March 31, 1954* and Background Information, dated May 30, 2024. **R. 1971–2163**.

47. *Order Approving 2024 Stipulation as Compliance with Approved Mitigation Plan* and Background Information, dated June 20, 2024. **R. 2217–28**.

50. *Order Regarding Mid-Season Change to Area of Common Ground Water Supply for Eastern Snake Plain Aquifer; Third Order Amending Curtailment List* and Background Information, dated June 28, 2024. **R. 2687–93**.

51. *Order Revising April 2024 Forecast Supply and Amending Curtailment Order (Methodology Steps 5 & 6)* and Background Information, dated July 17, 2024. **R. 2233–48**.

52. *Final Order Curtailing Ground Water Rights Junior to January 25, 1970* and Background Information, dated December 17, 2024. **R. 2281–2300**.

59. *Final Order Regarding April 2025 Forecast Supply (Methodology Steps 1-3)* and Background Information, dated April 16, 2025. **R. 2319–32**.

62. *Final Order Curtailing Ground Water Rights Junior to August 28, 1955* and Background Information, dated May 16, 2025. **R. 2337–59**.

63. *Order Revising April 2025 Forecast Supply and Continuing May 16, 2025 Curtailment Order (Methodology Steps 5 & 6)* and Background Information, dated July 10, 2025. **R. 2360–75**.

71. *Order Revising July 2025 Forecast Supply (Methodology Steps 7-8)* and Background Information, dated September 11, 2025. **R. 2388–2403**.

73. *Order on Intervention, Authorizing Discovery, Email Service, and Scheduling; Order Granting Motion for Subpoena; Notice of Hearing*, dated October 7, 2025. **R. 2428–37**.

81. A&B Proportionate Share Expert Report Docket No. CM-DC-2010-001, dated November 7, 2025. **R. 2451–77**.

90. *American Falls-Aberdeen Ground Water District's Motion to Reconsider Order Granting Hearing and Vacate Hearing*, dated November 18, 2025. **R. 2438–77**.

92. *Final Order Establishing 2025 Reasonable Carryover (Methodology Step 9)* and Background Information, dated November 21, 2025. **R. 2520–29**.

100. *Final Order Curtailing Ground Water Rights Junior to August 15, 1952* and Background Information, dated December 8, 2025. **R. 2540–94**.

B. Duplicate AFA Objections

The Director finds that A&B and AFA both objected to the omission of the below-listed documents from the agency record. For the reasons stated above in the Director's review of the *AFA Objection*, the documents will be added to the record. Therefore, further review of A&B's objections to the following documents is moot:

11. *Order Denying IGWA's Petition for Review*, dated August 23, 2023

22. *IGWA's Request for Mitigation Credit for Aquifer Enhancement Activities (2024)*, dated May 2, 2024

28. *Final Order Denying IGWA's Request for Mitigation Credit for Aquifer Enhancement Activities (2024)*, dated May 15, 2024

65. *Joint Motion for Order Approving 2025 Stipulation*, dated July 24, 2025

66. *Order Approving 2025 Stipulation as Compliance with Approved Mitigation Plan* and Background Information,[3] dated July 25, 2025

C. Duplicate A&B Objections

The Director finds that within the *A&B Objection*, A&B objected to the omission of four separate documents, two times each. Reviewing duplicate objections is unnecessary. Therefore, the following duplicate objections are overruled:

56. *Order Revising April 2024 Forecast Supply and Amending Curtailment Order (Methodology Steps 5 &6)*, dated January 3, 2025

Same as Objection 51, except this objection lists an incorrect document date.

68. *Final Order Curtailing Ground Water Right Junior to October 11, 1900*, dated July 25, 2025

Same as Objection 67.

69. *Order Approving 2025 Stipulation as Compliance with Approved Mitigation Plan*, dated July 25, 2025

Same as Objection 66.

84. *IGWA's Expert Witness Disclosure*, dated November 7, 2025

Same as Objection 80.

D. Documents Not Filed or Issued in the Consolidated Contested Cases

The documents listed below are not missing and are properly excluded from the agency record. They do not satisfy the requirements of Idaho Code § 67-5249(3). The documents listed below were not issued or filed in the consolidated contested cases which the *Final Order* resolved. Additionally, they were not officially noticed by the Hearing Officer, *see* R. 2810, or cited in the *Final Order* or any of the briefing on exceptions. Further, A&B has provided no

[3] The Director's prior decision concerning requests for the inclusion of "Background Information" still applies here. *See* discussion *supra* note 2.

argument explaining why the inclusion of the documents would be consistent with Idaho Code § 67-5249(3). Therefore, all objections concerning the following documents are overruled:

4. *Surface Water Coalition's Response to IGWA's Amended Notice of Mitigation,* dated June 5, 2023

8. *Surface Water Coalition's Petition for Reconsideration & Clarification; Request for Enforcement of Orders Approving 2016 Stipulated Plan*, dated July 31, 2023

9. *Order Granting Petition for Reconsideration / Clarification in Part and Denying Request for Enforcement*, dated August 11, 2023

10. *Order Denying Request for Hearing and Motion to Authorize Discovery*, dated August 23, 2023

13. *IGWA's Response to Surface Water Coalition's Petition for Reconsideration and Request for Hearing*, dated August 22, 2023

14. *Order Revising July 2023 Forecast Supply, dated Methodology Step 7-8* and Background Information, dated August 31, 2023

19. Falls Irrigation District Letter to Water District 01 Watermaster, dated April 30, 2024

21. *Declaration of Sophia Sigstedt*, dated May 2, 2024

23. *IGWA's Petition for Reconsideration of Final Order Regarding April 2024 Forecast Supply*, dated May 2, 2024

24. *BJGWD's Notice of Mitigation in Response to April 2024 As-Applied Order, dated Methodology Steps 1-3*, dated May 2, 2024

25. Letter from IGWA to the Director, dated May 8, 2024

26. *Final Order Denying IGWA's Petition for Reconsideration of April As-Applied Order*, dated May 10, 2024

27. *Order Determining Deficiency in Notices of Secured Water*, dated May 10, 2024

29. *IGWA's Notice of Storage Water Leases*, dated May 17, 2024

30. *Surface Water Coalition's Response to American Falls-Aberdeen Ground Water District's Motion for Reconsideration,* dated May 17, 2024

31. *SWC's Response to IGWA's Conditional Notice of Mitigation Compliance / Petition for Reconsideration*, dated May 23, 2024

32. *Upper Valley Ground Water District's Response in Opposition to American Falls-Aberdeen Ground Water District's Motion for Reconsideration*, dated May 24, 2024

33. *BGWD's Response to AFA's Motion for Reconsideration of Order Determining Deficiency in Notices of Secured Water*, dated May 24, 2024

34. *Joinder in Support of Upper Valley Ground Water District's Response in Opposition to American Falls-Aberdeen Ground Water District's Motion for Reconsideration – Bonneville-Jefferson Ground Water District*, dated May 24, 2024

35. *Response to American Falls-Aberdeen Ground Water District's Motion for Reconsideration of Order Determining Deficiency in Notices of Secured Water – Magic Valley Ground Water District and North Snake Ground Water District*, dated May 24, 2024

36. *AFA's Response and Opposition to UVGWD's Petition to Intervene for Limited Purpose*, dated May 24, 2024

37. *AFA's Reply to UVGWD's Response in Opposition to AFA's Motion for Reconsideration of Order Determining Deficiency in Notices of Secured Water*, dated May 24, 2024

38. *AFA's Joinder in Support of SWC's Response to IGWA's Conditional Notice of Mitigation Compliance / Petition for Reconsideration*, dated May 24, 2024

39. *IGWA's Reply to SWC's Response to IGWA's Conditional Notice of Mitigation Compliance / Petition for Reconsideration*, dated May 24, 2024

40. *Order Granting Upper Valley District's Limited Intervention and AFA's Motion for Reconsideration*, dated May 28, 2024

41. *Bingham Ground Water District, Bonneville Jefferson Ground Water District, and Jefferson Clark Ground Water District Amended Notice of Mitigation Compliance*, dated May 29, 2024

42. *Notice of Compliance; Request for Clarification – Magic Valley Ground Water District and North Snake Ground Water District*, dated May 29, 2024

43. *Notice of Intended Compliance with 2016 Mitigation Plan by Henry's Fork Ground Water District and Madison Ground Water District*, dated May 29, 2024

45. *Order Amending Curtailment List* and Background Information, dated June 6, 2024

46. *Notice of Falls Irrigation District's Joinder and Participation in American Falls-Aberdeen Ground Water District's Mitigation Plan in 2024*, dated June 7, 2024

48. *Second Order Amending Curtailment List* and Background Information, dated June 20, 2024

52. *Order Granting Joint Motion to Extend Stay*, dated October 4, 2024

53. *Final Order Establishing 2024 Reasonable Carryover (Methodology Step 9)* and Background Information, dated November 29, 2024

55. *Order Granting Stipulated Motion to Extend Stay* and Background Information, dated December 23, 2024

57. 2025 Step 1 Methodology Order Responses

58. Joint Forecast – USBR & USACE, dated April 2, 2025

61. *Cities Joint Request for Hearing on Final Order Regarding April 2025 Forecast Supply (Methodology Steps 1-3)*, dated April 30, 2025

64. *SWC's Request for Hearing on Steps 5/6 Order*, dated July 24, 2025

70. *Order Denying Surface Water Coalition's Request for Hearing on Steps 5/6 Order*, dated September 3, 2025

72. *Amended Notice of Additional Non-Signatory Cities Participating in the Cities' Joint Mitigation Plan in 2025*, dated October 3, 2025

74. *Second Amended Notice of Additional Non-Signatory Cities Participating in the Cities' Joint Mitigation Plan in 2025*, dated October 7, 2025

111. *Order Phasing in Administration of Ground Water Rights Recently Included in the ESPA ACGWS*, dated February 2, 2026

112. *Notice of Appeal and Petition for Judicial Review of Agency Action*, dated May 13, 2026[4]

E. Discovery, Expert Testimony, and Miscellaneous Notice Documents

The documents listed below are not missing and are properly excluded from the agency record. The documents do not satisfy the requirements of Idaho Code § 67-5249(3). Concerning

[4] The subject petition for judicial review was filed in the Court and not with the Department. Its inclusion in the agency record is not necessary or required pursuant to Idaho Code § 67-5249(3) or I.R.C.P. 84.

witness and exhibit disclosures and notices (other than notices of hearings, conferences, or officially noticed documents), Idaho Code § 67-5249(3) does not automatically include them in the record on appeal. A&B has provided no argument explaining why the inclusion of the documents would be consistent with Idaho Code § 67-5249(3). When it comes to evidence, since no administrative hearing was held, opportunities were limited for the Hearing Officer or the Director to officially receive or have cause to consider evidence like expert reports, deposition transcripts and exhibits, or discovery responses. In addition, pursuant to IDAPA 37.01.01.525, "[p]arties shall not serve the presiding officer copies of discovery responses unless it is part of a motion to compel discovery." No motions to compel discovery were filed. Finally, none of the documents listed below were officially noticed by the Hearing Officer, *see* R. 2810, or cited in the *Final Order* or any of the briefing on exceptions. Consequently, said expert report, deposition transcript and exhibit, and discovery response documents were not received on record or considered by the Hearing Officer or Director. Because A&B has provided no argument explaining why the inclusion of the documents would be consistent with Idaho Code § 67-5249(3), all objections concerning the following documents are overruled and the documents will not be included in the record:

75. *Notice of Deposition Duces Tecum of Jennifer Sukow*, dated and associated exhibits for the Deposition, dated October 15, 2025

76. Jennifer Sukow Deposition & Exhibits, dated October 22, 2025[5]

77. *A&B Irrigation District's First Set of Discovery Requests,* dated October 22, 2025

78. *A&B Irrigation District's Expert Witness List,* dated November 7, 2025

79. *A&B Irrigation District's Notice of Service*, dated November 7, 2025

80. *IGWA's Expert Witness Disclosure*, dated November 7, 2025

[5] The agency record does include the excerpts from Ms. Sukow's deposition that were attached to Mr. Thompson's declaration filed in support of the *A&B Response.* R. 2683–85.

82. *American Falls-Aberdeen Ground Water District's Disclosure of Expert Witness & Notice of Service of Expert Report*, dated November 7, 2025

83. Expert Report for Aberdeen-American Falls Ground Water District – A&B's Requests for Hearing – SWC Delivery Call, dated November 7, 2025

85. *A&B Irrigation District's First Set of Discovery Requests to American Falls-Aberdeen Ground Water District*, dated November 7, 2025

86. *A&B Irrigation District's First Set of Discovery Requests to Bonneville-Jefferson Ground Water District*, dated November 7, 2025

87. *A&B Irrigation District's First Set of Discovery Requests to IGWA*, dated November 7, 2025

88. Greg Sullivan Deposition & Exhibits, dated November 11–12, 2025

89. *Notice of Deposition Duces Tecum of Brian Ragan*, dated November 13, 2025

91. Brian Ragan Deposition and Exhibits, dated November 21, 2025

93. *Notice of Deposition Duces Tecum of D. Colvin, P.G.*, dated December 2, 2025

94. *Notice of Deposition Duces Tecum of Gregory K. Sullivan*, dated December 3, 2025

95. *Notice of Change of Firm*, dated December 4, 2025

96. *IGWA's Answers to A&B Irrigation District's First Set of Discovery Requests to IGWA*, dated December 5, 2025

97. *Notice of Service of IGWA's Response to A&B Irrigation District's First Set of Discovery Requests to IGWA*, dated December 5, 2025

98. *Coalition of Cities Answers to A&B Irrigation District's First Set of Discovery Requests*, dated December 8, 2025

99. *Notice of Service of Coalition of Cities Answers to A&B Irrigation District's First Set of Discovery Requests*, dated December 8, 2025

101. *American Falls-Aberdeen Ground Water District's Responses to A&B Irrigation District's First Set of Discovery Requests*, dated December 10, 2025

102. *Notice of Service of American Falls-Aberdeen Ground Water District's Responses to A&B Irrigation District's First Discovery Requests*, dated December 10, 2025

103. Dave Colvin Deposition and Exhibits, dated December 11, 2025

104. *Notice of Withdrawal of Counsel*, December 12, 2025

105. *A&B Irrigation District's Notice of Service*, dated December 19, 2025

106. *Notice of Service American Falls-Aberdeen Ground Water District's Rebuttal Expert Report*, dated December 19, 2025

107. A&B Proportionate Share Rebuttal Report Docket No. CM-DC-2010-001, dated December 19, 2025

108. Rebuttal Expert Report for American Falls – Aberdeen Ground Water District – A&B Requests for Hearing, dated December 19, 2025

109. Review of A&B Proportionate Share Expert Report Docket No. CM-DC-2010-001 By LRE, dated December 19, 2025

110. *Coalition of Cities Notice of Intent to Participate*, dated December 22, 2025

F. Documents Missing from the Agency Record

For the reasons provided below, A&B's objections concerning the following documents are sustained and will be included in the record:

49. *Joint Motion for Order Approving 2024 Stipulation*, dated June 20, 2024

Upon review of the agency record, the Director finds that this document was officially noticed by the Hearing Officer in his *Order Denying IGWA Motion*, *see* R. 2810, 2611, and omitted from the record. This objection is sustained.

60. Response to the Department's April 2025 Forecast Supply Order Letter, dated April 29, 2025

Upon review, the Director finds that this document was cited in the September 3, 2025 *Order Granting A&B Irrigation District's Requests for Hearing, Consolidating Proceedings for Hearing, and Appointing Hearing Officer; Notice of Prehearing Conference. See* R. 2381. Given the foundational nature of the September 3, 2025 order and in the interest of ensuring a complete record that encompasses all evidence considered, this objection is sustained.

67. *Final Order Curtailing Ground Water Rights Junior to October 11, 1900* and Background Information, dated July 25, 2025

Upon review, the Director finds that this document was cited in the September 3, 2025 *Order Granting A&B Irrigation District's Requests for Hearing, Consolidating Proceedings for Hearing, and Appointing Hearing Officer; Notice of Prehearing Conference. See* R. 2383. Given the foundational nature of the September 3, 2025 order and in the interest of ensuring a complete record that encompasses all evidence considered, this objection is sustained as it concerns the curtailment order. The Director's prior decision concerning requests for the inclusion of "Background Information" still applies here. *See* discussion *supra* note 2.

IV. ORDER

IT IS HEREBY ORDERED that *A&B Irrigation District's Objection to the Agency Record* and *American Falls-Aberdeen Ground Water District's Objection to Agency Record* are sustained in part and overruled in part, consistent with the foregoing. The Department shall include in the agency record on appeal the documents for which the objections were sustained.

IT IS FURTHER ORDERED that pursuant to I.R.C.P. 84(j)(3), *A&B Irrigation District's Objection to the Agency Record*, *American Falls-Aberdeen Ground Water District's Objection to Agency Record*, and this order shall be included in the agency record.

IT IS FURTHER ORDERED that with the additions to the record ordered above, the agency record is now deemed settled. In accordance with the Court's May 14, 2026 *Procedural Order*, the Department shall lodge the settled agency record on appeal with the Court no later than June 25, 2026.

DATED this 17th day of June 2026.

MATHEW WEAVER, Director
Idaho Department of Water Resources

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 17th day of June 2026, I caused to be served a true and correct copy of the foregoing *Agency Decision on Objections and Order Settling the Agency Record*, via iCourt E-File and Serve, upon the following:

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BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY OR FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY	Docket No. CM-DC-2010-001 Docket No. CM-MP-2015-003 **A&B IRRIGATION DISTRICT'S NOTICE OF MITIGATION**

COMES NOW, A&B Irrigation District (hereafter referred to as "A&B" or "District"), by and through counsel of record, and hereby provides its notice of mitigation in response to the Director's request in the *Final Order Regarding April 2016 Forecast Supply (Methodology Steps 1 – 3)* ("*April Order*") issued on April 19, 2016. A&B reserves all rights with respect to the Director's calculations and ordered mitigation. *See A&B Irrigation District's Petition for Reconsideration / Request for Hearing Re: April 2016 As Applied Order.*

2016 MITIGATION ACTIONS

A&B filed and received approval of its mitigation plan for the Surface Water Coalition delivery call last year. *See Final Order Approving Mitigation Plan* (Dec. 16, 2015). A&B provides notice to the Director of the following mitigation actions for 2016:

1) CREP

A&B landowners enrolled 98 acres into the federal conservation reserve enhancement program (CREP). IDWR estimated that ceasing groundwater withdrawals for these lands results in a response of 103 acre-feet to the Near Blackfoot to Minidoka reaches of the Snake River. *See March 29, 2016 Post Audit Memo (Rangen Call) (Jennifer Sukow).* The Director should consider and account for this mitigation action in regards to A&B's "proportionate share" of the predicted in-season demand shortfall to TFCC.

2) Prior Conversion Lands

As detailed in its mitigation plan, A&B previously converted 1,378 acres under senior water right 36-2080 from a groundwater to a surface water supply. *See* Ex. A (lands colored "green" and identified as "mid 1990s conversion"). IDWR estimated that ceasing groundwater withdrawals and delivering surface water to these lands results in a response of 1,409 acre-feet to the Near Blackfoot to Minidoka reaches of the Snake River. *See March 29, 2016 Post Audit Memo (Rangen Call) (Jennifer Sukow).* The Director should consider and account for this mitigation action in regards to A&B's "proportionate share" of the predicted in-season demand shortfall to TFCC.

3) Additional Pumping Plant #2 Conversion Lands

As detailed in the mitigation plan, A&B noted its intention to convert an additional 1,478.5 acres to a surface water supply to be served by the new Unit A Pumping Plant #2 Project

when it had available water. *See Mitigation Plan* at 3. The new pipeline project is complete and A&B is capable of and will deliver surface water to these lands for the 2016 irrigation season. *See* Ex. A (lands colored "blue" identified as "soft conversions"). In addition, A&B has the ability to temporarily deliver surface water to an additional 535.1 acres irrigated with groundwater. *See* Ex. A (colored "tan" and identified as "intermittent soft conversions"). A&B will likely be able to deliver surface water to all or part of these lands in the shoulder months (or parts thereof) of April, May, September, and October. A&B does not have the information yet to determine what the estimated response of these conversions will be on the Near Blackfoot to Minidoka reaches of the Snake River. With the attached map IDWR should be able to run ESPAM 2.1 and make initial estimates. Further, A&B will supply the necessary information regarding surface water deliveries to these lands during the 2016 irrigation season. The Director should consider and account for this mitigation action in regards to A&B's "proportionate share" of the predicted in-season demand shortfall to TFCC.

4) Storage Water

To the extent the above mitigation actions do not cover A&B's "proportionate share" of the predicted demand shortfall to TFCC, A&B has available storage water from its own space in American Falls and Palisades Reservoirs, as well as access to the Water District 01 Rental Pool, and likely some portion of the storage water provided to the SWC by IGWA, the Processors, and the Cities. Accordingly, A&B has available storage water to deliver for mitigation purposes.

CONCLUSION

A&B is undertaking various mitigation actions in 2016 to mitigate for its "proportionate share" of the predicted in-season demand shortfall to TFCC. A&B requests the Director to account for the predicted responses to the Near Blackfoot to Minidoka reaches of the Snake

River resulting from these actions and adjust the "proportionate share" determination accordingly.

In the event A&B still has an outstanding obligation that is not mitigated for, A&B will have available storage water to provide to injured Coalition members if needed.[1] A&B requests the Director accept this *Notice of Mitigation* and remove A&B's affected groundwater rights from any curtailment order.

DATED this 7th day of May, 2016.

BARKER ROSHOLT & SIMPSON LLP

Travis L. Thompson

Attorneys for A&B Irrigation District

[1] A&B also has the ability to enter into a stipulation with the Coalition for purposes of its 2016 mitigation obligation.

CERTIFICATE OF SERVICE

I hereby certify that on this 2nd day of May, 2016, I served a true and correct copy of the foregoing *A&B Irrigation District's Notice of Mitigation* on the following by the method indicated:

Director Gary Spackman c/o Deborah Gibson State of Idaho Dept of Water Resources 322 E Front St Boise, ID 83720-0098 *** service by electronic mail facsimile – 208-287-6700 gary.spackman@idwr.idaho.gov deborah.gibson@idwr.idaho.gov	Matt Howard U.S. Bureau of Reclamation 1150 N. Curtis Rd. Boise, ID 83706-1234 *** service by electronic mail only mhoward@pn.usbr.gov emcgarry@pn.usbr.gov	IDWR – Eastern Region 900 N. Skyline Dr., Suite A Idaho Falls, ID 83402-1718 *** service by electronic mail only lyle.swank@idwr.idaho.gov
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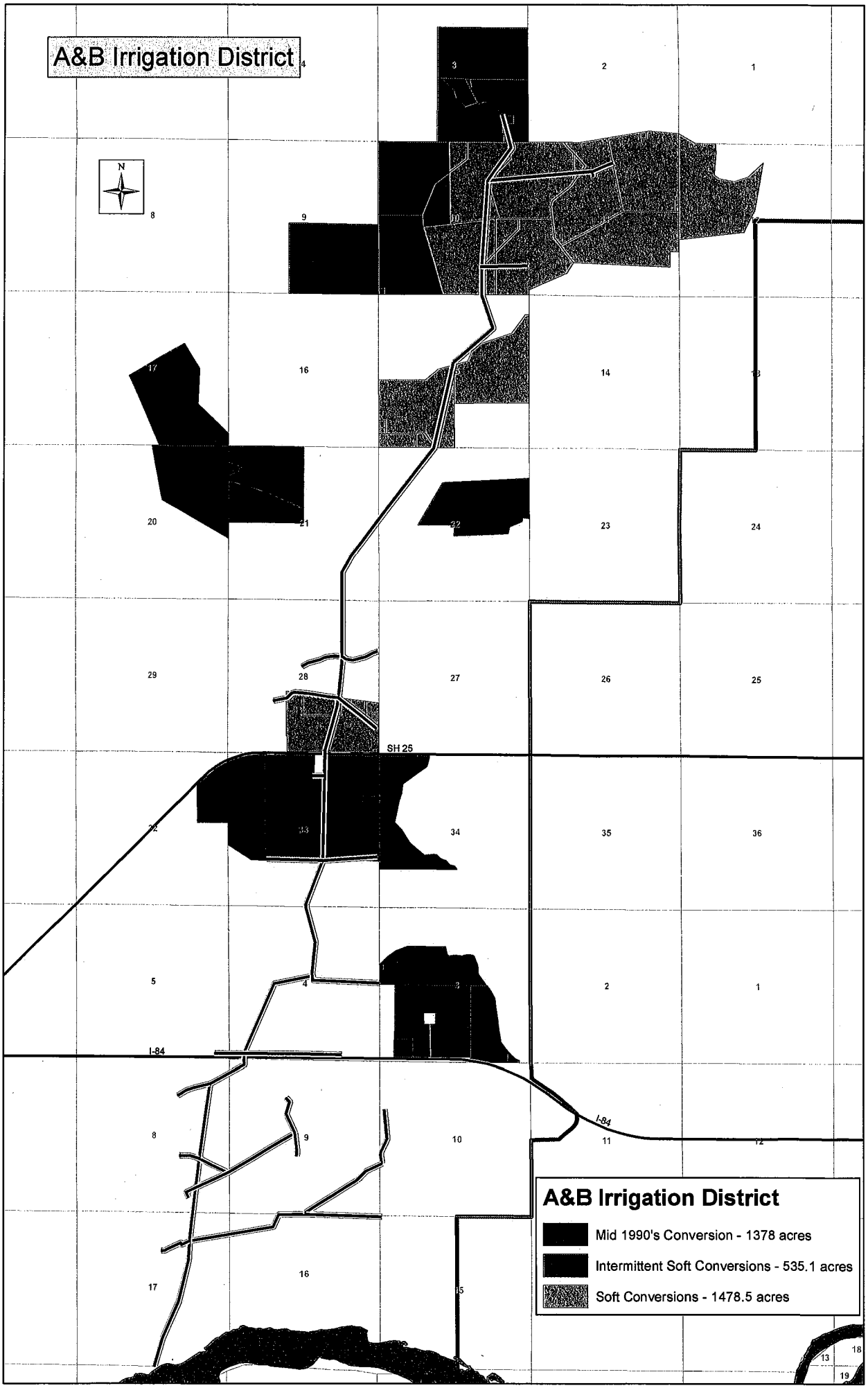
Travis L. Thompson

Exhibit
A


A&B Irrigation District
N
SH 25
I-84
I-84
A&B Irrigation District
Mid 1990's Conversion - 1378 acres
Intermittent Soft Conversions - 535.1 acres
Soft Conversions - 1478.5 acres

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY OR FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY **IN THE MATTER OF THE MITIGATION PLAN FILED BY A&B IRRIGATION DISTRICT FOR THE DISTRIBUTION OF WATER TO WATER RIGHTS HELD BY THE SURFACE WATER COALITION**	**CM-DC-2010-001** **CM-MP-2015-003** **ORDER DETERMINING DEFICIENCY IN A&B IRRIGATION DISTRICT'S NOTICE OF MITIGATION**

FINDINGS OF FACT

1. On April 19, 2016, the Director ("Director") of the Idaho Department of Water Resources ("Department") issued the *Fourth Amended Final Order Regarding Methodology for Determining Material Injury to Reasonable In-Season Demand and Reasonable Carryover* ("Methodology Order"). The Methodology Order established nine steps for determining material injury to members of the Surface Water Coalition ("SWC").[1]

2. On April 19, 2016, the Director issued the *Final Order Regarding April Forecast Supply (Methodology Steps 1-3)* ("As-Applied Order"), which applied steps 1, 2, and 3 of the Methodology Order. The Director predicted an in-season demand shortfall ("DS") of 44,200 acre-feet. *As-Applied Order* at 3-4. The Director ordered that, by May 3, 2016, ground water users with consumptive water rights "junior to February 8, 1989, within the Eastern Snake Plain Aquifer area of common ground water supply shall establish, to the satisfaction of the Director, that they can mitigate for their proportionate share of the predicted DS of 44,200 acre-feet in accordance with an approved mitigation plan." *Id.* at 6. The Director also ordered that, if such a junior ground water user cannot establish they can mitigate for their proportionate share of the

[1] The SWC is comprised of A&B District, American Falls Reservoir District #2, Burley Irrigation District, Milner Irrigation District, Minidoka Irrigation District, North Side Canal Company, and Twin Falls Canal Company.

predicted DS "in accordance with an approved mitigation plan, the Director will issue an order curtailing the junior-priority ground water user." *Id.*

3. In the As-Applied Order, the Director noted that A&B Irrigation District ("A&B") has an approved mitigation plan in place for its ground water rights (filed in Docket No. CM-MP-2015-003) and determined that A&B's "proportionate share of the predicted DS of 44,200 acre-feet is 3,463 acre-feet." *Id.* at 5, n.4.

4. On May 2, 2016, A&B submitted to the Department *A&B Irrigation District's Petition for Reconsideration and Request for Hearing Re: April 2016 As Applied Order.* The Director subsequently issued an *Order on Petition for Reconsideration and Request for Hearing* ("Order on Petition") granting A&B's request to re-calculate its proportionate share as set forth in the As-Applied Order. The Director determined A&B's proportionate share of the predicted DS is 2,122 acre-feet, not 3,463 acre-feet. *Order on Petition* at 2.

5. On May 2, 2016, A&B submitted to the Department *A&B Irrigation District's Notice of Mitigation* ("Notice"), identifying "various mitigation actions" to "mitigate for its 'proportionate share' of the predicted in-season [DS]." *Notice* at 2-3. A&B states that: (a) its landowners enrolled 98 acres into the federal conservation reserve enhancement program ("CREP"), which the Department previously estimated resulted in a response of 103 acre-feet to the Near Blackfoot to Minidoka reaches of the Snake River; (b) A&B previously converted 1,378 acres under senior water right no. 36-2080 from a ground water to surface water supply, which the Department previously estimated resulted in a response of 1,409 acre-feet to the Near Blackfoot to Minidoka reaches of the Snake River; (c) A&B is "capable of" delivering surface water to 1,478.5 acres of land and an additional 535.1 acres of land irrigated with ground water, "will likely be able to deliver surface water to all or part of these lands in the shoulder months," but "does not have the information yet to determine what the estimated response of these conversions will be in the Near Blackfoot to Minidoka reaches of the Snake River," and (d) "A&B has available storage water from its own space in American Falls and Palisades Reservoirs, as well as access to the Water District 01 Rental Pool, and likely some portion of the storage water provided to the SWC by the [Idaho Ground Water Appropriator's, Inc.], the Processors, and the Cities." *Id.*

6. A&B "requests the Director to account for the predicted responses to the Near Blackfoot to Minidoka reaches of the Snake River resulting from these actions and adjust the 'proportionate share' determination accordingly." *Notice* at 3-4. A&B states: "In the event A&B still has an outstanding obligation that is not mitigated for, A&B will have available storage water to provide to injured [SWC] members if needed." *Id.* at 4. "A&B requests the Director accept" its Notice "and remove A&B's affected groundwater rights from any curtailment order." *Id.*

CONCLUSIONS OF LAW

1. Idaho Code § 42-602 authorizes the Director to supervise water distribution within water districts:

> The director of the department of water resources shall have direction and control of the distribution of water from all natural water sources within a water district to the canals, ditches, pumps and other facilities diverting therefrom. Distribution of water within water districts created pursuant to section 42-604, Idaho Code, shall be accomplished by watermasters as provided in this chapter and supervised by the director. The director of the department of water resources shall distribute water in water districts in accordance with the prior appropriation doctrine. The provisions of chapter 6, title 42, Idaho Code, shall apply only to distribution of water within a water district.

2. By May 3, 2016, ground water users with consumptive water rights "junior to February 8, 1989, within the Eastern Snake Plain Aquifer area of common ground water supply" had to "establish, to the satisfaction of the Director, that they can mitigate for their proportionate share of the predicted DS of 44,200 acre-feet in accordance with an approved mitigation plan." *As-Applied Order* at 6. Junior ground water users unable to establish they can mitigate for their proportionate share of the predicted DS in accordance with an approved mitigation plan will be subject to an order curtailing the junior-priority ground water use. *Id.*

3. A&B requests the Director account for predicted responses "to the Near Blackfoot to Minidoka reaches of the Snake River resulting from [its aquifer enhancement activities, i.e. enrollment of acres in CREP and conversions] and adjust the 'proportionate share' determination accordingly." *Notice* at 3-4.

4. The predicted DS is the shortfall predicted after the benefits of ongoing aquifer enhancement activities performed by A&B and other entities have already been realized. In other words, the predicted DS already accounts for the benefits of ongoing aquifer enhancement activities performed by A&B and other entities. At this time, the Director will not reduce the predicted DS, or any entity's proportionate share thereof, because of the effects of aquifer enhancement activities. However, the Director will construe A&B's request to account for predicted responses to the Near Blackfoot to Minidoka reaches of the Snake River resulting from its aquifer enhancement activities and to reduce its proportionate share accordingly as a motion pursuant to the Department's Rule of Procedure 260 requesting the agency to take action in a contested case. *See* IDAPA 37.01.01.260. Pursuant to the Department's Rule of Procedure 563, the Director will set and hear oral argument on the issue of whether A&B's proportionate share should be reduced because of its aquifer enhancement activities.

5. With respect to A&B's notice that it "will have available storage water to provide to injured [SWC] members if needed," A&B must "provide the Director with legally enforceable contracts, options or similar documentation to establish that it has secured the water necessary to" mitigate for its proportionate share of the predicted DS. *See Order Determining Deficiency*

in IGWA's Notice of Secured Water; Curtailing Ground Water Rights Junior to July 1, 1985, Docket No. CM-DC-2010-001 (Jan. 10, 2014).

6. A&B's statements that it "has available storage water from its own space in American Falls and Palisades Reservoirs, as well as access to the Water District 01 Rental Pool, and likely some portion of the storage water provided to the SWC by the [Idaho Ground Water Appropriator's, Inc.], the Processors, and the Cities," are insufficient documentation to establish, to the satisfaction of the Director, that A&B can mitigate for its proportionate share of the predicted DS (2,122 acre-feet).

7. Because A&B owns storage water in American Falls and Palisades Reservoirs, A&B does not need to contract for water. To establish to the satisfaction of the Director that A&B will have available storage water to mitigate for A&B's proportionate share of the predicted DS, A&B must document that it has communicated to the watermaster its written commitment of 2,122 acre-feet of storage water to be deducted from A&B's 2016 storage allocation and to be controlled, assigned, and delivered by the watermaster to mitigate injury to other members of the SWC.

ORDER

Based upon and consistent with the foregoing, IT IS HEREBY ORDERED that the Notice submitted by A&B is insufficient to satisfy the Director that A&B can mitigate for its proportionate share of the predicted DS (2,122 acre-feet). Therefore, consistent with the As-Applied Order, A&B's affected ground water rights will be subject to an order issued by the Director curtailing junior-priority ground water users.

IT IS FURTHER ORDERED that, pursuant to the Department's Rule of Procedure 563, the Director will set and hear oral argument on the issue of whether A&B's proportionate share of the predicted DS should be reduced because of its aquifer enhancement activities. The setting of this hearing will not stay the effectiveness of the Methodology Order or As-Applied Order. The Director will shortly issue a subsequent order scheduling a pre-hearing conference.

IT IS FURTHER ORDERED that, if by **May 13, 2016**, A&B submits to the Department adequate documentation establishing it has secured the water necessary to mitigate for its proportionate share of the predicted DS (2,122 acre-feet), A&B's affected ground water rights will not be subject to the Director's curtailment order.

Dated this 11th day of May 2016.

GARY SPACKMAN
Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 11th day of May 2016, the above and foregoing, was served by the method indicated below, and addressed to the following:

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Deborah J. Gibson

Deborah Gibson
Administrative Assistant to the Director

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY OR FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY	Docket No. CM-DC-2010-001 Docket No. CM-MP-2015-003 **ORDER GRANTING A&B'S REQUESTS TO WITHDRAW REQUESTS FOR HEARINGS RE: CREDIT FOR AQUIFER ENHANCEMENT ACTIVITIES AND STANDARD OF MITIGATION**
IN THE MATTER OF THE MITIGATION PLAN FILED BY A&B IRRIGATION DISTRICT FOR THE DISTRIBUTION OF WATER TO WATER RIGHTS HELD BY THE SURFACE WATER COALITION	

BACKGROUND

On April 19, 2016, the Director ("Director") of the Idaho Department of Water Resources ("Department") issued the *Final Order Regarding April Forecast Supply (Methodology Steps 1-3)* ("April Forecast Supply Order"), which applied steps 1, 2, and 3 of the Methodology Order. The Director predicted an in-season demand shortfall ("DS") of 44,200 acre-feet. *April Forecast Supply Order* at 3-4.

On May 2, 2016, A&B Irrigation District ("A&B") submitted to the Department *A&B Irrigation District's Notice of Mitigation* ("Notice"), identifying "various mitigation actions" to "mitigate for its 'proportionate share' of the predicted in-season [DS]." *Notice* at 2-3.

On May 11, 2016, the Director issued an *Order Determining Deficiency in A&B Irrigation District's Notice of Mitigation* ("Deficiency Order"). The Director denied A&B's request to reduce its proportionate share of the predicted DS "because of the effects of aquifer enhancement activities," but decided to set and hear oral argument on the issue pursuant to the Department's Rule of Procedure 563. *Deficiency Order* at 3. On May 12, the Director issued an order scheduling a pre-hearing conference on the issue for May 19, 2016.

On May 13, 2016, A&B submitted to the Department *A&B Irrigation District's Notice of Communication to Water District 01 Watermaster/Request for Hearing* ("Request for Hearing"). A&B asserted the Deficiency Order "created a new standard regarding mitigation that has not been previously applied to other affected junior ground water right holders" and requested a hearing pursuant to Idaho Code § 42-1701A(3). *Request for Hearing* at 2.

On May 19, 2016, the Director held a pre-hearing conference. Counsel for A&B requested the Director stay the hearing on the issue of whether A&B's proportionate share of the predicted DS should be reduced because of the effects of aquifer enhancement activities. The Director subsequently issued an order granting A&B's request to stay the hearing on the issue.

On May 24 2016, the Director issued an order granting A&B's request for hearing on the issue of whether the Deficiency Order created a new standard of mitigation and scheduled a pre-hearing conference for June 30, 2016.

On June 14, 2016, A&B submitted a letter to the Director stating "it has elected to not deliver groundwater pursuant to its enlargement water rights that are subject to the [April Forecast Supply Order]" and requesting the Director "rescind any mitigation obligation attributed to [A&B]."

On June 30, 2016, the Director issued a response to A&B's June 14, 2016, letter stating that A&B will not have a mitigation obligation for this year if A&B curtails the enlargement ground water rights and if the priority date for curtailment for 2016 remains junior to A&B's other ground water rights.

On July 1, 2016, A&B filed *A&B Irrigation District's Notice of Withdrawal of Request for Hearing* withdrawing its request for hearing on the issue of whether A&B's proportionate share of the predicted DS should be reduced because of the effects of aquifer enhancement activities. On July 1, 2016, A&B also filed *A&B Irrigation District's Notice of Withdrawal of Request for Hearing* withdrawing its request for hearing on the issue of whether the Deficiency Order created a new standard of mitigation. The Department received no opposition to A&B's requests to withdraw its requests for hearing.

ORDER

IT IS HEREBY ORDERED that A&B's request to withdraw its request for hearing on the issue of whether A&B's proportionate share of the predicted DS should be reduced because of the effects of aquifer enhancement activities is GRANTED.

IT IS FURTHER ORDERED that A&B's request to withdraw its request for hearing on the issue of whether the Deficiency Order created a new standard of mitigation is GRANTED.

DATED this 2nd day of September 2016.

GARY SPACKMAN
Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 2nd day of September 2016, the above and foregoing was served on the following by the method(s) indicated below:

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Deborah J. Gibson

Deborah Gibson
Admin. Assistant for the Director

EXPLANATORY INFORMATION TO ACCOMPANY A FINAL ORDER

(To be used in connection with actions when a hearing was not held)

(Required by Rule of Procedure 740.02)

The accompanying order is a "**Final Order**" issued by the department pursuant to section 67-5246, 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 67-5246(4), Idaho Code.

REQUEST FOR HEARING

Unless the right to a hearing before the director or the water resource board is otherwise provided by statute, any person who is aggrieved by the action of the director, and who has not previously been afforded an opportunity for a hearing on the matter shall be entitled to a hearing before the director to contest the action. The person shall file with the director, within fifteen (15) days after receipt of written notice of the action issued by the director, or receipt of actual notice, a written petition stating the grounds for contesting the action by the director and requesting a hearing. See section 42-1701A(3), Idaho Code. **Note: The request must be received by the Department within this fifteen (15) day period.**

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 of: a) the service date of the final order, b) the service date 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.

Docket No. CM-DC-2010-001

FIFTH AMENDED FINAL ORDER REGARDING METHODOLOGY FOR DETERMINING MATERIAL INJURY TO REASONABLE IN-SEASON DEMAND AND REASONABLE CARRYOVER

Surface Water Coalition Expert Report

May 2023

Authors
David C. Colvin, P.G.
Erick Powell, Ph.D., P.E.

1. Introduction

This report presents the opinions of David Colvin and Erick Powell. We are groundwater experts who have been retained by the Surface Water Coalition (SWC) for issues being addressed in Docket CM-DC-2010-001. David Colvin is the primary author of this report, has 27 years of experience and is licensed as a Professional Geologist in Idaho. Erick Powell is a supporting author, has 17 years of experience and is licensed by the State as a Professional Engineer. Our resumes are included as Attachment A and B, respectively. We are basing our opinions on the information available at this time and reserve the right to alter our opinions should new or different information become available in the future.

On April 21, 2023, the Director of the Idaho Department of Water Resources (IDWR) issued the Fifth Amended Final Order Regarding Methodology for Determining Material Injury to Reasonable In-Season Demand and Reasonable Carryover (IDWR, 2023a, "Fifth Methodology Order") and the Final Order Regarding April 2023 Forecast Supply (IDWR, 2023b, "2023 As-Applied Order"). In the Fifth Methodology Order, the Director restated the nine steps prescribed by the methodology with updates to various aspects of the prediction of forecasted supply (FS), estimates of reasonable in-season demand (RISD), determination of the in-season demand shortfall (IDS), and determination of curtailment requirements. The Fifth Methodology Order requires curtailment for junior groundwater rights that:

- Do not have approved mitigation plans;
- Fail to secure the required water consistent with their approved mitigation plans; or
- Otherwise fail to comply with their approved mitigation plans.

The As-Applied Order predicts a 75,200 acre-foot (AF) IDS for the 2023 irrigation season, which will result in mitigation requirements or curtailment for groundwater rights with priority dates junior to December 30, 1953. Additional details of the IDS are presented as proportionate shares associated with various water user entities.

Summary of Opinions

Below is a summary of our opinions related to the information presented in the the Fifth Methodology Order and the 2023 As-Applied Order. Additional discussion is in the pages that follow.

1. The Eastern Snake Plain Aquifer Model (ESPAM) Version 2.2 is widely accepted as the best available scientific tool for evaluating regional Easter Snake Plain Aquifer (ESPA) hydrology, specifically the reach gain/loss impacts of curtailing groundwater pumping.
2. The use of the steady-state version of ESPAM is inappropriate for determining the priority date of a curtailment intended to mitigate in-season demand shortfalls (IDS), as required by the methodology. The steady-state version of ESPAM 2.2 has been demonstrated to overestimate the curtailment in-season benefits by more than an order of magnitude.

3. The transient superposition version of ESPAM 2.2 is the appropriate model type for calculating the in-season Snake River near Blackfoot to Minidoka reach gain benefits of curtailing junior groundwater pumping.
4. Regardless of the prior modeling approaches required, the Fifth Methodology Order correctly requires that transient modeling has to be used to calculate the in-season benefits of groundwater curtailment.
5. Transient groundwater modeling of the ESPA has been common practice for over a decade and is routinely utilized for evaluating the transient impacts of groundwater pumping on Snake River gains/losses.
6. The 2023 As-Applied Order utilizes a steady-state model to calculate the proportionate share of IDS that various entities are responsible for mitigating. These proportionate share amounts can only be met by direct delivery of surface water and are not relevant to understanding the benefits of groundwater curtailment.

2. Discussion of Opinions

a. ESPAM introduction

Groundwater modeling prescribed in the steps in the Fifth Methodology Order utilizes the Eastern Snake Plain Aquifer Model (ESPAM), originally known as the Enhanced Snake Plain Aquifer Model. ESPAM was developed and is maintained by IDWR staff. ESPAM development and updates are guided by the input of the Eastern Snake Hydrologic Modeling Committee (ESHMC), a multi-stakeholder group of scientists and engineers representing federal/state agencies and water users across the ESPA. (Sukow, 2021a)

ESPAM 2.2 is supported by the ESHMC and broader scientific community as representing the best available science for regional hydrologic analysis of the ESPA. The latest version of the model is ESPAM 2.2 which received approval from the ESHMC in 2021 and has been adopted for regional aquifer management planning and water rights analyses.

ESPAM 2.2 is an appropriate and reliable tool for the evaluation of regional hydrologic conditions and scenarios within the ESPA. Its use at local scales must be evaluated on a site-by-site basis to confirm that regional model generalizations, simplifications, and assumptions are appropriate for the local scale of the specific model scenarios being run. (Sukow, 2021a)

After transient calibration, IDWR created steady-state and transient superposition versions of ESPAM 2.2 for predictive analyses. Superposition models are generally created to represent hydrologic interactions within the aquifer in a way that allows for the isolation of model inputs so that their impacts are not conflated with other changes in the system. (Sukow, 2021c) IDWR ran scenarios using a previous version of ESPAM comparing the transient superposition model to the fully populated model that represents monthly inputs for the calibration period. The transient

superposition model showed minimal differences compared to the fully populated model. (Sukow, 2012)

Steady-state models depict equilibrium conditions with no change through time. They are best used to evaluate the ultimate impact of a change, without regard to time. The steady-state superposition version of ESPAM 2.2 consists of a single stress period with average hydrologic inputs.

Transient models allow model inputs and outputs to vary with time and can represent changing hydrologic conditions. The transient superposition version of ESPAM 2.2 has monthly stress periods with average hydrologic inputs from the calibration period of 1980 to 2018. This model allows for many years of predictive calculations while representing the seasonal fluctuations in hydrologic model inputs and outputs. (Sukow, 2021c)

b. ESPAM Curtailment Analysis

During the development of ESPAM 2.2, IDWR utilized the superposition versions of the model to calculate the impacts of various curtailment dates as a demonstration of appropriate model use for regional hydrologic analysis. The curtailment analyses calculated the changes to spring flow and Snake River gains/losses due to the curtailment of groundwater pumping for five different priority dates. The ESHMC reviewed these model runs and approved the associated report in 2021 (Sukow, 2021c).

OPINION #1: ESPAM 2.2 is widely accepted as the best available scientific tool for evaluating regional ESPA hydrology, specifically the reach gain/loss impacts of curtailing groundwater pumping.

c. Methodology Technical Working Group

During November and December of 2022, IDWR convened a Technical Working Group (TWG) to provide input on potential changes to the Fourth Methodology Order (IDWR, 2016). The TWG consisted of technical experts and legal representatives for the SWC, IGWA, and other stakeholders. IDWR presented various potential changes to the methodology, including a November 28, 2022 presentation comparing the steady-state and transient superposition versions of ESPAM 2.2 for curtailment analysis. (Sukow, 2022)

In this presentation, Jennifer Sukow (IDWR) used 2022 curtailments ordered under the methodology to demonstrate the differences between transient model calculations for in-year, in-season increases for the Snake River near Blackfoot to Minidoka (nBF-M) reach gains compared to steady-state model calculations representing ultimate reach gains without regard to any realistic time frame.

Utilizing the steps detailed in the Fourth Methodology Order, the April Demand Shortfall forecast

was predicted to be 162,600 AF. As prescribed by the Fourth Methodology Order, the steady-state simulation of curtailment to December 25, 1979 resulted in an increase in nBF-M reach gains sufficient to mitigate the 162,600 AF Demand Shortfall. The use of the steady state model essentially represented the reach gain impacts over infinite time.

The same curtailment date used in the transient model resulted in an increase of only 16,200 AF of nBF-M reach gains from May through September 2022. This result is less than 10% of the April 2022 Demand Shortfall.

This pattern of steady-state responses significantly over-estimating the in-season benefits of curtailment is also demonstrated at other curtailment dates, as shown in **Figure 1** below.

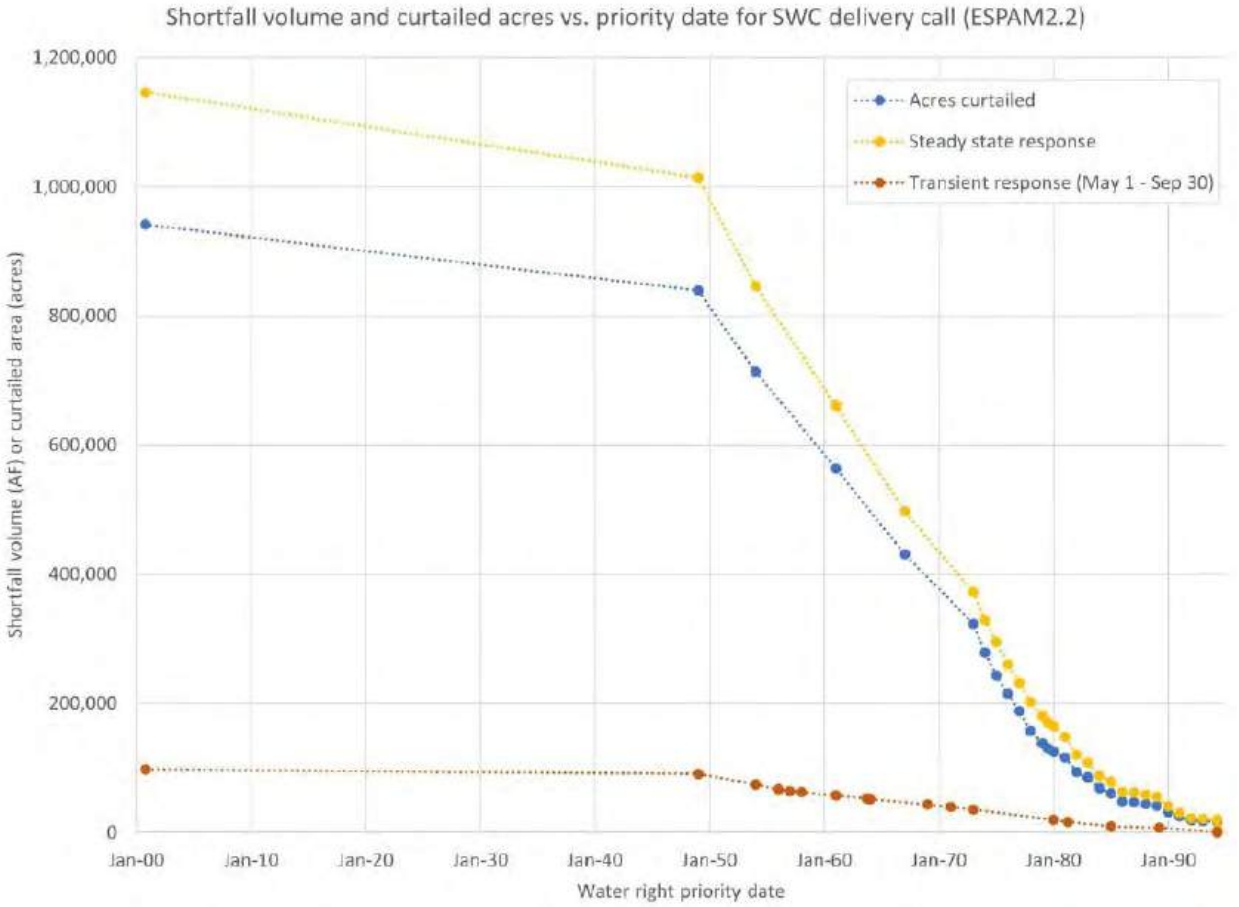

Figure 1 - Steady-State and Transient Model Response for Different Priority Dates (adapted from Sukow, 2022)

In her presentation slides, Ms. Sukow concluded the following:

- *"Steady state simulations are appropriate for evaluating the impact of aquifer stresses that have been applied for decades (i.e. groundwater pumping, continuous curtailment to same date every year)*

- *Transient simulations are appropriate to evaluate the impacts of aquifer stresses applied for short periods of time (i.e. short term curtailments with varying priority dates)*
- *Steady state simulations of continuous curtailment do not simulate the short term curtailments prescribed in the SWC methodology*
- *Transient simulations better simulate the short term curtailments prescribed in the SWC methodology"*

We agree with these conclusions.

OPINION #2: The use of the steady-state version of ESPAM is inappropriate for determining the priority date of a curtailment intended to mitigate In-season Demand Shortfalls (IDS), as required by the methodology. The steady-state version of ESPAM 2.2 has been demonstrated to over-estimate the curtailment benefits by more than an order of magnitude.

OPINION #3: The transient superposition version of ESPAM 2.2 is the appropriate model type for calculating the in-season Snake River near Blackfoot to Minidoka reach gain benefits of curtailing junior groundwater pumping.

d. Fifth Methodology Order Groundwater Modeling Topics

On April 21, 2023, the Director of IDWR issued the Fifth Methodology Order (IDWR, 2023a). The Fifth Methodology Order Conclusions of Law provide the legal requirements that must be met by the Methodology steps to protect the senior priority surface water rights in time, place, and quantity. Any identified Demand Shortfall must be mitigated in-season. If curtailment of junior groundwater pumping is the mitigation method, the short term results of curtailment need to be predicted in-season, within months of implementation.

The in-season time considerations of the Fifth Methodology Order are a critical consideration of the supporting modeling steps, and why a transient model must be used. Findings of Fact #84 provides a clear description of why a steady state model is inappropriate for the Methodology requirements of determining the in-season reach gain impacts of curtailment. Findings of Fact #89 justifies the use of a transient model.

The steady-state model curtailment results have been clearly demonstrated to be in grievous error. No credible scientific assertion can justify the use of steady-state model to meet the requirements of the Methodology because a steady-state model cannot calculate in-season curtailment benefits. The Fifth Methodology Order's transient modeling requirement is a much more accurate representation of reality.

OPINION #4: Regardless of the prior modeling approaches required, the Fifth Methodology Order correctly requires that transient modeling has to be used to calculate the in-season benefits of groundwater curtailment.

Transient groundwater modeling is not a novel idea, having been implemented by IDWR and the water user community routinely for a decade or more. ESPAM 2.1 was approved in 2013 with a calibrated transient version utilizing monthly stress periods, similar to ESPAM 2.2. Since at least 2013, the transient version of ESPAM has been used by IDWR and the water user community to evaluate the impacts of transferring ESPA groundwater rights (IDWR, 2022). In these transfer modeling scenarios, ESPAM is used to calculate the transient impacts to Snake River reach gains/loses, similar to the curtailment benefit analyses described above.

IDWR has also developed a groundwater model for the Big Wood River alluvial aquifer system. In the 2021 administrative hearing, use of the transient version of the model was required for evaluation of in-season changes to pumping stresses.

OPINION #5: Transient groundwater modeling of the ESPA has been common practice for over a decade and is routinely utilized for evaluating the transient impacts of groundwater pumping on Snake River gains/losses.

e. 2023 As-Applied Order Groundwater Modeling Topics

On April 21, 2023, the Director of IDWR issued the 2023 As-Applied Order (IDWR, 2023b). The 2023 As-Applied Order determined a SWC forecasted supply with a 75,200 AF IDS. Utilizing the transient modeling analysis prescribed in the Fifth Methodology Order, a curtailment date of December 31, 1953 was identified as providing an increase in nBF-M gains sufficient to mitigate the IDS.

The 2023 As-Applied Order also presents a steady-state analysis of the proportionate share of the IDS. The analysis intended to associate the percentage of the IDS that water user entities were responsible for, thereby identifying the amount of IDS they are responsible for mitigating. The rationale for this approach is that the IDS represents the legacy impacts of many decades of groundwater pumping. The use of the steady-state version of ESPAM 2.2 is premised on the assumption that the aquifer, groundwater pumping, and other hydrologic model inputs are all at equilibrium conditions. While this is not accurate or true, it may be an acceptable simplification of the system because it likely does not lead to unacceptable errors when calculating the proportionate shares of specific water user entities.

IDWR's use of the steady-state model to represent decades of legacy pumping impacts highlights the multi-year challenge of protecting senior SWC water rights.

However, the proportionate share mitigation requirements identified needs to be limited to mitigation with direct delivery of surface water. Because the proportionate shares are determined using a steady-state model, they have no bearing on IDS mitigation with groundwater curtailment of the various water user entities.

OPINION #6: The 2023 As-Applied Order utilizes a steady-state model to calculate the proportionate share of IDS that various entities are responsible for mitigating. These proportionate share amounts can only be met by direct delivery of surface water and are not relevant to understanding the benefits of groundwater curtailment.

3. Groundwater Modeling Summary

Both the Fifth Methodology Order and 2023 As-Applied Order appropriately utilize the best available tool for evaluating ESPA hydrology, ESPAM 2.2. The evaluation of curtailment benefits requires the use of a transient model because of the in-season mitigation or curtailment requirements of the Fifth Methodology Order. The steady-state version of ESPAM 2.2 grossly exaggerates the benefits of curtailment for in-season mitigation and is inappropriate for determining a curtailment priority date. Because it uses the steady-state version of ESPAM 2.2, the proportionate share analysis presented in the 2023 As-Applied Order can only be used to determine the amount of surface water a water user entity could provide as mitigation of their portion of the IDS. The proportionate share analysis has no relevance to evaluating groundwater curtailment benefits.

References

IDWR, 2016. Fourth Amended Final Order Regarding Methodology for Determining Material Injury to Reasonable In-Season Demand and Reasonable Carryover

IDWR, 2022. *Use of the ESPA Model Transfer Spreadsheet (ETRAN) & Mitigation Analysis Spreadsheet for Water Right Transfers in the Eastern Snake Plain Aquifer*, Idaho Department of Water Resources; October 2016, revised January 2022.

IDWR, 2023a. Fifth Amended Final Order Regarding Methodology for Determining Material Injury to Reasonable In-Season Demand and Reasonable Carryover

IDWR, 2023b. Final Order Regarding April 2023 Forecast Supply (Methodology Steps 1-3)

McVay, 2018. *Evapotranspiration for the Enhanced Snake Plain Aquifer Model Version 2.2*, Idaho Department of Water Resources.

Sukow, 2012. *Comparison of Enhanced Snake Plain Aquifer Model Version 2.0 with Version 1.1 Via the Curtailment Scenario*, Idaho Department of Water Resources.

Sukow, 2021a. *Model Calibration Report, Eastern Snake Plain Aquifer Model Version 2.2*, Idaho Department of Water Resources.

Sukow, 2021b. *Comparison of Eastern Snake Plain Aquifer Model Version 2.2 with Version 2.1 via the Curtailment Scenario*, Idaho Department of Water Resources.

Sukow, 2021c. *Comparison of Superposition Model with Fully-Populated Model for Eastern Snake Plain Aquifer Model Version 2.2*, Idaho Department of Water Resources.

Sukow, 2021d. *Predictive Uncertainty Analysis, Eastern Snake Plain Aquifer Model Version 2.2*, Idaho Department of Water Resources.

Sukow, 2022. *SWC methodology calculation of priority dates for curtailment of junior groundwater users.* November 28, 2022 presentation slides, Idaho Department of Water Resources

Exhibit 3

Attachment A - Resume for David Colvin, P.G.

DAVE COLVIN, PG, PMP

Groundwater Team Leader | Senior Project Manager | Principal

EDUCATION

M.S. Environmental Science and Engineering, Colorado School of Mines, 2002

B.S. Geology, Syracuse University, 1996

PROFESSIONAL REGISTRATION

Professional Geoscientist
- AZ RG#68926
- ID #PGL-1453
- TX #11440
- WY #PG-3602
- KS #958

Project Management Professional (PMP) #1749472

PROFESSIONAL ACTIVITIES

AWRA Colorado
- 2017/2018 Past President

Water Education Colorado
- 2012 Water Leaders Program

Colorado Groundwater Association

National Groundwater Association

Dave is a Principal Hydrogeologist and Senior Project Manager with over 25 years of experience in groundwater hydrology, water resources, and environmental sciences. He supervises teams of diverse subject matter experts and provides technical leadership to solve today's water resource challenges. Dave serves as the Groundwater Team Leader responsible for managing staff, resources, projects and clients for a group of hydrogeologists. His technical expertise subject areas include water supply development, groundwater management, groundwater governance/administration, surface water/groundwater interaction, riverbank filtration (RBF), soil aquifer treatment (SAT), managed aquifer recharge (MAR), aquifer storage and recovery (ASR), aquifer characterization, groundwater modeling, and subsidence caused by groundwater pumping.

FEATURED PROGRAM & PROJECT EXPERIENCE

Surface Water Coalition, Idaho (2019-ongoing)

Lead Hydrogeologist and Project Manager providing litigation support related to water management of the Eastern Snake Plain Aquifer. Provides protection of surface water flows and senior surface water rights from negative impacts due to junior groundwater pumping. Serves on the Eastern Snake Plain Hydrologic Modeling Committee supporting MODFLOW modeling activities related to complex surface water/groundwater management and water rights administration. Also serves as the SWC representative on technical working groups guiding the implementation and adaptation of a settlement agreement between the SWC and Idaho Ground Water Appropriators including monitoring/evaluation of hydrology, pumping reductions, consumptive use and planning for managed aquifer recharge.

Salt River Project – Gila River Basin Adjudication, Arizona Superior Court Case W1-103, San Pedro Basin, AZ (2018 – ongoing)

Hydrogeologist providing groundwater analysis and modeling supporting adjudication of water rights in the San Pedro Basin. Tasks include oversight of groundwater model development, calibration and uncertainty analysis, and trial/litigation support. Provides protection of surface water flows, riparian habitat, and water rights from negative impacts due to groundwater pumping.

City of Aurora – Horizontal Well Project; Weld County, CO (2019 – ongoing)

Project Manager for feasibility evaluation and planning of two radial collector wells for the City's Prairie Waters System. The project targets increasing system yield while maximizing riverbank filtration water quality improvements. Investigation included hydrogeophysical surveys, exploratory drilling, aquifer testing, and groundwater modeling. Results included design of horizontal wells that maintain the existing system water quality while providing adaptable system operations that can increase yield during drought demands. Currently the Lead Hydrogeologist providing design phase services.

City of Northglenn – ASR Feasibility Evaluation and Pilot Testing (2020 – ongoing)

Lead hydrogeologist and Project Manager for feasibility investigation and pilot test system design services. Support includes ASR feasibility data analysis, water quality evaluation, DWR and EPA UIC permitting, pilot system design and test planning. The project will provide pilot storage of the City's fully consumable water rights, providing more surface storage space for other supplies. If recovered water quality is compatible, the pilot system will be converted into permanent infrastructure as the first phase of a larger ASR system.

Riverence Holdings LLC – Snake River Spring Supply Support (2022-ongoing)

Project Manager and lead hydrogeologist supporting multiple fish hatcheries throughout Idaho's Magic Valley. Provides hydrogeologic planning of spring fed aquaculture focusing on upgradient aquifer pumping and recharge impacts on water rights, water quality, and water supply reliability.

City of Aurora – Box Elder Basin Aquifer Storage and Recover (ASR) Feasibility Investigation and Pilot Testing (2018 – Ongoing)

Project Manager and lead hydrogeologist investigating the feasibility of recharging and storing water in the Box Elder alluvial aquifer at the Aurora Center for Renewable Energy (ACRE). Tasks included hydrogeophysical surveys, exploratory drilling/test pits, and infiltration testing. The project identified recharge as a viable option for innovative storage opportunities and has moved into a pilot test planning phase. Current services include recharge source water characterization, water rights and permitting planning, water quality evaluation, groundwater modeling, and pilot system design.

Dominion Water and Sanitation District – Groundwater Support; Douglas County, CO (2015-ongoing)

Lead Hydrogeologist providing Denver Basin and South Platte alluvial aquifer groundwater resources planning services including water rights evaluation, water quality assessment, well field yield estimation and project planning. Provided hydrogeologic and contractor management support during Denver Basin well site design, construction, testing, aquifer characterization, and sampling. Additional technical support included documentation for County hearings, interactions with local water agencies, and groundwater transaction due diligence.

Town of Erie – Water Supply Planning Support (2018 – ongoing)

Lead hydrogeologist and Project Manager providing groundwater support related to water supply planning. Services include aquifer characterization, water quality studies, horizontal directionally drilled well field design, ASR feasibility analysis, and water rights. Prepared Colorado Water Conservation Board and Division of Local Affairs grant applications to obtain project funding. The project will provide a 3,000 GPM expansion of the Town's water supplies.

Town of Castle Rock – Groundwater Support; Douglas County, CO (2015-ongoing)

Project Manager providing comprehensive groundwater support. Projects have included:

- Denver Basin Well Drilling, Testing, and Aquifer Storage and Recovery (ASR) – Support includes Denver Basin ASR planning/permitting, bidding services, contractor management, construction oversight, well/pump design, aquifer testing, and groundwater regulatory support.
- Alluvial Well Field Expansion and Rehabilitation – Project Manager for two projects aimed at improving yields in well fields affected by biofouling and performance issues. Oversaw construction and testing of six horizontal directional drilled (HDD) wells installed to increase yield, performance, and sustainability.
- City of Aurora and Town of Castle Rock – Lost Creek Underground Storage Pilot Project; Lost Creek Designated Basin, CO (2017-2018)
- Project Manager for aquifer characterization and evaluation of recharge potential for underground water storage pilot project. Obtained grant funding and facilitated multiple stakeholder project planning and implementation. The project identified important field investigation methods and results for storage related aquifer characteristics previously overlooked in desktop studies.

City of Aurora – Prairie Waters North Campus Master Plan; Adams and Weld Counties, CO (2017-2019)

Lead hydrogeologist providing master planning services for approximately 20 MGD expansion of the Prairie Waters Project – North Campus over the next 20 years. Facility expansion included riverbank filtration well field, pipelines, and storage reservoirs. Led facilities operational planning, supported water resource planning, gap analysis, and capital improvements planning.

Denver Water – Aquifer Storage and Recovery (ASR) Pilot Project, City and County of Denver, CO (2016-current)

Groundwater technical support and project management for ASR feasibility investigation. Provided Denver Basin aquifer characterization including exploratory borehole drilling, hydrogeophysical investigation (Nuclear Magnetic Resonance and conventional methods), and 3-D geologic modeling. Current services include an advisory role for installation of a multi-aquifer Westbay Denver Basin monitoring well.

City of Greeley – ASR Feasibility Evaluation (2019-2021)

Senior Technical Advisor for a project evaluating the feasibility of new and existing ASR projects in multiple bedrock aquifers. Includes evaluation of water quality, aquifer characteristics, well construction/testing, project planning, and regulatory support, including negotiating an EPA UIC Rule Authorization in less than two months.

Colorado Water Conservation Board - HB16-1256 South Platte Storage Study; CO (2018)

Lead hydrogeologist providing evaluation of underground water storage options for the Lower South Platte alluvial aquifer. Provided alluvial storage site evaluation, conceptual design, cost estimates, and comparison to surface storage options.

Aurora Prairie Waters Project – North Campus; Weld County, CO (2008)

Supported City of Aurora's Prairie Waters project near the South Platte River, CO. Acted as team liaison for multi-consultant, multi-disciplinary project team. Field investigation and construction tasks included field

oversight of drilling, well construction, pump/motor installation, aquifer testing, system start up testing, well field yield optimization, and geotechnical investigations. Support also included the design, construction, and operation of alluvial recharge and riverbank filtration pilot test facilities. Developed and implemented pilot test procedures, including tracer studies to assess flow paths, travel times, and stream/aquifer interaction. MODFLOW modeling support for the Prairie Waters Project included development of regional groundwater model for Colorado Division 1 case 2006CW104. Performed parallel processing model calibration using UCODE. Prepared expert and rebuttal reports, exhibits and materials used in settlement negotiations.

Eagle River Water and Sanitation District and Upper Eagle Regional Water Authority – Groundwater Support; Eagle County, CO (2010-ongoing)

Project Manager and lead Hydrogeologist for alluvial well field groundwater support. Projects have included:

- GWUDI Evaluation – Regulatory support, groundwater modeling and operational monitoring of alluvial well fields in support of CDPHE GWUDI evaluation
- Lake Creek Well Field Planning – Services included groundwater modeling, well drilling, aquifer testing, source water quality characterization, regulatory support for Eagle County 1041, CDPHE, and DWR permitting
- Well field maintenance and rehabilitation support – well rehabilitation in response to well issues including pump issues, casing holes, and water quality contamination

Dominion Water and Sanitation District – Groundwater Support; Douglas County, CO (2015-ongoing)

Denver Basin groundwater supply planning services including water rights evaluation, water quality assessment, well field yield estimation and project planning. Technical support included documentation for County hearings, interactions with local water agencies, and groundwater sale transactions.

City of Steamboat Springs – Infiltration Gallery System Expansion; Routt County, CO (2018-ongoing)

Project Manager for feasibility evaluation of alluvial groundwater supply expansion alternatives. Expansion options being considered include vertical and horizontal well options. Tasks included exploratory drilling, aquifer testing, groundwater modeling and conceptual expansion system design. Modeling was performed to optimize well siting to maximize yield, maintain water quality, and to minimize pipeline costs.

Texas Water Development Board – Statewide Subsidence Risk Evaluation (2018)

Technical advisor for risk evaluation of subsidence due to groundwater pumping in all Texas major and minor aquifers. The project used well lithology data with model predicted water level declines to create a statewide risk map and prioritized table. Recommended follow up actions for identified areas of risk. The project provided important subsidence risk information for statewide planning and local user considerations.

Village at Taos Ski Valley – Spring Water Supply Expansion; Taos County, NM (2018-ongoing)

Senior Technical Advisor providing groundwater evaluation into the management, protection and expansion of spring water supplies.

City of Phoenix – ASR Tracer Test Design; Maricopa County, AZ (2017)

Provided MT3D groundwater modeling to assist in aquifer characterization, travel time estimates, and the design of an ASR tracer injection test for feasibility. The testing was in support of the Northeast Phoenix Reclaimed Water Recharge and Recovery Study. The system is intended to create a potable water resource through Indirect Potable Reuse (IPR), provide additional non-potable supplies, and to mitigate land subsidence issues.

Groundwater Relief – Kutupalong Refugee Camp Groundwater Supplies; Cox's Bazaar, Bangladesh (2019)

Volunteer hydrogeologist providing well testing and water quality support to field geologists. The project is developing emergency water supplies for nearly 1 million Rohingya refugees who have fled religious persecution in Myanamar.

City of San Angelo – Riverbank Filtration Feasibility Evaluation; Tom Green County, TX (2018)

Provided feasibility evaluation, preliminary siting, design and costs for a potential riverbank filtration (RBF) well field near the Concho River. This information was used to evaluate RBF as an alternative for expansion of the City's water supply.

Tarrant Regional Water District – Cedar Creek Wetlands; Kaufman County, TX (2013)

Project manager and lead Hydrogeologist for riverbank filtration feasibility investigation along the Trinity River. Project tasks include geotechnical, hydrogeologic, and surface geophysical surveys, groundwater modeling, and design, construction and testing of riverbank filtration pilot test sites.

Rangen, Inc. – Water Rights Support; Gooding County, ID (2010-2016)

Expert witness providing testimony and trial support for a water rights hearing (IDWR Case No. CM-DC-2011-004) involving springs and complex surface water/groundwater interaction of the Eastern Snake Plain Aquifer. Represented a fish hatchery reliant on spring flow that was being impacted by groundwater pumping. Served on the Eastern Snake Plain Hydrologic Modeling Committee supporting MODFLOW modeling activities in the Eastern Snake Plain of Idaho.

Overturf, McGath, and Hull, P.C. – Stewart No. 1 Ditch Company; Pitkin County, CO (2017)

Expert witness support including expert and rebuttal reports, depositions, and settlement negotiations for a civil case involving alleged roadway water damage from ditch operations.

Fredrickson Law Offices – In-Play Golf; Weld County, CO (2017)

Expert witness providing expert and rebuttal reports, depositions, and trial support for a civil case involving alleged water damages from golf course irrigation.

Boulder Valley School District – Douglass Elementary Non-Tributary Well Support; Boulder County, CO (2018)

Project Manager for a non-tributary well application in the Boulder Complex Area of the Denver Basin Aquifers. Provided aquifer characterization and regulatory support leading to a non-tributary determination and permit approval.

Boulder County Parks and Recreation – Kenosha Ponds Groundwater Evaluation; Boulder County, CO (2016)
Expert witness providing hydrogeology water rights support for a Boulder County Parks and Recreation augmentation pond. Technical support included expert report writing and trial exhibit preparation for the hydrologic characterization of a recharge pond between two streams where the pond bottom was below the water table.

City of Burkburnett, Texas – Alluvial Well Field Evaluation; Wichita County, TX (2016)
Project Manager and groundwater lead for evaluation of underperforming well fields near the Red River. Wells ranged from 3-50 years old with a variety of issues causing low yields. Project tasks included well operational data integration, analysis, and development of alternatives to improve well yields.

Penrose Water District – Arkansas River Alluvial Well Field; Fremont County, CO (2016)
Groundwater technical management for planning, design, and construction of an alluvial well field for diversion of Arkansas River water rights. Tasks included aquifer characterization, water rights support, groundwater modeling, contractor management, well drilling, construction and testing.

Salt River Project – New River Agua Fria Underground Storage Project; Phoenix, AZ (2013)
Project involved optimization and in-channel expansion design for an existing recharge facility. Support included evaluation of operational data and adaptation of an existing MODFLOW model for operational optimization and feasibility testing.

City of San Marcos, Texas – Well Performance Investigation and Replacement Plan; Hays County, TX (2015)
Project Manager and groundwater lead for investigation into reduced yield problems for a well in the Edwards Aquifer. Well construction and operational data were analyzed to test viability of rehabilitation or equipment replacement. Provided ultimate solution of siting a replacement well in a more productive aquifer area.

Oakwood Homes – Neighborhood Scale Dewatering Systems and Water Rights; CO (2016)
Project Manager and groundwater lead for planning, design, and permitting of neighborhood scale dewatering systems. Managed project work including groundwater modeling, system design, data analysis, contractor coordination, DWR and CDPHE permitting, and water rights evaluations.

Winkler Services – Well Field Siting and Design; Wink County, Texas (2017)
Technical advisor for well field siting in the Pecos Valley Alluvium and Upper Dockum Aquifer. Support included project planning, aquifer characterization, and geologic modeling.

Donala Water and Sanitation District – Reuse Evaluation; El Paso County, CO (2015)
Preliminary feasibility investigation into riverbank filtration alternatives for indirect potable reuse. Evaluated hydrogeologic conditions for permitting, cost, and performance feasibility considerations.

Confidential Client; Groundwater Supply and Subsidence Analysis; AZ (2011)
Development of regional MODFLOW models used to estimate well field yield and land subsidence due to groundwater pumping in Arizona. Work included statewide study of subsidence-related empirical

relationships and prediction methods, aquifer characterization, 3-D geologic and groundwater flow modeling, automated model calibration and predictive uncertainty analysis using PEST, and numerical MODFLOW subsidence modeling.

City of Scottsbluff – Well Field Uranium Investigation and Monitoring; Scotts Bluff County, NE (2016)

Technical advisor for a project aimed at reducing uranium concentrations in an alluvial groundwater supply. Provided aquifer characterization and uranium monitoring data analysis.

Confidential Client - Oilfield Produced Water Infiltration Modeling, San Louis Obispo County, CA(2010)

Lead Hydrogeologist for the development of an engineering design MODFLOW-SURFACT model with the goal of infiltrating 13 acre-feet of water per day into the subsurface of a 200 acre alluvial site. Performed model calibration using PEST software in a parallel processing environment utilized 50 geologic conceptualizations for stochastic predictions of system performance.

CDPHE – Summitville Superfund Site; Summitville, CO (2008)

Provided support for abandoned mine hydrology and geochemistry, field sampling, monitoring and mine facility inspection, and database support. The project goal was to monitor and minimize mine waste impacts on the Alamosa River.

Various Mines – Groundwater Modeling and Analysis; Basin and Range Province; NV (2010)

Provided MODFLOW modeling and water balance studies in support of mine water management and regulatory reporting. Analyses included point flow surface water modeling to evaluate stream gain/loss; detailed water balance quantifications; well inventories and pumping estimates; groundwater underflow assessments.

Miron Construction - Laramie-Fox Hills Well; Hudson, Colorado (2008)

Assisted in design and field engineering for the construction and testing of a 960-foot deep, large capacity, municipal/industrial, Laramie-Fox Hills water supply well at the Hudson Correctional Facility.

Perini/US Army Corps of Engineers – Groundwater System Design and Optimization; Baghdad, Iraq (2007)

MODFLOW modeling support for the U.S. Agency for International Development in Baghdad, Iraq. Developed a numerical groundwater model for the optimization of water supply well locations and pumping operations. Main objectives were to maximize well yields while minimizing differential land subsidence across newly constructed East End Barracks.

Colorado Haiti Project (Volunteer Position); Petit Trou de Nippes, Haiti (2013)

Technical advisor for groundwater development, management, and protection in a rural, developing area of Haiti.

Water For People Groundwater Management Project (Volunteer Position); San Pedro Sula, Honduras (2008)

Technical advisor for development of a scope of work for a participatory groundwater management plan aimed at restoring and protecting an over utilized alluvial aquifer in a developing region.

ASARCO - California Gulch Superfund Site; Leadville, Colorado (2000-2005)

Conducted environmental sampling for the Kids First Program to identify and address sources of lead exposure for children in residential areas. Provided statistical analysis and reporting for evaluation of program effectiveness. Designed sampling plan and performed soil sampling and analysis to delineate extent of metals contamination at the Arkansas Valley Smelter Operable Unit. Provided technical support for hydrogeological and geochemical characterization of the Apache Tailings site; and implemented the surface water and groundwater performance monitoring program to assess the effectiveness of the remedial action. Conducted synoptic surface water flow measurement and water quality sampling.

Asarco - Omaha Lead Site, Omaha, Nebraska (2003)

Assisted in the development of program to identify sources of lead exposure for children in residential areas.

Mine Waste and Tailings Pile Sites, Various Locations (2000-2004)

Performed hydrologic evaluation of remedial alternatives for repository evaluation using Hydrologic Evaluation of Landfill Performance (HELP) model.

Industrial Groundwater Contamination Sites, Various Locations (2000-2005)

Performed groundwater modeling to assist design of groundwater extraction remediation wells using MODFLOW modeling code.

EPA - Vasquez Boulevard and Interstate 70 Superfund Site, Denver, Colorado (2002)

Designed, directed, and performed environmental sampling for project intended to identify sources of lead and arsenic exposure for children in residential areas.

Hertz Rent-a-Car - Former Underground Storage Tank, Colorado Springs, Colorado (2002)

Project Hydrogeologist and technical lead for the characterization, monitoring, and remediation of hydrocarbon contaminated soils and groundwater at a former underground storage tank site. Performed quarterly monitoring and reporting; developed and implemented an in-situ chemical oxidation remediation program.

R&R Super Service - Former Underground Storage Tank, Arvada, Colorado (2002)

Project Manager and technical lead for the characterization and remediation of soils and groundwater contaminated by petroleum hydrocarbons at a former service station. Responsibilities included client and regulatory interaction; site characterization activities to delineate the nature and extent of contamination in soil and groundwater; modeling of vapor and mass extraction rates using VENT2D; respirometry testing to quantify biodegradation rates in vadose zone soils; startup testing; operating, maintaining, and monitoring of an air sparge/soil vapor extraction system.

City and County of Denver - Former Stapleton International Airport Remediation; Denver, Colorado (2000)
Served as a hydrogeologist conducting field investigations to define nature and extent of hydrocarbon contamination and to determine remediation. Field tasks included lithologic logging with a hollow-stem auger and direct-push drilling rigs; soil, groundwater, and soil vapor testing, remediation system construction/operation/maintenance, data evaluation and reporting.

National Park Service – Mt. Rainier National Park, Longmire, Washington (1996-1997)
Biologist and crew leader for aquatic ecosystem studies in Mt. Rainier National Park. Conducted field surveys and sub-alpine wetland monitoring. Performed aquatic field sampling, wetland classification, biological species identification, and aquatic laboratory analyses.

PRESENTATIONS & PUBLICATIONS

Colvin, Dave, 2020. "Moving from Conflict to Collaboration: The Role of MAR in Mitigating Groundwater Pumping Impacts to Surface Water" 17th Biennial Symposium on Managed Aquifer Recharge. *Tempe, AZ.*

Colvin, Dave, 2020. "Drawing the Line in the Sand between Underground Water Storage and Augmentation Recharge." American Water Resources Association – Colorado Chapter & Colorado Groundwater Association Joint *Annual Symposium. Denver, CO*

Colvin, Dave, 2019. "Demonstrating Dominion and Control – Moving from Black Magic to Understandable Science." American Groundwater Trust Annual Colorado Groundwater *Conference. Denver, CO.*

Colvin, Dave, 2019. "Now We Know What We Don't Know: An ASR Regulatory Update". Colorado Groundwater Association *September Meeting. Denver, CO.*

Colvin, Dave, 2019. "The Evolution of Colorado Underground Water Storage Administration". American Water Resource Association / Colorado Groundwater Association 2019 Joint Annual *Symposium. Denver, CO.*

Colvin, Dave, 2018. "Technical Considerations for ASR Planning in Colorado's Front Range". American Groundwater Trust Annual Colorado Groundwater *Conference. Denver, CO.*

Colvin, Dave, 2018. "ASR Panel Discussion: The Revolution of Subsurface Water Storage". American Water Works Association ACE18 *Conference. Las Vegas, Nevada.*

Colvin, Dave, and Keester, Michael, 2017. "Applying Web-Based Information Management Tools to Increase Efficiency and Expand Opportunities for Groundwater Conservation Districts". Texas Association of Groundwater Districts Ground*water Summit. San Marcos, TX.*

Colvin, Dave, and Pence, Rachel, 2017. "Using NMR and Hydrogeophysics to Evaluate ASR Feasibility in the Denver Basin". 2017 NGWA Conference on Hydrogeophysics and Deep Groundwater, Denver, CO. (https://ngwa.confex.com/ngwa/hdg2017/webprogram/Paper11286.html)

Colvin, Dave, and Justus, Heather, 2016. "Benefits of Directionally Drilled Alluvial Well Lateral Arms in the Town of Castle Rock". 2016 RMSAWWA/RMWEA Joint A*nnual Conference, Keystone, CO.*

Colvin, Dave, and Furnans, Jordan, 2016. "Can/Should Texas learn from Colorado? A primer on groundwater-surface water interactions and regulation methods". 2016 Texas Water Conservation Association Spring meeting, Woodlands, TX. (http://www.slideshare.net/TWCA/twca-annual-convention-canshould-texas-learn-from-colorado-j*ordan-furnans-and-dave-colvin)*

Colvin, Dave, 2015. "Methods for Confident Model Predictions and Integration". Colorado Water Congress 2015 Annual Conference; DARCA Workshop Series, "The Next Step: Modeling Col*orado's Water Plan", Denver, CO.*

Colvin, Dave, 2014. "Groundwater Challenges and Solutions for Colorado Watersheds." 2014 Colorado Sustaining W*atersheds Conference, Avon, CO.*

Colvin, Dave and Loopesko, William, 2014. "Advantages of Alluvial Aquifer Storage Alternatives for Managing Hydrologic Extremes and Future Water Supply Risks." 2014 Upper Colorado River Basin Water Forum, Grand Junction, CO.

Colvin, Dave, 2014. "Groundwater Solutions for Indirect Potable Reuse." 2014 Rocky Mountain Wa*ter Reuse Workshop, Golden, CO.*

Colvin, Dave, Bauer, Jacob, and Noack, Tim, 2013. "Effective Tools and Project Planning for Riverbank Filtration Feasibility Investigation" Poster session at 2014 Texas Water, Dallas, TX. (http://s3.amazonaws.com/eventmobi-assets/events/txwater14/documents/person/1366969/201404_RB*F_Feasibility_Poster_Final.pdf)*

Colvin, Dave, and Bauer, Jacob, 2013. "Cost Effective Feasibility Investigation of Natural Subsurface Reuse Treatment Systems." Poster session at the 2013 National Wat*er Reuse Symposium, Denver, CO.*

Colvin, Dave, Bauer, Jacob, and Neupauer, Roseanna, 2013. "Riverbank Filtration Feasibility Modeling." MODFLOW and More 2013. Integrated Groundwat*er Modeling Center. Golden, CO.*

Colvin, David C., 2012. "Comparison of One and Three Dimensional MODFLOW Subsidence Results." 2012 Groundwater Summit, National Groundwate*r Association, Westerville, OH.*

Colvin, David C., 2012. "One Dimensional MODFLOW Modeling of Land Subsidence Due to Fluid withdrawal." GSA 2012 Cordilleran Section Meeting, Vol. 44, No. 3. Geological Society of America. Boulder, CO.

EXPERT TESTIMONY

Dave has provided expert testimony in trial or depositions in the following cases:

Idaho Surface Water Coalition; Idaho Department of Water Resources Docket No. AA-GWMA-2016-001, Order Designating the Eastern Snake Plain Aquifer Groundwater Management Area, February 2020

Stewart No. 1 Ditch Company; Pitkin County Case No: 2014CV30084, Pitkin County Board of County Commissioners v. Brothers, et. al., September, 2015.

In-Play Golf, Inc; Weld County Case 12CV727, Helen Hawkins et. al. v. Vista Ridge Development Corporation et. al., August, 2015.

Rangen, Inc.; In the Matter of Application for Water Rights Permit No., 36-17011, February, 2015.

Rangen, Inc.; Idaho Department of Water Resources Case No. CM-DC-2011-004, Distribution of Water To Water Right Nos. 36-02551 and 36-07694, May, 2013.

EXPERT REPORTS

Dave has performed groundwater analysis, provided assistance in settlement negotiations, and authored or contributed to reports in the following cases.

Idaho Surface Water Coalition; Idaho Department of Water Resources Docket No. AA-GWMA-2016-001, Order Designating the Eastern Snake Plain Aquifer Groundwater Management Area, February 2020

Town of Erie; CO Division 1 Case Nos. 2019CW3063 and 2019CW3064, Application for Underground Water Rights and Plan for Augmentation, 2020.

Salt River Project; AZ Big Chino Cooperative Agreement #1, Evaluation of Big Chino Water Ranch impacts on Upper Verde Springs discharge, 2016 - ongoing.

Salt River Project; AZ Gila River Adjudication Contested Case No. W1-103, Groundwater adjudication and subflow depletion evaluation, 2017 – ongoing.

In-Play Golf, Inc; Weld County Case 12CV727, Helen Hawkins et. al. v. Vista Ridge Development Corporation et. al., August, 2015.

Stewart No. 1 Ditch Company; Pitkin County Case No: 2014CV30084, Pitkin County Board of County Commissioners v. Brothers, et. al., September, 2015.

Rangen, Inc.; In the Matter of Application for Permit No., 36-17011, February, 2015.

Rangen, Inc.; Idaho Department of Water Resources Case No. CM-DC-2011-004, Distribution of Water To Water Right Nos. 36-02551 and 36-07694, May, 2013.

Boulder County Parks and Open Space; CO Division 1 Case No. 2010CW320, Change of Use and Plan for Augmentation for Kenosha Ponds Open Space, 2013.

City of Aurora; CO Division 1 Case No. 2006CW104, Aurora's Prairie Waters Project, 2007.

Exhibit 3

Attachment B - Resume for Erick Powell, Ph.D., P.E.

G. ERICK POWELL, PH.D., P.E.

Brockway Engineering, PLLC
2016 Washington St N, Suite 4 Twin Falls, Idaho 83301
(208) 736-8543 • erick.powell@brockwayeng.com

Education

Ph.D.	The Ohio State University	Agricultural Engineering	2006
	Advisor: Dr. Andrew D. Ward		
	Title: *Evaluating geomorphology and water quality of channel-forming discharges in Ohio headwater streams*		
MS	Brigham Young University	Civil and Environmental Engineering	2002
	Advisor: Dr. E. James Nelson		
	Title: *Bathymetry delineation and data collection preparing a CE-QUAL-W2 model on Scofield Reservoir, Utah*		
BS	Brigham Young University	Major: Civil and Environmental Engineering Minor: Agronomy	2001

Professional Experience

Project Engineer 2006 - Present
Brockway Engineering, PLLC
Twin Falls, Idaho

Project Engineering on hydrologic and hydraulic engineering design tasks, including: well design, well construction, well testing, water rights, water right transfers, pipeline design, water distribution systems, stream channel evaluation, floodplain assessment, irrigation water demand, and potable water demand.

P.E. Registrations in Idaho (13592), Utah (4859937-2202), Nevada (028772) and Oregon (91026)

Graduate Research Assistant 2002 - 2006
Department of Food, Agricultural, and Biological
Engineering The Ohio State University, Columbus, Ohio

Research consisting of: 1) evaluation of channel forming discharges, 2) two-stage channel design procedures, 3) nutrient performance within two-stage agricultural channels, and 4) theoretical nutrient spiraling under restored riparian projects.

Areas of Expertise

Groundwater modeling, flood plain evaluations, stream bank restoration and protection, surface water quality modeling, and water right transactions. Numerical groundwater flow simulations using FEMWATER, MODFLOW, and Groundwater Modeling System (GMS).

Professional Associations

American Society of Civil Engineers (ASCE)
American Ecological Engineering Society (AEES)
American Society of Agricultural and Biological Engineers (ASABE)
American Society for Engineering Education (ASEE)
Alpha Epsilon (ASABE Honor Society)

Selected Publications

Powell, G.E., A.D. Ward, D.E. Mecklenburg, and A.D. Jayakaran. 2007. Two-stage channel systems: Part 1, a practical approach for sizing agricultural ditches. J. of Soil and Water Conservation. 62(4):pp.

Powell, G.E., A.D. Ward, D.E. Micklengburg, J. Draper, and W. Word. 2007. Two-stage channel systems: Part 2, case studies. J. of Soil and Water Conservation. 62(4):pp.

Powell, G.E. 2006. Examination, application, and evaluation of geomorphic principles and resulting water quality in Midwest agricultural streams and rivers. The Ohio State University. Doctoral dissertation.

Powell, G.E., D. Mecklenburg, and A.D. Ward. 2006. Evaluation of Channel-Forming Discharges: A Study of Large Rivers in Ohio. Trans. of ASABE. 49(1):35-46.

Martin, J.F., S.A. Diemont, G.E. Powell, M. Stanton, and S. Levy-Tacher. 2006. Emergy evaluation of the performance and sustainability of three agricultural systems with different scales and management. Agriculture, Ecosystems, and Environment. 115(2006):128-140.

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY OR FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY	Docket No. CM-DC-2010-001 **ORDER DENYING IGWA'S PETITION FOR REVIEW**

BACKGROUND

On July 20, 2023, the Director issued his *Notice that Questions Concerning the Sufficiency of IGWA's Mitigation Notices are Moot* ("Notice"). The Notice concluded that questions concerning the sufficiency of IGWA's mitigation notices are moot, therefore, the Department would not respond to *IGWA's Petition for Reconsideration of Order Determining Deficiency in IGWA's Notice of Secured Water*, filed June 6, 2023, or *IGWA's Amended Notice of Mitigation*, filed June 1, 2023.

On August 3, 2023, the Department received *IGWA's Petition for Reconsideration* ("Petition"). The Petition seeks reconsideration of the Department's Notice, specifically, it asks the Department to "find that the 2009 Storage Water Mitigation Plan does not require payment of Water District 01 fees at the time of the notice of mitigation." *Petition* at 4.

ANALYSIS

The Department's Notice was not issued as a recommended, preliminary, or final order, as defined in the Department's Rules of Procedure 720, 730, or 740, IDAPA 37.01.01. Therefore, the Notice is not subject to a petition for reconsideration. The Department will treat IGWA's Petition as a petition to review an interlocutory order, in accordance with IDAPA 37.01.01.711.[1]

IGWA argues that exceptions to the mootness doctrine apply to the Water District 01 fees question and asks the Director to address the Water District 01 fees now. *Petition* at 4. IGWA argues that

> A ruling on a moot issue may be made when: (1) "there is the possibility of collateral legal consequences imposed on the person raising the issue;" (2) "the challenged conduct is likely to evade judicial review and thus is capable of

[1] IDAPA 37.01.01.711 states in part: "[a]ny party or person affected by an interlocutory order may petition the presiding officer to review the interlocutory order."

> repetition;" and (3) "an otherwise moot issue raises concerns of substantial public interest." *Wylie v. State, Idaho Transp. Bd.*, 151 Idaho 26, 31-32, 253 P.3d 700, 705-06 (2011); *Stephen v. Sallaz & Gatewood, Chtd.*, 150 Idaho 521, 528, 248 P.3d 1256, 1263 (2011). Here, all three exceptions are met. This petition addresses exceptions 2 and 3 as they have the most obvious application.

Id. at 2.

The Director disagrees that the issue is likely to evade judicial review in the future. IGWA argues that its "objection to the new fee payment requirement is rendered moot every time a new As-Applied Order is issued." *Id*. at 3. This is not correct. In this season, the issue was rendered moot because a mid-season order determined that there was no longer an obligation. There is no guarantee that future mid-season orders will result in a determination that there is no longer an obligation. Thus, the issue is not likely to evade judicial review.

With regards to the substantial public interest exception, the Director declines to exercise this exception because there is no substantial interest in having the issue decided now. The subject matter is not likely to evade judicial review and a presiding officer can decline to exercise this exception where the matter will not escape judicial review. *See Freeman v. Idaho Dep't of Correction*, 138 Idaho 872, 877, 71 P.3d 471, 476 (Ct. App. 2003) ("Further, even if Freeman's allegation of constitutional violations involving inmates' meaningful court access issue were deemed to be of substantial public interest, the number of such claims that reach the courts render it unlikely that recurrences of denied meaningful court access will escape judicial review.")

ORDER

IT IS HEREBY ORDERED that the Director DENIES *IGWA's Petition for Reconsideration*.

DATED this 23rd day of August 2023.

GARY SPACKMAN
Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 23rd day of August 2023, the above and foregoing, was served by the method indicated below, and addressed to the following:

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COURTESY COPY TO: William A. Parsons PARSONS SMITH & STONE P.O. Box 910 Burley, ID 83318 wparsons@pmt.org	☒ Email

Sarah Tschohl
Paralegal

RECEIVED
May 02, 2024
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WATER RESOURCES

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Attorneys for Idaho Ground Water Appropriators, Inc. (IGWA)

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

IN THE MATTER OF DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY OR FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY	Docket No. CM-DC-2010-001 Docket No. CM-MP-2009-006
IN THE MATTER OF IGWA'S MITIGATION PLAN FOR CONVERSIONS, DRY-UPS, AND RECHARGE	**IGWA's Request for Mitigation Credit for Aquifer Enhancement Activities (2024)**

Idaho Ground Water Appropriators, Inc. ("IGWA"), through counsel, hereby requests credit towards the mitigation obligations of North Snake Ground Water District, Carey Valley Ground Water District, Magic Valley Ground Water District, American Falls-Aberdeen Area Ground Water District, Bingham Ground Water District, Bonneville-Jefferson Ground Water District, Jefferson-Clark Ground Water District, Madison Ground Water District, and Henry's Fork Ground Water District (collectively, the "Districts") under the Surface Water Coalition ("SWC") delivery call for the 2024 irrigation season.

On May 14, 2010, the Director issued the *Order Approving Mitigation Plan* in IDWR Docket No. CM-MP-2009-006 which approved IGWA's *Mitigation Plan for Conversions, Dry-Ups, and Recharge* ("Aquifer Enhancement Plan"). The order grants "IGWA and its members [] the right to obtain mitigation credit for the Mitigation Activities that will then be applied in

response to a finding of material injury to senior water rights under the CM Rules." (Order Approving Mit. Plan, p. 1.) The plan authorizes mitigation credit for "1) existing and future conversions of acres irrigated from groundwater to surface water irrigation; 2) dried up acres through the Conservation Reserve Enhancement Program (CREP); AWEP or other voluntary program[s] resulting in the dry-ups of groundwater irrigated acres; and 3) groundwater recharge." *Id*.

From 2016-2023, the Districts implemented conversion projects, conducted managed aquifer recharge, and partially or fully dried up farmland to satisfy their mitigation obligations under the IGWA-SWC Settlement Agreement, which required each District to conserve its proportionate share of 240,000 acre-feet annually. This request for mitigation credit is based on surplus conservation by the Districts during that period. Filed herewith is the Declaration of Sophia Sigstedt. Exhibit B to the Sigstedt Declaration contains a table showing that surplus mitigation from 2016-2023 will provide an additional 5,025 acre-feet of water to the SWC in 2024 via gains to the Near Blackfoot to Minidoka reach of the Snake River.

Therefore, IGWA requests a credit of 5,025 acre-feet towards the collective mitigation obligation of IGWA's members under the Methodology Order, and a recalculation of the curtailment date applicable to IGWA's members as a result of the credit.

RESPECTFULLY SUBMITTED this 2nd day of May, 2024.

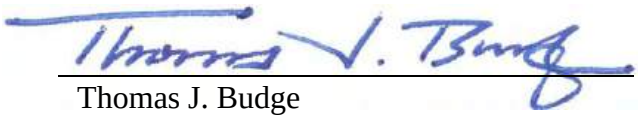
RACINE OLSON, PLLP

By: Thomas J. Budge

Thomas J. Budge
Attorneys for IGWA

CERTIFICATE OF SERVICE

I hereby certify that on this 2nd day of May, 2024, I served the foregoing document on the persons below via email or as otherwise indicated:



Thomas J. Budge

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Michael A. Kirkham, City Attorney CITY OF IDAHO FALLS P.O. Box 50220 Idaho Falls, ID 83405	mkirkham@idahofallsidaho.gov

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Jerry Rigby RIGBY, ANDRUS & RIGBY LAW, PLLC P.O. Box 250 Rexburg, ID 83440	jrigby@rex-law.com
Andrew J. Waldera SAWTOOTH LAW OFFICES, PLLC 1101 W. River Street, Suite 110 Boise, ID 83702	andy@sawtoothlaw.com

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY OR FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY	Docket Nos. CM-DC-2010-001 CM-MP-2009-006 **FINAL ORDER DENYING IGWA'S REQUEST FOR MITIGATION CREDIT FOR AQUIFER ENHANCEMENT ACTIVITIES (2024)**
IN THE MATTER OF IGWA'S MITIGATION PLAN FOR CONVERSIONS, DRY-UPS, AND RECHARGE	

BACKGROUND

On October 6, 2009, the Idaho Ground Water Appropriators, Inc. ("IGWA") filed with the Director of the Department of Water Resources ("Department") *IGWA's Mitigation Plan for Conversions, Dry-Ups and Recharge* ("*Plan*"). The *Plan* was filed "on behalf of [IGWA's] Ground Water District Members and other water user members for and on behalf of their respective members and those ground water users who are non-member participants in their mitigation activities . . . . " *Plan*, at 1, No. CM-MP-2009-006.

The *Plan* proposes that the Director authorize any or all of the following mitigation activities:

> 1) existing and future conversions of acres irrigated from groundwater to surface water irrigation; 2) dried up acres through the Conservation Reserve Enhancement Program (CREP); AWEP or other voluntary program[s] resulting in the dry-ups of groundwater irrigated acres; and 3) groundwater recharge.

Plan, at 1–2. Through the *Plan*, IGWA seeks to "obtain mitigation credit in response to findings of material injury in the existing and any future delivery calls placed by Clear Springs Foods, Inc. (Clear Springs), Blue Lakes Trout Farm, Inc. (Blue Lakes), [and] the Surface Water Coalition (SWC) . . . ." *Plan*, at 3.

On April 7, 2010, the Director issued a *Final Order Regarding Methodology for Determining Material Injury to Reasonable In-Season Demand and Reasonable Carryover* ("*Methodology Order*"). The *Methodology Order* established 10 steps for determining material injury to members of the SWC. *Methodology Order*, 33–36, No. CM-DC-2010-001. In addition, the *Methodology Order* established an in-season demand shortfall ("IDS") prediction method

using linear regression models which only considered the predicted natural flow at Heise to calculate the forecast natural flow supply for each SWC member. *Id.* at 20.

On April 29, 2010, the Director issued an *Order Regarding April 2010 Forecast Supply (Methodology Steps 3 & 4)* ("*April Forecast Supply Order*"). In the *April Forecast Supply Order*, the Director predicted an IDS and gave junior ground water users mitigating using storage water mitigation plans 14 days to establish that they have secured the required amount of storage water or face curtailment. *April Forecast Supply Order*, at 4, No. CM-DC-2010-001.

On May 6, 2010, IGWA filed a petition for reconsideration and request for hearing, which the Director granted on May 10, 2010. On May 14, 2010, the SWC filed a request for hearing.

On May 12, 2010, IGWA filed *IGWA's Request for Mitigation Credit* to offset the mitigation obligations under the SWC Delivery Call. *IGWA's Req. for Mitigation Credit*, at 4, No. CM-MP-2009-006.

On May 14, 2010, the Director issued an *Order Approving Mitigation Plan* and ordered that "[i]f mitigation credit is sought by IGWA, the Director shall determine the appropriate credit, if any, to provide." *Order Approving Mitigation Plan*, at 4.

On May 17, 2010, the Director issued an *Order Approving Mitigation Credits Regarding SWC Delivery Call* where the Director concluded that IGWA's mitigation activities that year would increase gains pursuant to the regression models used in the then-applicable *Methodology Order*. *Order Approving Mitigation Credits Regarding SWC Delivery Call*, at 4, No. CM-MP-2009-006.

On May 17, 2010, the Director also issued an interlocutory *Order Regarding IGWA Mitigation Obligation* ("*2010 Mitigation Obligation Order*"). In that order, the Director adjusted the predicted shortfall obligation from *April Forecast Supply Order* because of new information. *2010 Mitigation Obligation Order*, at 3, No. CM-DC-2010-001. Furthermore, the Director concluded he would stay the curtailment discussed in the *April Forecast Supply Order* pending the outcome of the hearings over IGWA's mitigation plan. *Id.* at 7. Although that order was an interlocutory order staying curtailment until the proceeding was held, the Director described how IGWA could mitigate its predicted shortfall by subtracting any potential approved mitigation credits and recalculating the priority date for curtailing ground water rights. *Id.* at 5.

On May 28, 2010, the SWC requested a hearing on the *Order Approving Mitigation Credits Regarding SWC Delivery Call*. On June 29, 2010, the Director conducted a hearing on the matter.

On July 19, 2010, the Director issued a *Final Order Approving Mitigation Credits Regarding SWC Delivery Call* ("*2010 Order Approving Mitigation Credits*"). In the *2010 Order Approving Mitigation Credits*, the Director granted *IGWA's Request for Mitigation Credit* for the 2010 irrigation season, in response to the SWC delivery call in May 2010. *2010 Order Approving Mitigation Credits*, at 6.

The methodology for the SWC delivery call has been revised several times since April 7, 2010, in response to judicial review and updated technical information. On April 17, 2015, the Director issued the *Third Amended Final Order Regarding Methodology for Determining Material Injury to Reasonable In-Season Demand and Reasonable Carryover* ("*Third Amended Methodology Order*"), which updated the predictive models used to forecast natural flow supply for the Twin Falls Canal Company ("TFCC") and other members of the SWC. *See Third Amended Methodology Order*, at 16–18, No. CM-DC-2010-001.

On April 30, 2015, IGWA filed *IGWA's Request for Mitigation Credit to the SWC for Aquifer Enhancement Activities (2015)* ("*2015 Request for Mitigation Credits*"), requesting mitigation credit towards its mitigation obligations to the SWC for the 2015 irrigation season. *2015 Request for Mitigation Credits*, at 1.

Following IGWA's submittal of its *2015 Request for Mitigation Credits*, IGWA and the SWC participated in several settlement meetings that resulted in their joint filing of the *Surface Water Coalition and IGWA Stipulation and Joint Motion Regarding April As Applied Order and Third Methodology Order* ("*2015 Joint Stipulation*") on May 8, 2015. Among other things, the *2015 Joint Stipulation* requested that the "Director withdraw the April As-Applied Order and the Third Methodology Order . . . to allow the Parties an opportunity to reach a long-term agreement by July 1, 2015" *2015 Joint Stipulation*, at 3, No. CM-DC-2010-001, CM-MP-2009-007. In response, the Director withdrew the As-Applied and Third Methodology Order and, as a result, never considered or ruled on IGWA's *2015 Request for Mitigation Credits.*

On May 11, 2016, the Director issued an *Order Determining Deficiency in A&B Irrigation District's Notice of Mitigation* ("*A&B Deficiency Order*") denying a similar request for mitigation credit by A&B Irrigation District under mitigation plan CM-MP-2015-003 based on the predictive models established in the *Third Amended Methodology Order*. *A&B Deficiency Order*, at 3.

On July 19, 2023, the Department issued its *Sixth Final Order Regarding Methodology for Determining Material Injury to Reasonable In-Season Demand and Reasonable Carryover* ("*Sixth Amended Methodology Order*"). The *Sixth Amended Methodology Order* calculates "material injury to water rights by determining [reasonable in-season demand ("RISD")] and reasonable carryover [to] be based on updated data, the best available science, analytical methods, and the Director's professional judgment as manager of the state's water resources." *Sixth Amended Methodology Order*, at 2, No. CM-DC-2010-001. The *Sixth Amended Methodology Order* authorizes the Director to calculate the IDS and adjust the methodology used to accommodate for the varying climatic changes. *Id.*

On April 18, 2024, the Department issued its *Final Order Regarding April 2024 Forecast Supply (Methodology Steps 1-3)* ("*April 2024 As-Applied Order*") concluding the SWC has a predicted April IDS of 74,100 acre-feet. *April 2024 As-Applied Order*, at 4, No. CM-DC-2010-001. Accordingly, the Director required the Districts[1] to secure their proportionate share for

[1] North Snake Ground Water District, Carey Valley Ground Water District, Magic Valley Ground Water District, American Falls-Aberdeen Area Ground Water District, Bingham Ground Water District, Bonneville-Jefferson

delivery to the injured members of the SWC on or before May 2, 2024. *Id.* at 6. In that order, the Director warned the Districts that failure to comply with the May 2, 2024 deadline would result in an "order curtailing junior-priority ground water user[s]."[2] *Id.*

On May 2, 2024, the Department received *IGWA's Request for Mitigation Credit for Aquifer Enhancement Activities (2024)* ("*Credit Request*"). IGWA filed its *Credit Request* to receive mitigation credit for the material injury predicted to occur to the SWC during the 2024 irrigation season. *Credit Request*, at 1; *see also April 2024 As-Applied Order*, at 6.

IGWA "requests a credit of 5,025 acre-feet towards the collective mitigation obligation of IGWA's members under the Methodology Order, and a recalculation of the curtailment date applicable to IGWA's members as a result of the credit." *Credit Request*, at 2. The request is based on "surplus conservation by the Districts during" 2016–2023. *Id*. IGWA filed a *Declaration of Sophia Sigstedt* concurrently with, and in support of, the *Credit Request*. Ms. Sigstedt's declaration "contains [her] best estimate and opinion of the amount of surplus reach gains for the Near Blackfoot to Minidoka reach of the Snake River which have resulted in 2024 due to past surplus ground water reduction and private recharge activities ("conservation activities") performed by [the Districts]." *Sigstedt Decl.*, at 2.

ANALYSIS

I. The regression models used to predict in-season demand shortfall already account for the benefits of the enhancement activities performed by IGWA.

The Director issued the *April 2024 As-Applied Order* requiring "[j]unior ground water users holding consumptive water rights bearing priority dates junior to March 31, 1954, within the Eastern Snake Plain Aquifer area of ground water supply [to] mitigate for their proportionate share of the predicted April IDS in accordance with an approved mitigation plan" by May 2, 2024. *April 2024 As-Applied Order*, at 5. IGWA's *Credit Request* states that the Districts have "implemented conversion projects, conducted managed aquifer recharge, and partially or fully dried up farmland to satisfy their mitigation obligations" from 2016-2023 under the *Sixth Amended Methodology Order*. *Credit Request*, at 2. Because of its claimed mitigation efforts, IGWA requested a credit for an additional 5,025 acre-feet due to its mitigation efforts to meet IGWA's obligation under the *Sixth Amended Methodology Order* and to recalculate the curtailment date due to the mitigation credit. *Id.*

The predicted IDS is the shortfall predicted after the benefits of ongoing aquifer enhancement activities performed by the ground water Districts have already been realized. In other words, the predicted IDS already accounts for the benefits of ongoing aquifer enhancement activities performed by the Districts. Essentially, the predicted IDS would be higher if the aquifer enhancement activities had not occurred.

Ground Water District, Jefferson-Clark Ground Water District, Madison Ground Water District, and Henry's Fork Ground Water District are collectively known as the "Districts."

[2] The Department subsequently issued an order extending the deadline to May 17, 2024. *See Order Determining Deficiency in Notices of Secured Water*, at 11, No. CM-DC-2010-001 (May 10, 2024).

The current methodology uses updated predictive models to forecast natural flow supply for the SWC. Because the Eastern Snake Plain Aquifer provides reach gains to the Snake River that sustain natural flow during late summer, the prediction of natural flow supply for some of the SWC members was improved by incorporating parameters representing the status of the aquifer into the predictive models. *See Third Amended Methodology Order*, at 16–18. The parameters selected included flows at Box Canyon, flows at Spring Creek, and depth to water at Well 05S2E27ABA1. *See id.*; *Sixth Amended Methodology Order*, at 19–21.

The April Forecast Supply prediction for five of the SWC members, including TFCC, incorporates November-March flows at Box Canyon into a multi-linear regression to predict natural flow diversions during the upcoming irrigation season. *Third Amended Methodology Order*, at 16. The current *Sixth Amended Methodology Order* continues this practice. *April 2024 As-Applied Order*, at 3. The multi-linear regressions used to predict natural flow supply are updated yearly to include recent data.

The July Forecast Supply prediction for TFCC incorporates January–May flows at Spring Creek into a multi-linear regression to predict natural flow diversions during the remainder of the irrigation season. *Third Amended Methodology Order*, at 18. The July Forecast Supply prediction for three other members of the SWC incorporates depth to water at Well 05S2E27ABA1 into a multi-linear regression to predict natural flow diversions during the remainder of the irrigation season. *Id.* The current *Sixth Amended Methodology Order* continues this practice. *Sixth Amended Methodology Order*, at 21. The multi-linear regressions used to predict natural flow supply are updated yearly to include recent data.

Because the parameters representing the aquifer's ability to sustain natural flow during late summer are included in the improved predictions of natural flow supply for several members of the SWC, the predicted IDS already accounts for the impacts of mitigation activities. Mitigation activities benefit the ground water users by reducing the predicted shortfall volume calculated by the current methodology. In the 2024 April Forecast Supply calculation, every 1,000 acre-feet of additional flow at Box Canyon increased the predicted natural flow supply for the SWC members by a total of 21,506 acre-feet, including an increase of 7,027 acre-feet per 1,000 acre-feet in the predicted natural flow supply for TFCC. *See April 2024 As-Applied Order*, Attach. A. The benefits of mitigation activities are accounted for in the predicted natural flow supply, which was subtracted from the baseline demand to calculate the IDS. Awarding the additional mitigation credit request by IGWA would double-count the benefits of mitigation.

The benefits of ongoing mitigation will also be accounted for in the July Forecast Supply prediction. Any benefits of mitigation to reach gains occurring between April and June will be accounted for in the natural flow diverted. Benefits of mitigation yet to accrue to reach gains will be accounted for in the predicted natural flow diversions for the remainder of the irrigation season. In the 2023 July Forecast Supply, every 1,000 acre-feet of additional flow at Spring Creek increased the predicted natural flow diversions for TFCC by 3,214 acre-feet. *See Order Revising April 2023 Forecast Supply and Amending Curtailment Order (Methodology Steps 5 &*

6), No. CM-DC-2010-001 (July 19, 2023) (Supp. 2023 July Background Information, https://idwr.idaho.gov/wp-content/uploads/sites/2/legal/CM-DC-2010-001/2023-July-Background.zip). Every foot of increase in water level at Well 05S2E27ABA1 increased the predicted natural flow diversions for three other members of the SWC by a total of 45,065 acre-feet. *Id.* Regression coefficients for the July 2024 Forecast Supply will be updated to account for recent data but are expected to be similar.

IGWA's request is like the mitigation credit request that was denied in the *A&B Deficiency Order*. In the *A&B Deficiency Order*, the Director rejected A&B's request for mitigation credit because, like here, the calculations used to predict the IDS at that time used similar predictive models and already included consideration of the benefits of ongoing aquifer enhancement activities. *A&B Deficiency Order*, at 1–3. Therefore, the Director will not reduce the predicted demand shortfall, or any entity's proportionate share thereof, because the models used to predict in-season demand shortfall already account for the benefits of the enhancement activities performed by IGWA.

II. IGWA has not submitted sufficient documentation to support a mitigation credit.

Even if it were determined that IGWA's "surplus conservation" actions were not a double-counting of mitigation benefits, IGWA has submitted insufficient information to (1) determine if IGWA's "surplus conservation" actions qualify as mitigation activities authorized under the *Plan* and (2) quantify the benefits of the "surplus conservation" actions to the reach gains of the Near Blackfoot to Minidoka reach of the Snake River.

Mitigation credit approval for conversions requires information regarding each conversion site, such as the Water Management Information System ("WMIS") ground water diversion number(s), the number of acres converted to surface water irrigation, the volume of surface water delivered to the conversion site, and the volume of ground water diverted (if any). Mitigation credit approval for dried-up acres requires information delineating the locations of dried-up acres, such as digital shapefiles. Mitigation credit approval for managed recharge requires information such as documentation specifying the location, volumes, and timing of aquifer recharge.

Neither IGWA's *Credit Request* nor the *Declaration of Sophia Sigstedt* distinguish between mitigation actions authorized by the *Plan* and other mitigation actions that included a reduction in ground water pumping via improvements in irrigation efficiency, delivery efficiency, changes in crop mix, or other means besides conversions and dried-up acres. Instead, the analysis described in the *Declaration of Sophia Sigstedt* includes actions not authorized as mitigation by the *Plan*.

Therefore, because IGWA failed to provide adequate documentation to support its request for mitigation credit under the *Plan's* delineated mitigation activities, which are limited to conversions, dried-up acres, and managed recharge, the Director will deny IGWA's request for credit.

ORDER

IT IS HEREBY ORDERED that *IGWA's Request for Mitigation Credit for Aquifer Enhancement Activities (2024)* is DENIED.

Dated this 15th day of May 2024.

MATHEW WEAVER
Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 15th day of May 2024, the above and foregoing, was served by the method indicated below, and addressed to the following:

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Sarah Tschohl
Paralegal

EXPLANATORY INFORMATION TO ACCOMPANY A FINAL ORDER

(To be used in connection with actions when a hearing was **not** held)

(Required by Rule of Procedure 740.02)

The accompanying order is a "**Final Order**" issued by the department pursuant to section 67-5246, 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 67-5246(4), Idaho Code.

REQUEST FOR HEARING

Unless the right to a hearing before the director or the water resource board is otherwise provided by statute, any person who is aggrieved by the action of the director, and who has not previously been afforded an opportunity for a hearing on the matter shall be entitled to a hearing before the director to contest the action. The person shall file with the director, within fifteen (15) days after receipt of written notice of the action issued by the director, or receipt of actual notice, a written petition stating the grounds for contesting the action by the director and requesting a hearing. See section 42-1701A(3), Idaho Code. **Note: The request must be received by the Department within this fifteen (15) day period.**

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 of: a) the service date of the final order, b) the service date 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.

RECEIVED
Jun 20, 2024
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STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

IN THE MATTER OF DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY OR FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY	Docket No. CM-DC-2010-001 ~~CM-DC-2016-001~~ CM-MP-2016-001 **JOINT MOTION FOR ORDER APPROVING 2024 STIPULATION**
IN THE MATTER OF IGWA'S SETTLEMENT AGREEMENT MITIGATION PLAN	

Idaho Ground Water Appropriators, Inc. ("IGWA"), North Snake Ground Water District, Magic Valley Ground Water District, Carey Valley Ground Water District, Aberdeen-American Falls Ground Water District, Bingham Ground Water District, Bonneville-Jefferson Ground Water District, Jefferson-Clark Ground Water District, Madison Ground Water District, and Henry's Fork Ground Water District (collectively, the "Groundwater Users") and Twin Falls Canal Company, North Side Canal Company, American Falls Reservoir District No. 2, Milner Irrigation District, Burley Irrigation District, A&B Irrigation District, and Minidoka Irrigation District (collectively, the "SWC"), hereby submit this Joint Motion for Order Approving 2024 Stipulation and request the Director issue an order accepting as compliance with the 2016 Plan for the 2024 irrigation season the Groundwater Users and the SWC's 2024 Stipulation.

Relevant Background

The Groundwater Users and the SWC are parties to the *Settlement Agreement Entered Into June 30, 2015 Between Participating Members of the Surface Water Coalition and Participating Members of Idaho Ground Water Appropriators, Inc.* ("2015 Agreement"), amended and clarified by the *Agreement* dated October 7, 2015 ("A&B Agreement"), *Addendum to Settlement Agreement* dated October 19, 2015 ("First Addendum"), and the *Second Addendum to Settlement Agreement* dated December 14, 2016 ("Second Addendum") (collectively, the "Settlement Agreement").

The Idaho Department of Water Resources ("Department") approved the Settlement Agreement as a mitigation plan under rule 43 of the Conjunctive Management Rules pursuant to the *Final Order Approving Stipulated Mitigation Plan* issued May 2, 2016, and the *Final Order Approving Amendment to Stipulated Mitigation Plan* issued May 9, 2017, in IDWR Docket No. CM-MP-2016-001. The Settlement Agreement, addendums, and approved mitigation plan are referred to herein collectively as the "2016 Plan."

Disagreements have arisen between the parties concerning interpretation, implementation, and enforceability of the 2016 Plan, which led to a *Final Order Curtailing Ground Water Rights Junior to March 31, 1954* ("Curtailment Order") issued by the Department on May 30, 2024, in IDWR Docket No. CM-DC-2010-001. The Department issued an *Order Amending Curtailment List* on June 6, 2024, determining that groundwater users within North Snake Ground Water District, Magic Valley Ground Water District, American Falls-Aberdeen Ground Water District, Henry's Fork Ground Water District, and Madison Ground Water District are protected from curtailment by operating in compliance with the 2016 Plan during the 2024 irrigation season; however, disagreement existed as to the apportioning of obligations under the 2016 Plan.

The parties have entered into the *2024 Stipulation* attached hereto as Exhibit A prescribing the mutually agreeable terms by which the Groundwater Users will comply with the 2016 Plan for the 2024 irrigation season.

Request for Order

Pursuant to section 3 of the *2024 Stipulation*, the parties jointly request the Department issue an order accepting the *2024 Stipulation* as compliance with the 2016 Plan for the 2024 irrigation season, and issue an order amending the curtailment list to protect all patrons of the Groundwater Users from curtailment during the 2024 irrigation season under the terms provided in the stipulation.

[Signatures on following pages]

RACINE OLSON, PLLP

June 18, 2024
Date

Thomas J. Budge
Attorneys for Idaho Ground Water Appropriators, Inc. (IGWA)

SOMACH SIMMONS & DUNN, P.C.

June 18, 2024
Date

/s/ Sarah A. Klahn
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June 18, 2024
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/s/ Skyler C. Johns
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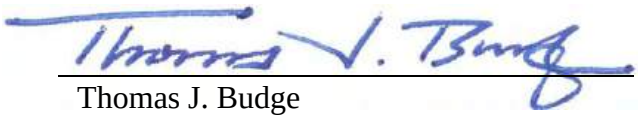
CERTIFICATE OF SERVICE

I hereby certify that on this 19th day of June, 2024, I served the foregoing document on the persons below via email or as otherwise indicated:



Thomas J. Budge

Director Mat Weaver Garrick Baxter Sarah Tschohl IDAHO DEPARTMENT OF WATER RESOURCES 322 E Front St. Boise, ID 83720-0098	mat.weaver@idwr.idaho.gov garrick.baxter@idwr.idaho.gov sarah.tschohl@idwr.idaho.gov file@idwr.idaho.gov
Dylan Anderson DYLAN ANDERSON LAW PO Box 35 Rexburg, Idaho 83440	dylan@dylanandersonlaw.com
Skyler C. Johns Nathan M. Olsen Steven L. Taggart OLSEN TAGGART PLLC 1449 E 17th St, Ste A PO Box 3005 Idaho Falls, ID 83403	sjohns@olsentaggart.com nolsen@olsentaggart.com staggart@olsentaggart.com
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W. Kent Fletcher FLETCHER LAW OFFICE P.O. Box 248 Burley, ID 83318	wkf@pmt.org

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Sarah A Klahn Maximilian C. Bricker SOMACH SIMMONS & DUNN 2033 11th Street, Ste 5 Boulder, Co 80302	sklahn@somachlaw.com mbricker@somachlaw.com vfrancisco@somachlaw.com
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Robert L. Harris HOLDEN, KIDWELL, HAHN & CRAPO, PLLC P.O. Box 50130 Idaho Falls, ID 83405	rharris@holdenlegal.com
Michael A. Kirkham City Attorney CITY OF IDAHO FALLS P.O. Box 50220 Idaho Falls, ID 83405	mkirkham@idahofallsidaho.gov

Courtesy Copies to:

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William A. Parsons PARSONS, LOVELAND, SHIRLEY &. LINDSTROM, LLP P.O. Box 910 Burley, ID 83318	wparsons@magicvalley.law
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Andrew J. Waldera SAWTOOTH LAW OFFICES, PLLC 1101 W. River Street, Suite 110 Boise, ID 83702	andy@sawtoothlaw.com

Exhibit A

2024 STIPULATION

This Stipulation ("2024 Stipulation") is entered into effective June 19, 2024 ("Effective Date") between Idaho Ground Water Appropriators, Inc., North Snake Ground Water District, Magic Valley Ground Water District, Carey Valley Ground Water District, Aberdeen-American Falls Ground Water District, Bingham Ground Water District, Bonneville-Jefferson Ground Water District, Jefferson-Clark Ground Water District, Madison Ground Water District, and Henry's Fork Ground Water District (collectively, the "Groundwater Users") and Twin Falls Canal Company, North Side Canal Company, American Falls Reservoir District No. 2, Milner Irrigation District, Burley Irrigation District, A&B Irrigation District, and Minidoka Irrigation District (collectively, the "SWC"). The Groundwater Users and the SWC may be referred to herein individually as a "party" and collectively as the "parties."

Background

A. The Groundwater Users and the SWC are parties to the *Settlement Agreement Entered Into June 30, 2015 Between Participating Members of the Surface Water Coalition and Participating Members of Idaho Ground Water Appropriators, Inc.* ("2015 Agreement"), as amended and clarified by the *Agreement* dated October 7, 2015 ("A&B Agreement"), *Addendum to Settlement Agreement* dated October 19, 2015 ("First Addendum"), and the *Second Addendum to Settlement Agreement* dated December 14, 2016 ("Second Addendum") (collectively, the "Settlement Agreement").

B. The Groundwater Users and the SWC are also parties to *Settlement Agreement* dated September 7, 2022 ("2021 Remedy Agreement").

C. The Idaho Department of Water Resources ("Department") approved the 2015 Agreement, as amended by the A&B Agreement and the First Addendum, as a mitigation plan under rule 43 of the Conjunctive Management Rules pursuant to the *Final Order Approving Stipulated Mitigation Plan* issued May 2, 2016, in IDWR Docket No. CM-MP-2016-001. The Department approved the Second Addendum as an amendment to the Settlement Agreement pursuant to the *Final Order Approving Amendment to Stipulated Mitigation Plan* issued May 9, 2017. The mitigation plan, addendums, and the Department orders approving the same are referred to herein collectively as the "2016 Plan."

D. Disagreements have arisen between the parties concerning interpretation, implementation, and enforceability of the 2016 Plan, which led to *Final Order Curtailing Ground Water Rights Junior to March 31, 1954* ("Curtailment Order") issued by the Department on May 30, 2024.

E. The Department issued an *Order Amending Curtailment List* on June 6, 2024, determining that groundwater users within North Snake Ground Water District, Magic Valley Ground Water District, American Falls-Aberdeen Ground Water District, Henry's Fork Ground Water District, and Madison Ground Water District are protected from curtailment by operating in compliance with the 2016 Plan during 2024; however, disagreements exist as to the apportioning of obligations under the 2016 Plan.

F. The parties mutually desire to avoid curtailment in 2024 and work cooperatively and collaboratively to determine groundwater management and mitigation measures for 2025 and future years that resolve past disagreements and are mutually beneficial to the parties.

Agreement

Therefore, with the foregoing definitions incorporated herein by reference, and in consideration of the terms, conditions, and obligations set forth below, the parties agree as follows:

1. Effective Date. This 2024 Stipulation shall not be effective unless it is signed by all parties and approved by an order of the Department. Once signed by all parties, the last signature date set forth below shall be entered into the introductory paragraph as the Effective Date.

2. Term. This 2024 Stipulation defines the mitigation obligations of the Groundwater Users for the 2024 irrigation season only.

3. Department Approval. This 2024 Stipulation is conditioned upon and subject to approval by the Department. Within three (3) days after the Effective Date, the parties will jointly submit this 2024 Stipulation to the Department with a request that it be accepted as compliance with the 2016 Plan for the 2024 irrigation season.

4. Status of 2016 Plan. The parties acknowledge that there is ongoing litigation regarding the 2016 Plan. Nothing herein shall be deemed to prejudice any party's rights, claims, or obligations under the 2016 Plan or the ongoing litigation (which the parties agree will be stayed pursuant to section 9 of this 2024 Stipulation). The parties acknowledge the 2015 Settlement Agreement and 2016 Plan is a mitigation plan approved by the Department unless and until it is amended and/or replaced by the parties (and approved by the Department) or declared void by a court of competent jurisdiction.

5. Groundwater Conservation. For the 2024 irrigation season, the ground water districts will collectively conserve 240,000 acre-feet of groundwater as compared to their average annual diversions during the time period 2010-2014. A 205,000 acre-feet portion is allocated among the ground water districts as it has been historically as set forth in Appendix A attached hereto. The remaining 35,000 acre-feet portion is allocated based on steady-state impacts to the Near Blackfoot to Neeley reach of the Snake River as set forth in Appendix A. Each district shall be independently responsible to satisfy its respective groundwater conservation obligations as set forth in Appendix A.

6. Storage Water Delivery. For the 2024 irrigation season, the Groundwater Users will deliver 65,000 acre-feet of storage water to the SWC as set forth in Appendix B. 50,000 acre-feet will be delivered in accordance with the 2016 Plan, and 15,000 acre-feet will be delivered in accordance with the 2021 Remedy Agreement.

7. 2022 Breach Forgiveness. In consideration of reaching an agreement for 2024 mitigation and accommodating continued negotiations, and recognizing conservation actions taken in 2023, SWC forgives any remaining obligations for the outstanding 2022 breach previously found by IDWR for Bingham Ground Water District, Bonneville-Jefferson Ground Water District, and Jefferson-Clark Ground Water District. This provision resolves issue 4 identified in the *Notice of Hearing* issued December 29, 2023, in IDWR Docket No. CM-MP-2016-001 ("What action must be taken by the ground water districts to cure their 2022 breach of the 2016 Mitigation Plan?"). If the stay imposed under section 9 of this 2024 Stipulation is lifted, the parties reserve the right to request issuance of the Hearing Officer's pending recommended order and Director's final order concerning issues 1-3 identified in the *Notice of Hearing*.

8. Cooperative Negotiations. The parties will negotiate cooperatively and in good faith between the Effective Date and October 1, 2024, in an effort to determine groundwater management and mitigation measures for 2025 and future years. Consistent with section 4 above, nothing in this 2024 Stipulation shall be construed as an admission against interest or concession of any position a party may take in such negotiations or in any litigation.

9. Stay of Litigation. To enable the parties to focus their attention on cooperative negotiations in accordance with section 8 of this 2024 Stipulation, the parties will stay all litigation between them related

to the SWC delivery call until October 1, 2024. It is the intent of the parties that the SWC delivery call (IDWR Docket No. CM-DC-2010-001) and the 2016 Plan (IDWR Docket No. CM-MP-2016-003) remain in effect, but litigation related thereto will be stayed. Within 10 days after the Effective Date, the parties will file jointly file stipulate motions to stay litigation until October 1, 2024. The stay of litigation will not preclude any party from making filings needed to satisfy applicable statutes of limitations. A list of the cases to be stayed is set forth in Appendix C attached hereto.

10. Miscellaneous.

10.1 Binding Effect. This 2024 Stipulation shall be binding upon and inure to the benefit of the parties and their respective successors in interest.

10.2 No Third-Party Obligations or Beneficiaries. The obligations and benefits of this 2024 Stipulation apply only to the parties. There are no third-party beneficiaries.

10.3 Counterparts. This 2024 Stipulation may be executed in any number of counterparts (including execution by electronic transmission) with the same effect as if all signing parties had signed the same document. All counterparts shall be construed together and constitute the same document. Signature pages may be detached from the counterparts and attached to a single copy of this 2024 Stipulation to physically form one document.

[End of 2024 Stipulation; signature pages below]

List of Appendices

Appendix A – 2024 groundwater conservation obligations

Appendix B – 2024 storage water obligations

Appendix C – Cases to be stayed

APPENDIX A

2024 Groundwater Conservation Obligations

	Allocation Diversion Baseline	% Allocation Diversion Baseline	205k Allocation	SS Impact %	35k Allocation	Toal 2024 Allocation
American Falls-Aberdeen	271,989	16.4%	33,715	28.6%	9,901	43,617
Bingham	282,476	17.0%	35,015	23.7%	8,184	43,199
Bonneville-Jefferson	147,337	8.9%	18,264	10.5%	3,626	21,890
Carey	5,671	0.3%	703	0.4%	130	833
Jefferson-Clark	438,634	26.5%	54,373	14.8%	5,118	59,490
Henry's Fork[1]	43,491	2.6%	5,391	0.5%	164	5,698
Madison[2]				0.4%	143	
Magic Valley	261,877	15.8%	32,462	17.0%	5,879	38,341
North Snake[3]	205,501	12.4%	25,474	4.2%	1,458	26,931
Total:	**1,656,976**	**100.0%**	**205,397**	**100.0%**	**34,603**	**240,000**

APPENDIX B

2024 Storage Water Obligations

	50,000 AF	2021 Remedy	Total 2024 Storage
American Falls-Aberdeen	8,705	2,993	11,698
Bingham	12,426	7,825	20,251
Bonneville-Jefferson	5,239	2,362	7,601
Carey	188	0	188
Jefferson-Clark	7,394	1,820	9,214
Henry's Fork	237	0	237
Madison	207	0	207
Magic Valley	8,496	0	8,496
North Snake	2,107	0	2,107
Idaho Water Resource Board	5,000	0	5,000
Total:	**50,000**	**15,000**	**65,000**

APPENDIX C

Cases to be Stayed

1. IDWR Docket No. CM-DC-2010-001 (SWC delivery call)
2. IDWR Docket No. CM-MP-2016-001 (2016 Plan)
3. Bonneville County Case No. CV10-24-2909 (declaratory judgment action)
4. Idaho Supreme Court Docket No. 51784-2024 (Appeal of Compliance Order)
5. Ada County Case No. CV01-23-13173 (Appeal of Fifth Methodology Order)
6. IDWR Docket No. CM-MP-2023-001 (MGWD & HFGWD mitigation plan)
7. IDWR Docket No. CM-MP-2023-002 (BJGWD mitigation plan)
8. IDWR Docket No. CM-MP-2023-003 (JCGWD mitigation plan)
9. IDWR Docket No. CM-MP-2023-004 (NSGWD mitigation plan)
10. IDWR Docket No. CM-MP-2023-005 (MVGWD mitigation plan)
11. IDWR Docket No. CM-MP-2024-001 (BGWD mitigation plan)

Idaho Ground Water Appropriators, Inc.

By: Stephanie Mickelsen Date: 6/17/2024
Stephanie Mickelsen, Chairwoman

North Snake Ground Water District

By:_____ Date:_____
Lynn Carlquist, Chairman

Magic Valley Ground Water District

By:_____ Date:_____
Dean Stevenson, Chairman

Carey Valley Ground Water District

By:_____ Date:_____
Leta Hansen, Chairwoman

Aberdeen-American Falls Ground Water District

By:_____ Date:_____
Tim Deeg, Chairman

Bingham Ground Water District

By:_____ Date:_____
Connie Christensen, Chairwoman

IGWA COUNTERPART SIGNATURE PAGE

Idaho Ground Water Appropriators, Inc.

By:_____ Date:_____
Stephanie Mickelsen, Chairwoman

North Snake Ground Water District

By:_____ Date: 6/18/2024
Lynn Carlquist, Chairman

Magic Valley Ground Water District

By:_____ Date: 6/18/24
Dean Stevenson, Chairman

Carey Valley Ground Water District

By:_____ Date:_____
Leta Hansen, Chairwoman

Aberdeen-American Falls Ground Water District

By:_____ Date:_____
Tim Deeg, Chairman

Bingham Ground Water District

By:_____ Date:_____
Connie Christensen, Chairwoman

IGWA COUNTERPART SIGNATURE PAGE

Idaho Ground Water Appropriators, Inc.

By: Stephanie Mickelsen
Stephanie Mickelsen, Chairwoman

Date: 6/17/2024

North Snake Ground Water District

By: _____
Lynn Carlquist, Chairman

Date: _____

Magic Valley Ground Water District

By: _____
Dean Stevenson, Chairman

Date: _____

Carey Valley Ground Water District

By: Leta Hansen
Leta Hansen, Chairwoman

Date: 6/18/2024

Aberdeen-American Falls Ground Water District

By: _____
Tim Deeg, Chairman

Date: _____

Bingham Ground Water District

By: _____
Connie Christensen, Chairwoman

Date: _____

IGWA COUNTERPART SIGNATURE PAGE

Idaho Ground Water Appropriators, Inc.

By: Stephanie Mickelsen
Stephanie Mickelsen, Chairwoman

Date: 6/17/2024

North Snake Ground Water District

By: _____
Lynn Carlquist, Chairman

Date: _____

Magic Valley Ground Water District

By: _____
Dean Stevenson, Chairman

Date: _____

Carey Valley Ground Water District

By: _____
Leta Hansen, Chairwoman

Date: _____

Aberdeen-American Falls Ground Water District

By: _____
Tim Deeg, Chairman

Date: 6-18-2024

Bingham Ground Water District

By: _____
Connie Christensen, Chairwoman

Date: _____

IGWA COUNTERPART SIGNATURE PAGE

Idaho Ground Water Appropriators, Inc.

By:_____ Date:_____
Stephanie Mickelsen, Chairwoman

North Snake Ground Water District

By:_____ Date:_____
Lynn Carlquist, Chairman

Magic Valley Ground Water District

By:_____ Date:_____
Dean Stevenson, Chairman

Carey Valley Ground Water District

By:_____ Date:_____
Leta Hansen, Chairwoman

Aberdeen-American Falls Ground Water District

By:_____ Date:_____
Tim Deeg, Chairman

Bingham Ground Water District

By:_____ Date: 6//17/24
Connie Christensen, Chairwoman

Bonneville-Jefferson Ground Water District

By:_____ Date: 6/17/2024
Stephanie Mickelsen, Chairwoman

Jefferson-Clark Ground Water District

By:_____ Date:_____
Kirk Jacobs, Chairman

Madison Ground Water District

By:_____ Date:_____
Bevan Jeppsen, Chairman

Henry's Fork Ground Water District

By:_____ Date:_____
Jeff Raybould, Chairman

Bonneville-Jefferson Ground Water District

By:_____ Date:_____
Stephanie Mickelsen, Chairwoman

Jefferson-Clark Ground Water District

By:_____ Date: 6/18/24
Kirk Jacobs, Chairman

Madison Ground Water District

By:_____ Date:_____
Bevan Jeppsen, Chairman

Henry's Fork Ground Water District

By:_____ Date:_____
Jeff Raybould, Chairman

Bonneville-Jefferson Ground Water District

By:_____ Date:_____
Stephanie Mickelsen, Chairwoman

Jefferson-Clark Ground Water District

By:_____ Date:_____
Kirk Jacobs, Chairman

Madison Ground Water District

By:_____ Date: 6-17-24
Bevan Jeppsen, Chairman

Henry's Fork Ground Water District

By:_____ Date:_____
Jeff Raybould, Chairman

Bonneville-Jefferson Ground Water District

By:_____ Date:_____
Stephanie Mickelsen, Chairwoman

Jefferson-Clark Ground Water District

By:_____ Date:_____
Kirk Jacobs, Chairman

Madison Ground Water District

By:_____ Date:_____
Bevan Jeppsen, Chairman

Henry's Fork Ground Water District

By:_____ Date: 6-18-24
Jeff Raybould, Chairman

SWC COUNTERPART SIGNATURE PAGE

Twin Falls Canal Company

By: Roger Blass Date: 6/18/2024
Roger Blass, Chairman

North Side Canal Company

By:_____ Date:_____
***, Chairman

American Falls Reservoir District No. 2

By:_____ Date:_____
***, Chairman

Milner Irrigation District

By:_____ Date:_____
***, Chairman

Burley Irrigation District

By:_____ Date:_____
***, Chairman

A&B Irrigation District

By:_____ Date:_____
***, Chairman

Minidoka Irrigation District

By:_____ Date:_____
***, Chairman

SWC COUNTERPART SIGNATURE PAGE

Twin Falls Canal Company

By:_____ Date:_____
***, Chairman

North Side Canal Company

By: Mike Elliott Date: 6/18/2024
***, Chairman

American Falls Reservoir District No. 2

By:_____ Date:_____
***, Chairman

Milner Irrigation District

By:_____ Date:_____
***, Chairman

Burley Irrigation District

By:_____ Date:_____
***, Chairman

A&B Irrigation District

By:_____ Date:_____
***, Chairman

Minidoka Irrigation District

By:_____ Date:_____
***, Chairman

By:
Date:
***, Chairman

North Side Canal Company

By:
Date:
***, Chairman

American Falls Reservoir District No. 2

By: Ellis Dooch
Date: 6-18-24
***, Chairman

Milner Irrigation District

By:
Date:
***, Chairman

Burley Irrigation District

By:
Date:
***, Chairman

A&B Irrigation District

By:
Date:

North Side Canal Company

By:_____ Date:_____
***, Chairman

American Falls Reservoir District No. 2

By:_____ Date:_____
***, Chairman

Milner Irrigation District

By:_____ Date: 6/18/24
***, Chairman

Burley Irrigation District

By:_____ Date:_____
***, Chairman

A&B Irrigation District

By:_____ Date:_____
***, Chairman

Minidoka Irrigation District

By:_____ Date:_____
***, Chairman

SWC COUNTERPART SIGNATURE PAGE

Twin Falls Canal Company

By:_____ Date:_____
***, Chairman

North Side Canal Company

By:_____ Date:_____
***, Chairman

American Falls Reservoir District No. 2

By:_____ Date:_____
***, Chairman

Milner Irrigation District

By:_____ Date:_____
***, Chairman

Burley Irrigation District

By: Clifford Searle Date: 6/18/24
***, Chairman

A&B Irrigation District

By:_____ Date:_____
***, Chairman

Minidoka Irrigation District

By:_____ Date:_____
***, Chairman

SWC COUNTERPART SIGNATURE PAGE

Twin Falls Canal Company

By:_____ Date:_____
***, Chairman

North Side Canal Company

By:_____ Date:_____
***, Chairman

American Falls Reservoir District No. 2

By:_____ Date:_____
***, Chairman

Milner Irrigation District

By:_____ Date:_____
***, Chairman

Burley Irrigation District

By:_____ Date:_____
***, Chairman

A&B Irrigation District

By: C. [signature] Date: 6-19-2024
***, Chairman

Minidoka Irrigation District

By:_____ Date:_____
***, Chairman

SWC COUNTERPART SIGNATURE PAGE

Twin Falls Canal Company

By:_____ Date:_____
***, Chairman

North Side Canal Company

By:_____ Date:_____
***, Chairman

American Falls Reservoir District No. 2

By:_____ Date:_____
***, Chairman

Milner Irrigation District

By:_____ Date:_____
***, Chairman

Burley Irrigation District

By:_____ Date:_____
***, Chairman

A&B Irrigation District

By:_____ Date:_____
***, Chairman

Minidoka Irrigation District

By: Ronald D Kowing Date: June 18 2024
***, Chairman

MARTEN LAW

RECEIVED
Apr 29, 2025
DEPARTMENT OF
WATER RESOURCES

April 29, 2025

Via Email & U.S. Mail

Director Mat Weaver
Idaho Dept. of Water Resources
P.O. Box 83720
Boise, Idaho 83720-0098
file@idwr.idaho.gov

RE: SWC Delivery Call / Notice of Mitigation Water (*Final Order Regarding April 2025 Forecast Supply (Steps 1-3)*

Dear Director Weaver:

I am writing on behalf of our client the A&B Irrigation District ("A&B" or "District") in response to the *Final Order Regarding April 2025 Forecast Supply* ("*Order*") (April 16, 2025). This letter responds to the request for junior ground water right holders to establish how they will mitigate for their proportionate share of the predicted demand shortfall. *See Order* at 6, ¶ 7.

A&B has an approved mitigation plan regarding the above delivery call and order. I have conferred with manager Justin Temple and it is the District's intent to continue to curtail the enlargement water rights (2,063 acres) for the 2025 irrigation season. The District will also deliver surface water to an additional 1,510.6 acres that could have been irrigated with some of the District's ground water rights with an April 1, 1962 priority (water right nos. 36-15127A et al.). The District intends to continue to deliver surface water to lands formerly irrigated with groundwater, approximately 3,573.6 in total, with groundwater supplied to certain areas as needed for pipeline operations.

Based upon similar prior correspondence on this issue with IDWR it is my understanding that this notice will satisfy the request stated in the *Order*. However, to the extent that A&B needs to also show that it has 384 acre-feet of storage to deliver to TFCC, that water is expected to be available in its final storage allocation for the 2025 irrigation (American Falls and Palisades storage space). If necessary, that amount of storage will be available for formal assignment from A&B to TFCC through the Water District 01 rental pool.

D – 208 . 735 . 2227 | E - tthompson@martenlaw.com | P.O. Box 63, Twin Falls, ID 83303-0063

For your information A&B executed and filed the required private lease form with Water District 01 last year and ultimately that water had to be re-assigned back to A&B prior to the final storage water accounting. We would appreciate your input and dialogue with the watermaster to determine how best to address this issue this year so storage does not have to be assigned and then re-assigned. We believe this may create issues for Water District 01 and its storage accounting. Please advise if you have any questions.

As to IDWR's calculation of the District's proportionate share it is unclear if the Department is assuming full groundwater delivery to those acres covered by water rights junior to August 28, 1955. As noted, the District is delivering surface water to 3,573.6 acres, so if that proportionate share is revised based upon that fact please advise as to any changes. The District is filing a contemporaneous request for hearing on this issue as well.

If you have any questions or need additional information, please contact me at (208) 733-0700.

Sincerely,

Travis Thompson
Partner

Direct: (208) 735-2227
Email: tthompson@martenlaw.com

cc: Justin Temple
Craig Chandler, Water District 01
Garrick Baxter

RECEIVED
Jul 24, 2025
DEPARTMENT OF
WATER RESOURCES

Travis L. Thompson, ISB #6168
Abby R. Bitzenburg, ISB #12198
PARSONS BEHLE & LATIMER
P.O. Box 63
Twin Falls, Idaho 83303-0063
Telephone: (208) 733-0700
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abitzenburg@parsonsbehle.com

Attorneys for A&B Irrigation District, Burley Irrigation District, Milner Irrigation District, North Side Canal Company, and Twin Falls Canal Company

Norman M. Semanko, ISB #4761
Garrett M. Kitamura, ISB #11502
PARSONS BEHLE & LATIMER
800 W. Main St. Suite 1300
Boise, Idaho 83702
Telephone: (208) 562-4900
Email: nsemanko@parsonsbehle.com
gkitamura@parsonsbehle.com

Attorneys for American Falls Reservoir District #2 and Minidoka Irrigation District

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY OR FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY	Docket No. CM-DC-2010-001 Docket No. CM-MP-2015-003 **JOINT MOTION FOR ORDER APPROVING 2025 STIPULATION**
IN THE MATTER OF THE MITIGATION PLAN FILED BY A&B IRRIGATION DISTRICT FOR THE DISTRIBUTION OF WATER TO WATER RIGHTS HELD BY THE SURFACE WATER COALITION	

COME NOW, A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, and TWIN FALLS CANAL COMPANY, by and through their undersigned attorneys of record, and jointly

move the Director for an order approving the *2025 Stipulation* attached hereto as Attachment A (the "2025 Stipulation") as stipulated compliance with the District's approved mitigation plan for the 2025 irrigation season.

The parties have entered into the 2025 Stipulation to define A&B's mitigation obligation for the 2025 irrigation season. The stipulated plan complies with CM Rule 43.03.o as the parties have entered into this stipulation for purposes of an acceptable mitigation plan "even though such plan may not otherwise be fully in compliance with these provisions." The SWC stipulates that, in exchange for the mitigation actions taken by A&B, the District's junior priority ground water rights will receive safe harbor from the SWC delivery call during the 2025 irrigation season.

The parties jointly request the Director to issue an order accepting the *2025 Stipulation* for the 2025 irrigation season and issue an order amending the curtailment list to protect the ground water rights of the A&B Irrigation District from curtailment during the 2025 irrigation season pursuant to the terms provided in the stipulation.

DATED this 24th day of July, 2025.

PARSONS BEHLE & LATIMER

Abby R. Bitzenburg

Travis L. Thompson
Abby R. Bitzenburg

Attorneys for A&B Irrigation District, Burley Irrigation District, Milner Irrigation District, North Side Canal Company, and Twin Falls Canal Company

PARSONS BEHLE & LATIMER

/S/: Norman M. Semanko

Norman M. Semanko
Garrett M. Kitamura

Attorneys for American Falls Reservoir District #2 and Minidoka Irrigation District

CERTIFICATE OF SERVICE

I hereby certify that on this 24th day of July, 2025, I served a true and correct copy of the foregoing *Joint Motion for Order Approving 2025 Stipulation* on the following by the method indicated:

Director Mat Weaver Garrick Baxter Sarah Tschohl State of Idaho Dept. of Water Resources 322 E Front St. Boise, ID 83720-0098 *** service by electronic mail mat.weaver@idwr.idaho.gov garrick.baxter@idwr.idaho.gov sarah.tschohl@idwr.idaho.gov file@idwr.idaho.gov	Gail McGarry U.S. Bureau of Reclamation 1150 N. Curtis Rd. Boise, ID 83706-1234 *** service by electronic mail only emcgarry@usbr.gov	John K. Simpson IdaH20, PLLC 4354 N. Hackberry Way Boise, ID 83702-1667 *** service by electronic mail only jks@idahowaters.com
T.J. Budge Elisheva Patterson Racine Olson P.O. Box 1391 Pocatello, ID 83204-1391 *** service by electronic mail only tjb@racinelaw.net elisheva@racineolson.com	Sarah A. Klahn Maximillian C. Bricker Somach Simmons & Dunn 1155 Canyon Blvd., Ste. 110 Boulder, CO 80302 *** service by electronic mail only sklahn@somachlaw.com dthompson@somachlaw.com mbricker@somachlaw.com	David Gehlert ENRD – DOJ 999 18th St. South Terrace, Ste. 370 Denver, CO 80202 *** service by electronic mail only david.gehlert@usdoj.gov
Rich Diehl City of Pocatello P.O. Box 4169 Pocatello, ID 83201 *** service by electronic mail only rdiehl@pocatello.us	Candice McHugh Chris M. Bromley McHugh Bromley, PLLC 380 South 4th Street, Ste. 103 Boise, ID 83702 *** service by electronic mail only cbromley@mchughbromley.com cmchugh@mchughbromley.com	Robert E. Williams William, Meservy & Lothspeich, LLP P.O. Box 168 Jerome, ID 83338 *** service by electronic mail only rewilliams@wmlattys.com
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Skyler C. Johns Nathan M. Olsen Steven L. Taggart Olsen Taggart PLLC P.O. Box 3005 Idaho Falls, ID 83403 *** service by electronic mail only sjohns@olsentaggart.com nolsen@olsentaggart.com staggart@olsentaggart.com		

COURTESY COPY TO:

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/s/ Jessica Nielsen
Jessica Nielsen
Legal Assistant for Travis L. Thompson &
Abby Bitzenburg

Attachment A

2025 STIPULATION

This Stipulation ("2025 Stipulation") is entered into effective July 24, 2025 between A&B Irrigation District ("A&B" or "District") and American Falls Reservoir District #2, Burley Irrigation District, Milner Irrigation District, Minidoka Irrigation District, North Side Canal Company, and Twin Falls Canal Company (hereinafter collectively "Surface Water Coalition," "SWC," or "Coalition"). A&B and the Coalition may be referred to herein individually as a "party" and collectively as the "parties."

BACKGROUND

A. On December 27, 2023, A&B and the Coalition filed a *Stipulation re: A&B Irrigation District's Amended Mitigation Plan*. The Director issued a *Final Order Approving Amended Mitigation Plan* on January 10, 2025.

B. On April 16, 2025 the Director issued his *Final Order Regarding April 2025 Forecast Supply (Methodology Steps 1 – 3)* predicting a demand shortfall for TFCC in the amount of 63,000 acre-feet. In that decision, the Director concluded A&B's proportionate share of that predicted injury was 384 acre-feet.[1] A&B filed a petition requesting a hearing on the order on April 29, 2025. A&B contests the Department's calculation of A&B's proportionate share of the 2025 predicted demand shortfall. No hearing has been held regarding A&B's petition.

C. On July 10, 2025 the Director issued his *Order Revising April 2025 Forecast Supply and Continuing May 16, 2025 Curtailment Order (Methodology Steps 5 & 6)* ("Steps 5/6 Order"). In that decision, the Director predicted a demand shortfall for TFCC in the amount of 75,300 acre-feet and concluded that A&B's proportionate share of that predicted injury was 5,039 acre-feet. A&B and the SWC have filed petitions requesting a hearing on this order.

D. The parties mutually desire to avoid curtailment of A&B's water rights in 2025 and work cooperatively and collaboratively to determine appropriate mitigation measures for 2026 and future years pursuant to an amended mitigation plan. The parties further seek to address their respective petitions on the Steps 5/6 Order.

AGREEMENT

Therefore, and in consideration of the terms, conditions, and obligations set forth below, the parties agree as follows:

1. Term. This 2025 Stipulation defines the mitigation obligation of A&B for the 2025 irrigation season only.

2. Status of 2015 Amended Plan. The parties acknowledge that there is a pending contested case concerning the Director's determination of A&B's proportionate share of the

[1] IDWR subsequently corrected the proportionate share number to 164 acre-feet after taking into account A&B's conversion acres. *See* Steps 5/6 Order at 11, n. 6.

predicted injury and A&B's mitigation requirement pursuant to its amended mitigation plan, as well as the Director's Steps 5/6 Order and implementation of the continuing curtailment order.

3. Groundwater Conservation. For the 2025 irrigation season, A&B will continue to deliver surface water to approximately 3,576 acres previously irrigated with groundwater. The District has implemented a conversion program since the mid-1990s and has delivered surface water to the above-referenced acres for nearly ten years since the construction and use of its second pumping plant on the Snake River (Pumping Plant #2).

4. Storage Water Delivery. For the 2025 irrigation season, A&B will deliver and assign 1,252 acre-feet to TFCC in accordance with its Amended Mitigation Plan. The storage water will be assigned on or before August 1st from the following sources: 164 acre-feet (private lease from A&B's storage, submitted to Water District 01 on May 28, 205); 1,088 acre-feet (A&B's portion of 7,500 acre-feet of storage assigned to SWC from Water Mitigation Coalition storage). The Coalition expressly stipulates to the above actions by A&B in exchange for A&B receiving safe harbor from the delivery call for its groundwater use pursuant to its water rights for the 2025 irrigation season.

5. Cooperative Negotiations. The parties will negotiate cooperatively and in good faith in an effort to determine A&B's mitigation measures for 2026 and future years. Nothing within this 2025 Stipulation shall be construed as an admission against interest or concession of any position a party may take in such future negotiations or in any litigation concerning the SWC delivery call or A&B's Amended Mitigation Plan.

6. Miscellaneous.

6.1 No Third-Party Obligations or Beneficiaries. The obligations and benefits of this 2025 Stipulation apply only to the parties. There are no third-party beneficiaries.

6.2 Counterparts. This 2025 Stipulation may be executed in any number of counterparts (including execution by electronic submission) with the same effect as if all signing parties had signed the same document. All counterparts shall be construed together and constitute the same document. Signature pages may be detached from the counterparts and attached to a single copy of this 2025 Stipulation to physically form one document.

[End of this 2025 Stipulation; signature pages below]

Dated this 23rd day of July, 2025.

A&B IRRIGATION DISTRICT

/s/ Harold Mohlman
Harold Mohlman, Chairman

Dated this 24th day of July, 2025.

AMERICAN FALLS RES. DISTRICT #2

/s/ Ellis Gooch
Ellis Gooch, Chairman

Dated this 24th day of July, 2025.

BURLEY IRRIGATION DISTRICT

/s/ Clifford Searle
Clifford Searle, Chairman

Dated this 23rd day of July, 2025.

MILNER IRRIGATION DISTRICT

/s/ Scott Breeding
Scott Breeding, Chairman

Dated this 23rd day of July, 2025.

MINIDOKA IRRIGATION DISTRICT

/s/ Ron Kowitz
Ron Kowitz, Chairman

Dated this 23rd day of July, 2025.

NORTH SIDE CANAL COMPANY

/s/ Mike Elliott
Mike Elliott, Chairman

Dated this 23rd day of July, 2025.

TWIN FALLS CANAL COMPANY

/s/ Roger Blass
Roger Blass, Chairman

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY OR FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY	Docket No. CM-DC-2010-001 CM-MP-2015-003 **ORDER APPROVING 2025 STIPULATION AS COMPLIANCE WITH APPROVED MITIGATION PLAN**

The Director ("Director") of the Idaho Department of Water Resources ("Department") finds, concludes, and orders as follows:

FINDINGS OF FACT

1. On December 27, 2023, A&B Irrigation District ("A&B") and the other members of the Surface Water Coalition ("SWC")[1] filed a *Stipulation Regarding A&B Irrigation District's Amended Rule 43 Mitigation Plan* ("*Stipulated Mitigation Plan*") with the Department, pursuant to Rule 43 of the Rules for Conjunctive Management of Surface and Ground Water Resources ("CM Rules"), IDAPA 37.03.11.043.

2. On January 10, 2025, the Director issued a *Final Order Approving Amended Mitigation Plan*.

3. On April 16, 2025, the Director issued a *Final Order Regarding April 2025 Forecast Supply (Methodology Steps 1 – 3)* ("*As-Applied Order*") predicting a demand shortfall for Twin Falls Canal Company ("TFCC") in the amount of 63,000 acre-feet. In that order, the Director concluded A&B's proportionate share of that predicted injury was 384 acre-feet. *As-Applied Order*, at 5 n.8. A&B filed a petition requesting a hearing on the *As-Applied Order* on April 29, 2025. A&B contests the Department's calculation of A&B's proportionate share of the 2025 predicted demand shortfall. *A&B Irrigation District's Request for Hearing*, at 1–2. No hearing has been held regarding A&B's request for hearing.

4. On July 10, 2025, the Director issued an *Order Revising April 2025 Forecast Supply and Continuing May 16, 2025 Curtailment Order (Methodology Steps 5 & 6)* ("*Steps 5/6 Order*"). In that order, the Director predicted a demand shortfall for TFCC in the amount of 75,300 acre-feet and

[1] The other members of the SWC are American Falls Reservoir District #2, Burley Irrigation District, Milner Irrigation District, Minidoka Irrigation District, North Side Canal Company, and Twin Falls Canal Company.

concluded that A&B's proportionate share of that predicted injury was 5,039 acre-feet. *Steps 5/6 Order*, at 11 n.6. The *Steps 5/6 Order* stated that by July 24, 2025, ground water users with consumptive water rights "junior to October 11, 1900, within the [ESPA ACGWS]" had to "establish, to the satisfaction of the Director, that they can mitigate for their proportionate share of the predicted IDS of 75,300 acre-feet in accordance with an approved mitigation plan." *Id.* at 12.

5. On July 24, 2025, A&B filed a request for hearing on the *Steps 5/6 Order*, again contesting the Department's calculation of A&B's proportionate share of the 2025 predicted demand shortfall. *A&B Irrigation District's Request for Hearing*, at 1–2.

6. Also on July 24, 2025, A&B and the other members of the SWC submitted a *Joint Motion for Order Approving 2025 Stipulation* ("*Joint Motion*"). The motion explains that A&B and the other members of the SWC entered into a stipulation, referred to as the "*2025 Stipulation*," to "define A&B's mitigation obligation for the 2025 irrigation season." *Joint Motion*, at 2. In the stipulation, which is included as Attachment A to the *Joint Motion*, A&B proposes to continue its ground water conversions projects and deliver 1,252 acre-feet of storage water to TFCC (the injured SWC member) in accordance with its approved mitigation plan. *2025 Stipulation*, at 2. A&B and the other members of the SWC request the Director approve the *2025 Stipulation* as "stipulated compliance with [A&B's] approved mitigation plan for the 2025 irrigation season." *Joint Motion*, at 2.

CONCLUSIONS OF LAW

1. Idaho Code § 42-602, addressing the authority of the Director over the supervision of water distribution within water districts, provides:

> The director of the department of water resources shall have direction and control of the distribution of water from all natural water sources within a water district to the canals, ditches, pumps and other facilities diverting therefrom. Distribution of water within water districts created pursuant to section 42-604, Idaho Code, shall be accomplished by watermasters as provided in this chapter and supervised by the director. The director of the department of water resources shall distribute water in water districts in accordance with the prior appropriation doctrine. The provisions of chapter 6, title 42, Idaho Code, shall apply only to distribution of water within a water district.

2. CM Rule 42.02 states: "The holder of a senior-priority surface or ground water right will be prevented from making a delivery call for curtailment of pumping of any well used by the holder of a junior-priority ground water right where use of water under the junior-priority right is covered by an approved and effectively operating mitigation plan." IDAPA 37.03.11.042.02.

3. As explained above, by July 24, 2025, ground water users with consumptive water rights "junior to October 11, 1900, within the [ESPA ACGWS]" had to "establish, to the satisfaction of the Director, that they can mitigate for their proportionate share of the predicted

IDS of 75,300 acre-feet in accordance with an approved mitigation plan." *Steps 5/6 Order*, at 12. If a junior ground water user does not establish that they can mitigate for their proportionate share of the predicted July IDS "in accordance with an approved mitigation plan," the ground water user will be subject to the "order curtailing the junior-priority ground water user." *Id.*

4. The *2025 Stipulation* between A&B and the other members of the SWC is consistent with A&B's approved *Stipulated Mitigation Plan* in Docket No. CM-MP-2015-003. The mitigation plan calls for A&B to undertake ground water conversions projects and deliver storage water to any SWC member found to be injured. *Stipulated Mitigation Plan*, at 2. In the *2025 Stipulation*, A&B proposes to continue its ground water conversions projects and deliver 1,252 acre-feet of storage water to TFCC (the injured SWC member). *2025 Stipulation*, at 2. While the amount of storage water to be delivered to TFCC this year is less than what TFCC may otherwise be entitled to, the Director recognizes that there are pending requests for hearing on how the Department calculates A&B's proportionate share of the demand shortfall. The Director has previously accepted single-year stipulations that are consistent with approved mitigation plans. *See Order Approving 2024 Stipulation as Compliance with Approved Mitigation Plan*, Docket No. CM-DC-2010-001 (June 20, 2024). Accordingly, the Director will approve this single-year stipulation.

ORDER

Based upon and consistent with the foregoing, IT IS HEREBY ORDERED that the J*oint Motion for Order Approving 2025 Stipulation* is GRANTED.

DATED this 25th day of July 2025.

MATHEW WEAVER
Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 25th day of July 2025, the above and foregoing, was served by the method indicated below, and addressed to the following:

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Megan Jenkins
Executive Assistant to the Director

EXPLANATORY INFORMATION TO ACCOMPANY A FINAL ORDER

(To be used in connection with actions when a hearing was **not** held)

The accompanying document is a "**Final Order**" issued by the Idaho Department of Water Resources ("Department") pursuant to Idaho Code § 67-5246.

PETITION FOR RECONSIDERATION

(*See* Idaho Code § 67-5246(4))

Any party may file a petition for reconsideration of this 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 presiding officer 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.

REQUEST FOR HEARING

(*See* Idaho Code § 42-1701A(3))

Unless the right to a hearing before the Department or the Water Resource Board is otherwise provided by statute, any person aggrieved by any final decision, determination, order or action of the Director, and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to Idaho Code § 42-1701A(3). A written petition to the Director contesting this final order and requesting a hearing must be filed with the Department by any aggrieved person **within fifteen (15) days after service of this final order**.

CERTIFICATE OF SERVICE

(*See* IDAPA 37.01.01.053, 37.01.01.202)

All documents filed with the Department in connection with a petition for reconsideration or a request for hearing of this final order shall be served on all other parties to the proceedings in accordance with Rules of Procedure 53 and 202.

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY OR FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY	Docket No. CM-DC-2010-001 **FINAL ORDER CURTAILING GROUND WATER RIGHTS JUNIOR TO OCTOBER 11, 1900**

The Director of the Idaho Department of Water Resources ("Department") finds, concludes, and orders as follows:

FINDINGS OF FACT

1. On July 19, 2023, the Director issued the *Sixth Final Order Regarding Methodology for Determining Material Injury to Reasonable In-Season Demand and Reasonable Carryover* ("*Methodology Order*").[1] The *Methodology Order* established nine steps for determining material injury to members of the Surface Water Coalition ("SWC").[2]

2. On April 16, 2025, the Director issued his *Final Order Regarding April 2025 Forecast Supply (Methodology Steps 1–3)* ("*April Forecast Supply Order*"). The *April Forecast Supply Order* predicted an in-season demand shortfall ("IDS") to the SWC of 63,000 acre-feet for the 2025 irrigation season. *April Forecast Supply Order*, at 3. At that time, the only member of the SWC predicted to experience material injury during the 2025 irrigation season was Twin Falls Canal Company ("TFCC"). *Id* at 3–4.

3. As a result, the Director ordered that:

> On or before May 1, 2025, ground water users holding consumptive water rights bearing priority dates junior to August 28, 1955, within the Eastern Snake Plain Aquifer area of common ground water supply [("ESPA ACGWS")] shall establish, to the satisfaction of the Director, that they can mitigate for their proportionate

[1] Shortly after the *Methodology Order* was issued, the Idaho Ground Water Appropriators, Inc. ("IGWA") and certain Idaho cities filed petitions for judicial review in Ada County (Nos. CV01-23-13173 and CV01-23-13238). IGWA's petition for judicial review is stayed until December 31, 2027. The cities' petition for judicial review is pending before the Idaho Supreme Court. The filing of a petition for judicial review does not stay the effectiveness of an order. I.C. § 67-5274. No party to the judicial review proceedings has requested a stay of the *Methodology Order*.

[2] The SWC is comprised of A&B Irrigation District, American Falls Reservoir District #2, Burley Irrigation District, Milner Irrigation District, Minidoka Irrigation District, North Side Canal Company, and Twin Falls Canal Company.

> share of the predicted April IDS of 63,000 acre-feet in accordance with an approved mitigation plan. If a junior ground water user cannot establish, to the satisfaction of the Director, that they can mitigate for their proportionate share of the predicted April IDS in accordance with an approved mitigation plan, the Director will issue an order curtailing the junior-priority ground water user.

April Forecast Supply Order, at 6.

4. On May 16, 2025, the Director issued a *Final Order Curtailing Ground Water Rights Junior to August 28, 1955* ("*Curtailment Order*"). The Director ordered that:

> [E]ffective May 31, 2025, ground water users holding water rights bearing priority dates junior to August 28, 1955, within the ESPA ACGWS, and listed in Attachment A to this order, shall curtail/refrain from diversion and use of ground water pursuant to those water rights unless notified by the Department that the order of curtailment has been modified or rescinded as to their water rights.

Curtailment Order, at 4.

5. On July 10, 2025, the Director issued the *Order Revising April 2025 Forecast Supply and Continuing May 16, 2025 Curtailment Order (Methodology Steps 5 & 6)* ("*July As-Applied Order*"), which applied steps 5 and 6 of the *Methodology Order*. The Director predicted a revised IDS of 75,300 acre-feet. *July As-Applied Order*, at 8. Once again, he found TFCC to be the only member of the SWC predicted to experience material injury during the 2025 irrigation season, with an estimated Time of Need of August 28, 2025. *Id*. at 8–9.

6. Consequently, the Director ordered that by "July 24, 2025, ground water users holding consumptive water rights bearing priority dates junior to October 11, 1900, within the [ESPA ACGWS] shall establish, to the satisfaction of the Director, that they can mitigate for their proportionate share of the predicted IDS of 75,300 acre-feet in accordance with an approved mitigation plan." *Id.* at 12. He ordered that if such a junior ground water user cannot establish that they can mitigate for their proportionate share of the updated predicted IDS "in accordance with an approved mitigation plan, the Director will issue an order curtailing the junior-priority ground water user." *Id.* Additionally, the Director ordered "that the May 16, 2025 *Curtailment Order* remains in full force and effect." *Id*.

7. There are currently five approved mitigation plans in place responding to the SWC delivery call:

(1) Docket No. CM-MP-2010-001 for the benefit of the Southwest Irrigation District and Goose Creek Irrigation District (collectively, "SWID");

(2) Docket No. CM-MP-2019-001 for the benefit of certain cities commonly referred to as the "Coalition of Cities";

(3) Docket No. CM-MP-2015-003 for the benefit of the A&B Irrigation District ("A&B");

(4) Docket No. CM-MP-2007-001 for the benefit of certain entities commonly referred to as the "Water Mitigation Coalition"; and

(5) Docket No. CM-MP-2024-003 for the benefit of certain ground water districts commonly referred to as the "Ground Water Districts."

8. In both the *April Forecast Supply Order* and *July As-Applied Order*, the Director concluded that due to the nature of the approved mitigation plans for SWID, the Coalition of Cities, the Water Mitigation Coalition, and the Ground Water Districts, these entities do not need to establish they can mitigate for their proportionate share of the predicted IDS. *April Forecast Supply Order*, at 5 n.8; *July As-Applied Order*, at 11 n.6.

9. However, in the *July As-Applied Order* the Director concluded that A&B must mitigate for its proportionate share of the predicted July IDS of 75,300 acre-feet and determined that A&B's proportionate share is 5,039 acre-feet. *July As-Applied Order*, at 11 n.6. Although, he did note that in response to the *April Forecast Supply Order*, A&B previously demonstrated that it "already secured 164 acre-feet of storage water for the 2025 irrigation season." *Id*.

10. On July 24, 2025, A&B and the other members of the SWC submitted a *Joint Motion for Order Approving 2025 Stipulation* ("*Joint Motion*"). The motion explains that A&B and the other members of the SWC entered into a stipulation, referred to as the "*2025 Stipulation*," to "define A&B's mitigation obligation for the 2025 irrigation season." *Joint Motion*, at 2. In the stipulation, which is included as Attachment A to the *Joint Motion*, A&B proposes to continue its ground water conversions projects and deliver 1,252 acre-feet of storage water to TFCC (the injured SWC member) in accordance with its approved mitigation plan. *2025 Stipulation*, at 2. A&B and the other members of the SWC request the Director approve the *2025 Stipulation* as "stipulated compliance with [A&B's] approved mitigation plan for the 2025 irrigation season." *Joint Motion*, at 2. In an order issued concurrently with this order, the Director issued his *Order Approving 2025 Stipulation as Compliance with Approved Mitigation Plan*.

CONCLUSIONS OF LAW

1. Idaho Code § 42-602 authorizes the Director to supervise water distribution within water districts:

> The director of the department of water resources shall have direction and control of the distribution of water from all natural water sources within a water district to the canals, ditches, pumps and other facilities diverting therefrom. Distribution of water within water districts created pursuant to section 42-604, Idaho Code, shall be accomplished by watermasters as provided in this chapter and supervised by the director. The director of the department of water resources shall distribute water in water districts in accordance with the prior appropriation doctrine. The provisions of chapter 6, title 42, Idaho Code, shall apply only to distribution of water within a water district.

2. As explained above, by July 24, 2025, ground water users with consumptive water rights "junior to October 11, 1900, within the [ESPA ACGWS]" had to "establish, to the

satisfaction of the Director, that they can mitigate for their proportionate share of the predicted IDS of 75,300 acre-feet in accordance with an approved mitigation plan." *July As-Applied Order*, at 12. If a junior ground water user does not establish that they can mitigate for their proportionate share of the predicted July IDS "in accordance with an approved mitigation plan" the ground water user will be subject to this "order curtailing the junior-priority ground water user." *Id.*

3. Due to the nature of the approved mitigation plans for SWID, the Coalition of Cities, the Water Mitigation Coalition, and the Ground Water Districts, these entities do not need to establish that they can mitigate for their proportionate share of the predicted July IDS. Junior ground water users entitled to the protection of SWID, the Coalition of Cities, the Water Mitigation Coalition, and the Ground Water Districts mitigation plans continue to not be subject to curtailment during the 2025 irrigation season.

4. Under a separate order, the Director approved the *2025 Stipulation* between A&B and the other members of the SWC because it is consistent with A&B's approved mitigation plan in Docket No. CM-MP-2015-003. Accordingly, A&B's water rights will not be subject to curtailment during the 2025 irrigation season.

5. Consistent with the *July As-Applied Orde*r, Idaho Code § 42-602, and decisions of the courts, the Director must order curtailment of junior-priority ground water users that have not established they can mitigate in accordance with an approved mitigation plan. Junior-priority ground water users subject to curtailment are listed in the updated Attachments A to this order.

ORDER

Based upon and consistent with the foregoing, IT IS HEREBY ORDERED that effective July 25, 2025, ground water users holding water rights bearing priority dates junior to October 11, 1900, within the ESPA ACGWS, and listed in Attachment A to this order, shall curtail/refrain from diversion and use of ground water pursuant to those water rights unless notified by the Department that the order of curtailment has been modified or rescinded as to their water rights.

IT IS FURTHER ORDERED that holders of ground water rights listed in Attachment A to this order, who were not previously listed in Attachment A to the May 16, 2025 *Curtailment Order*, may seek to participate in an approved mitigation plan through a ground water district and shall have fifteen days from the date of this order to join, solely for mitigation purposes, the ground water district situated nearest the lands to which the water rights are appurtenant. *See* H.B. 737a, 58th Leg., 2d Reg. Sess. (Idaho 2006) (*Act Relating to the Administration of Ground Water Rights Within the Eastern Snake River Plain*); *see also* I.C. § 42-5259. The water rights that have fifteen days to join a ground water district are identified in Attachment A.

IT IS FURTHER ORDERED that watermasters for the water districts within the ESPA ACGWS who regulate ground water are directed to review the water rights listed in Attachment A to this order and begin the curtailment process.

IT IS FURTHER ORDERED that this order shall apply to consumptive ground water rights, including but not limited to, agricultural, commercial, industrial, and municipal uses. This order excludes ground water rights used for *de minimis* domestic purposes where such domestic use is within the limits of the definition set forth in Idaho Code § 42-111 and ground water rights used for *de minimis* stock watering where such stock watering use is within the limits of the definitions set forth in Idaho Code § 42-1401A(11), pursuant to IDAPA 37.03.11.020.11.

Dated this 25th day of July 2025.

MATHEW WEAVER
Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 25th day of July 2025, the above and foregoing, was served by the method indicated below, and addressed to the following:

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Megan Jenkins
Executive Assistant to the Director

Attachment A -Sorted by Owner
List of Ground Water Rights Junior to October 11, 1900
(highlighted rights have 15-days to join a ground water district)

Owner	Water Right No.	Basis	Priority Date	Water Use List	Diversion Rate (cfs)	Total Acres	Enlargement
1523 LLC	35-14566	Decreed	11/3/1972	IRRIGATION	0.05	2.6	
288S 500W LLC	36-17158	Decreed	2/1/1961	DOMESTIC, IRRIGATION, STOCKWATER	0.03	1.0	
4 BROS DAIRY INC	37-2622	Decreed	10/6/1959	IRRIGATION	1.39	80.0	
ADAMS, CHERYL L; ADAMS, H LYLE; ADAMS, RODDY L	37-7078	Decreed	10/12/1970	COMMERCIAL, STOCKWATER	0.06	0.0	
AEI CORP	29-8037	License	11/13/1990	DOMESTIC, INDUSTRIAL	0.06	0.0	
AGRICULTURAL SERVICES INC	35-8857	License	9/6/1989	COMMERCIAL	0.04	0.0	
AGUEDA, JOE E; AGUEDA, SANDRA	36-14860	Decreed	12/31/1942	DOMESTIC, STOCKWATER	0.09	0.0	
ALLEN, CECIL; ALLEN, FLORENCE I	31-7398	Decreed	6/16/1983	COMMERCIAL, DOMESTIC	0.06	0.0	
AMERICAN FALLS RESERVOIR DISTRICT #2	36-11120	Decreed	11/27/1962	DOMESTIC, IRRIGATION	0.07	1.5	
ANDERSON, SAM; ANDERSON, STACIE	25-7490	License	3/15/1989	COMMERCIAL	0.04	0.0	
ARKOOSH, BONNIE; ARKOOSH, MICHAEL A	37-4273	Decreed	1/1/1925	DOMESTIC, STOCKWATER	0.11	0.0	
ARKOOSH, BONNIE; ARKOOSH, MICHAEL A	37-4274	Decreed	1/1/1949	DOMESTIC, STOCKWATER	0.11	0.0	
ARNOLD FEED LOT INC	25-12634	Decreed	7/1/1930	COMMERCIAL	0.04	0.0	
ARTCO INC	22-7473	License	12/23/1983	INDUSTRIAL, IRRIGATION	0.84	17.0	
ATKINSON, ANDREW ; ATKINSON, MARY	29-13736	License	2/21/2006	DOMESTIC	0.08	0.0	
B & F DISTRIBUTING CO	25-7555	License	10/12/1989	COMMERCIAL	0.04	0.0	
BABEL, PAUL; HAMPTON, WALLACE; PARKS, FRED A	25-7083	License	1/28/1976	DOMESTIC	0.06	0.0	
BAGBY, JESSICA; BAGBY, NASH	45-14561	Decreed	6/1/1939	IRRIGATION	0.09	7.0	
BAH REXBURG AC PROPERTY LLC	22-11451	Decreed	8/31/1960	IRRIGATION	0.04	2.0	
BAISCH, ROBERT L	35-7481	License	2/21/1975	DOMESTIC	0.08	0.0	
BARBEN, GORDON E; SAMPSON, KEN	27-7025	License	4/2/1973	DOMESTIC	0.08	0.0	
BARNA, BASIL; SNARR, DELMAR; SNARR, MARGARET; SNARR, MERLAND E; SNARR, ROBERT B; SUMMERS, RON	35-12291	Decreed	6/1/1945	DOMESTIC	0.11	0.0	
BARRUS, KEITH; MINKS, ROY; PLOCK, STEPHEN R; SCHNEIDER, SCOT L	25-7080	Decreed	1/28/1976	DOMESTIC	0.11	0.0	
BASIC AMERICAN INC	22-13806	Decreed	6/30/1945	COMMERCIAL, DOMESTIC, STOCKWATER	0.38	0.0	
BASIC AMERICAN POTATO CO INC	35-12853	Decreed	12/31/1948	COMMERCIAL	1.52	0.0	
BASIC AMERICAN POTATO CO INC	35-12062	Decreed	12/31/1957	COMMERCIAL	1.00	0.0	
BATES, ROBERT W; BATES, SHARON H; WILKINS, ELMA; WILKINS, LLOYD	25-7357	Decreed	6/16/1983	DOMESTIC	0.06	0.0	
BEAN, BRENT	45-14562	Decreed	6/1/1939	IRRIGATION	0.03	2.0	
BECO CONSTRUCTION CO INC	25-10226	Decreed	8/27/1953	DOMESTIC	0.28	0.0	
BECO CONSTRUCTION CO INC	25-4114	Decreed	8/27/1953	DOMESTIC	0.33	0.0	
BENJAMIN FARMS LLC	36-16649	Decreed	1/1/1940	DOMESTIC, IRRIGATION	0.03	0.6	
BENNETT, UDO	29-13940	Decreed	10/3/1977	IRRIGATION	0.13	7.5	
BEORCHIA, MICHAEL; BEORCHIA, REVA	35-14830	Decreed	1/26/1962	IRRIGATION	0.02	2.3	
BETTENCOURT, LUIS M; BETTENCOURT, SHARON L	36-17137	Decreed	6/1/1946	IRRIGATION	0.18	9.0	
BEVAN, DONNA; BEVAN, THOMAS	35-14773	Decreed	4/27/1964	IRRIGATION	0.08	2.0	
BEYER, PATRICK	25-7313	Decreed	4/11/1983	DOMESTIC, IRRIGATION	0.05	0.7	
BIG FIVE WATER ASSN	25-7199	Decreed	7/24/1980	DOMESTIC	0.11	0.0	
BIG SKY DAIRY	37-12832	Decreed	5/31/1919	DOMESTIC, STOCKWATER	0.04	0.0	
BIG SKY DAIRY	37-12831	Decreed	1/1/1940	DOMESTIC, STOCKWATER	0.07	0.0	

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Owner	Water Right No.	Basis	Priority Date	Water Use List	Diversion Rate (cfs)	Total Acres	Enlargement
BIGGS, DONALD; BIGGS, HELEN ; BUSH, ROBERT; OCKERMAN, JOY ; WINGERT, JEAN M	25-7082	Decreed	1/28/1976	DOMESTIC	0.16	0.0	
BINGHAM COUNTY	35-14757	License	9/21/1989	COMMERCIAL	0.13	0.0	
BINGHAM INVESTMENTS	29-14017	Decreed	12/31/1953	IRRIGATION	0.55	42.1	
BINGHAM INVESTMENTS	29-14018	Decreed	12/31/1953	INDUSTRIAL	0.11	0.0	
BINGHAM, BOYD A; BINGHAM, SHERRY R	36-8425	License	6/23/1989	IRRIGATION	0.88	105.0	
BINGHAM, JENNIFER; BINGHAM, JOSEPH	37-23385	Decreed	11/30/1965	IRRIGATION	0.31	30.0	
BINGHAM, JENNIFER; BINGHAM, JOSEPH	37-23384	Decreed	2/4/1976	IRRIGATION	0.24	30.0	
BINGHAM, JERRY D; BINGHAM, VALERIE H	35-2183D	Decreed	9/5/1950	IRRIGATION	1.73	156.0	
BINGHAM, JERRY D; BINGHAM, VALERIE H	35-2202B	Decreed	8/9/1951	DOMESTIC, IRRIGATION	4.80	285.0	
BINGHAM, JERRY D; BINGHAM, VALERIE H	35-2266	Decreed	10/9/1952	IRRIGATION	3.10	391.0	
BINGHAM, JERRY D; BINGHAM, VALERIE H	35-2269G	Decreed	10/23/1952	IRRIGATION	4.35	391.0	
BINGHAM, JERRY D; BINGHAM, VALERIE H	35-12226	Decreed	4/1/1987	IRRIGATION	0.59	285.0	Yes
BIRD, WARREN A; FARNES, LYLE R; RICKS, RICHARD; TOMCHAK, TYE	25-7375	Decreed	6/29/1983	DOMESTIC	0.10	0.0	
BLACK, KENNETH S; BLACK, NINA E	45-12776	Decreed	10/30/1960	DOMESTIC, STOCKWATER	0.23	0.0	
BLACKER, LOVEL L; BLACKER, MARVIN L	45-14141	Decreed	7/19/1954	IRRIGATION	0.07	3.7	
BLAINE COUNTY SCHOOL DISTRICT #61	37-22931	Decreed	11/25/1962	IRRIGATION	0.05	2.3	
BLEDSOE, HELEN M; HACKMAN, ERNEST A	35-7916	License	9/16/1980	DOMESTIC	0.08	0.0	
BLUE SAGE PROPERTIES LLC	36-14759	Decreed	7/15/1955	DOMESTIC, STOCKWATER	0.04	0.0	
BOAM, LARRY J	25-4204	Decreed	1/4/1940	DOMESTIC, IRRIGATION, STOCKWATER	0.17	1.0	
BOISE PACKAGING & NEWSPRINT LLC	45-2568	Decreed	4/1/1958	DOMESTIC, FIRE PROTECTION FROM STORAGE, FIRE PROTECTION STORAGE, FIRE PROTECTION	0.09	0.0	
BOLINDER, CATHERINE L	27-7322	License	6/8/1982	DOMESTIC	0.06	0.0	
BONNIE BARTON BANDY IRREVOCABLE TRUST	36-17287	Decreed	5/14/1974	IRRIGATION	0.08	4.0	
BOOTJACK LTD PARTNERSHIP	37-10146	Decreed	1/1/1950	DOMESTIC, STOCKWATER	0.04	0.0	
BORAN , MICHAEL J	35-11390	Decreed	6/1/1941	FISH PROPAGATION	20.00	0.0	
BORAN , MICHAEL J	35-4271B	Decreed	6/1/1945	FISH PROPAGATION	50.00	0.0	
BORAN , MICHAEL J	35-8635B	Decreed	12/17/1986	FISH PROPAGATION	0.72	0.0	
BORAN , MICHAEL J	35-8782	License	5/23/1989	FISH PROPAGATION	4.64	0.0	
BOWDEN, CHEREE; BOWDEN, GUY	31-12543	Decreed	7/31/1930	IRRIGATION	0.05	7.2	
BOWDEN, CHEREE; BOWDEN, GUY	31-12541	Decreed	8/19/1931	IRRIGATION	0.06	7.2	
BOWDEN, CHEREE; BOWDEN, GUY	31-12540	Decreed	9/4/1947	IRRIGATION, STOCKWATER	0.03	7.2	
BOWEN, BRAD	25-12253	Decreed	12/17/1951	DOMESTIC, IRRIGATION	0.07	1.0	
BRAGA, BRYAN	34-14685	Decreed	12/31/1955	DOMESTIC, IRRIGATION	0.04	2.0	
BRAY, CLAUDETTE; CAREY, JUNE G	45-11902	Decreed	3/15/1934	IRRIGATION	0.08	2.7	
BRIGGS, DAVID L; BRIGGS, JEANIE K	25-7466	License	11/17/1988	COMMERCIAL	0.04	0.0	
BRINKMANN, GEORGE	35-8893	License	3/29/1990	COMMERCIAL	0.01	0.0	
BROADHEAD, LYNN	35-8765	License	5/23/1989	COMMERCIAL	0.05	0.0	
BROWN, HAROLD	31-7513	License	11/23/1988	COMMERCIAL, DOMESTIC	0.07	0.0	
BROWN, HEATHER; BROWN, WAYNE W	36-14878	Decreed	12/31/1956	DOMESTIC, STOCKWATER	0.06	0.0	

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Owner	Water Right No.	Basis	Priority Date	Water Use List	Diversion Rate (cfs)	Total Acres	Enlargement
BROWN, JAN A; BROWN, SID E; MOMBERGER, JESSE C	31-7510	License	11/14/1988	DOMESTIC, IRRIGATION, STOCKWATER	0.11	2.0	
BROWN, KAMI; BROWN, SPENCER	31-12545	Decreed	6/1/1941	IRRIGATION	0.07	35.0	
BURDETTE INC	25-7532	License	9/20/1989	COMMERCIAL	0.04	0.0	
BURGESS SUBDIVISION WATER ASSN INC	25-7457	License	10/27/1988	DOMESTIC	0.11	0.0	
BURLEY IRRIGATION DISTRICT	45-10390	Decreed	6/19/1909	DOMESTIC	0.05	0.0	
BURNS CONCRETE INC	25-13982	License	12/18/2002	COMMERCIAL	3.53	0.0	
BURNS, KIRK E; SZIMHARDT, LINDA J	25-7426	License	6/6/1988	IRRIGATION	0.08	5.6	
BURRELL, GEORGE W; BURRELL, LURANA J; KEETCH, SHYANN; KEETCH, STETSON	29-13900	License	4/3/2009	DOMESTIC	0.08	0.0	
BURRUP, JOHN R; BURRUP, JON R	25-13085	Decreed	7/6/1958	COMMERCIAL, STOCKWATER	0.12	0.0	
BURT, DEBRA L; LIVERMORE, SEAN	25-14531	Decreed	8/1/1975	IRRIGATION	0.10	5.0	
CALLEN JR, JERRY R; CALLEN, PATRICIA	36-14326	Decreed	7/15/1919	DOMESTIC, STOCKWATER	0.04	0.0	
CALLEN JR, JERRY R; CALLEN, PATRICIA	36-15514	Decreed	9/30/1919	STOCKWATER	0.03	0.0	
CAMPBELL, ALTA	25-4136	Decreed	6/1/1955	IRRIGATION	0.02	0.3	
CANNERS SEED CORP	25-7449	License	10/13/1988	COMMERCIAL, DOMESTIC	0.04	0.0	
CANNON SHELLEY PROPERTY LTD PARTNERSHIP	27-12235	Decreed	8/19/1952	COMMERCIAL, STOCKWATER	0.43	0.0	
CARPENTER, BARBARA; CARPENTER, MAURICE	25-7193B	Decreed	4/30/1980	DOMESTIC, IRRIGATION, STOCKWATER	0.02	2.5	
CARRENO, OSCAR	36-15669	Decreed	2/18/1971	COMMERCIAL, STOCKWATER	0.02	0.0	
CARRENO, OSCAR	36-16240	Decreed	1/7/1974	COMMERCIAL, STOCKWATER	0.01	0.0	
CARSTENS, JULIUS M J	25-7481	License	12/22/1988	IRRIGATION	0.04	1.4	
CASA DEL NORTE LP	37-7081	Decreed	12/8/1970	IRRIGATION	1.67	840.0	
CASSIDY, FRANCIS J; HOFFMAN, RICHARD P; MEYER, DAVID DANIEL; MEYER, JENNY CLUFF; TANNER, TOMMY C	25-7638	License	4/25/1995	DOMESTIC	0.10	0.0	
CASTLE CONCRETE CO INC	27-10010	Decreed	6/20/1952	INDUSTRIAL	0.08	0.0	
CASTRO JR, VICENTE; CASTRO, PATRICIA	36-17297	Decreed	2/4/1976	IRRIGATION	0.06	3.1	
CEYNAR, MARCENE; FANN, LAVEDA A; FANN, R E; FARNSWORTH, BETH; FARNSWORTH, JAY; PICKERING, CRAIG; PICKERING, VICKY	25-7272	Decreed	2/4/1982	DOMESTIC	0.10	0.0	
CHALLENGER PALLET & SUPPLY	25-7451	License	12/1/1988	COMMERCIAL	0.04	0.0	
CHAMBERS, BOYD; HARRIS, JAMES; HARRIS, MARI; LOREN, RICHAN; STUEVE, KENNETH; SWEARINGER, ALDON; WADE, BILL	25-4210	Decreed	3/21/1960	DOMESTIC, IRRIGATION	0.19	2.4	
CHAMBERS, RALEIGH R	25-7343	License	6/27/1983	DOMESTIC	0.06	0.0	
CHAPMAN, GARY RAY; CHAPMAN, REBECCA LYNN	22-14405	Decreed	4/22/1979	IRRIGATION	0.04	2.0	
CHENEY, TAMARA	25-14466	Decreed	6/2/1931	IRRIGATION	0.01	0.5	
CHERRY, MARY ANN; CHERRY, ROBERT	25-14402	Decreed	7/19/1973	IRRIGATION	0.02	1.2	
CHRISTENSEN, ADAM W; NELSON, DIANE K	37-23133	Decreed	9/20/1974	IRRIGATION	0.02	0.8	
CHURCH OF JESUS CHRIST OF LATTER DAY SAINTS	25-14347	Decreed	8/19/1952	IRRIGATION	0.05	3.1	
CHURCH OF JESUS CHRIST OF LATTER DAY SAINTS	25-14348	Decreed	8/19/1952	IRRIGATION	0.04	2.5	
CHURCH OF JESUS CHRIST OF LATTER DAY SAINTS	25-14349	Decreed	8/19/1952	IRRIGATION	0.03	5.4	
CHURCH OF JESUS CHRIST OF LATTER DAY SAINTS	25-14350	Decreed	8/19/1952	IRRIGATION	0.04	2.6	
CITY OF BUTTE CITY	34-4028	Decreed	5/10/1952	FIRE PROTECTION, MUNICIPAL	0.23	0.0	
CITY OF BUTTE CITY	34-4027	Decreed	6/20/1960	FIRE PROTECTION, MUNICIPAL	0.23	0.0	

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Owner	Water Right No.	Basis	Priority Date	Water Use List	Diversion Rate (cfs)	Total Acres	Enlargement
CITY OF DUBOIS	31-10002	Decreed	1/1/1921	MUNICIPAL	0.78	0.0	
CITY OF DUBOIS	31-7011	Decreed	5/29/1968	MUNICIPAL	1.35	0.0	
CITY OF DUBOIS; UNION PACIFIC RAILROAD CO	31-10001	Decreed	2/16/1903	MUNICIPAL	0.33	0.0	
CITY OF MINIDOKA	36-15504	Decreed	9/1/1905	MUNICIPAL	0.53	0.0	
CITY OF MUD LAKE	31-10379	Decreed	2/7/1956	MUNICIPAL	1.00	0.0	
CITY OF MUD LAKE	31-7146	Decreed	11/15/1974	FIRE PROTECTION, MUNICIPAL	2.23	0.0	
CLARK, ELLEN	45-12773	Decreed	7/15/1952	DOMESTIC, IRRIGATION	0.14	3.4	
CLAYSON, CASEY; CLAYSON, SHANE	45-7496	Decreed	1/27/1982	DOMESTIC, IRRIGATION	0.06	0.7	
CLIMER, KATHY	35-14879	Decreed	12/10/1948	IRRIGATION	0.20	10.0	
CLINGER, ILA; CLINGER, LELAND	29-2267A	Decreed	10/16/1949	DOMESTIC	0.08	0.0	
CLOSE, ROBERT; CLOSE, SALLY	25-11547	Decreed	1/31/1959	DOMESTIC, IRRIGATION	0.07	1.0	
COMMUNITY WELL PROJECT; VAUGHN, BILL	25-4103	Decreed	12/31/1958	DOMESTIC	0.11	0.0	
COOK, CHARLES S; COOK, JUDITH; SORENSEN, BARRY	35-10512	Decreed	6/15/1952	COMMERCIAL, DOMESTIC, STOCKWATER	0.11	0.0	
COOK, DANNY; COOK, DARRELL L	35-7979	License	5/5/1981	DOMESTIC	0.06	0.0	
COOK, DONALD J	35-7362	License	12/27/1973	DOMESTIC, STOCKWATER	0.05	0.0	
COOK, JESSICA; COOK, STEVEN MATTHEW	45-14570	Decreed	6/1/1939	IRRIGATION	0.09	7.5	
COOK, STEVEN MATTHEW; COOK, TRISTA	45-14571	Decreed	6/1/1939	IRRIGATION	0.06	4.5	
CORDES, RONALD A	25-7488	License	2/14/1989	DOMESTIC, IRRIGATION	0.10	3.0	
CORDON TRAILER COURT	25-10195	Decreed	3/11/1960	COMMERCIAL	0.13	0.0	
CORP OF THE PRESIDING BISHOP	25-4237	Decreed	5/8/1935	DOMESTIC	0.16	0.0	
CORP OF THE PRESIDING BISHOP	25-4200	Decreed	1/1/1951	DOMESTIC, IRRIGATION	0.07	0.6	
CORP OF THE PRESIDING BISHOP	22-12780	Decreed	10/1/1953	DOMESTIC, IRRIGATION	0.07	2.4	
COUNTRY CLUB WATER	25-14447	Decreed	1/27/1976	IRRIGATION	0.03	18.7	
COUNTRY CLUB WATER	25-14448	Decreed	10/31/1986	IRRIGATION	0.01	18.7	Yes
COUNTRY LIFE ESTATES WATER USERS ASSN	25-7033	Decreed	3/27/1973	DOMESTIC	0.20	0.0	
COUNTRY LIFE ESTATES WATER USERS ASSN	25-7046	Decreed	3/8/1974	DOMESTIC	0.73	0.0	
COUNTY OF JEFFERSON	25-13985	License	5/13/2003	RECREATION STORAGE	0.00	0.0	
COUNTY OF JEROME AIRPORT	36-14477	Decreed	1/13/1954	COMMERCIAL, DOMESTIC	0.08	0.0	
COX, CHAD; COX, STACY	29-14511	Decreed	12/28/1948	IRRIGATION	0.05	2.5	
CRANDALL, JEFF; CRANDALL, SUSAN	35-8658	License	11/2/1985	DOMESTIC	0.06	0.0	
CRANE, CALVIN C	45-7303	Decreed	5/10/1977	IRRIGATION, STOCKWATER	1.28	62.0	
CRANE, JIM; CRANE, SHERRIE	45-14564	Decreed	6/1/1939	IRRIGATION	0.05	3.5	
CRANE, KARI L; CRANE, TROY W	45-4067B	Decreed	8/1/1962	IRRIGATION	1.46	73.0	
CRARY INDUSTRIES INC	36-11369	Decreed	8/20/1959	COMMERCIAL	0.03	0.0	
CRESPO TRUCKING INC	37-8355	License	8/9/1988	COMMERCIAL, DOMESTIC	0.04	0.0	
CRM CO	25-7554	License	9/8/1989	COMMERCIAL	0.04	0.0	
CROMWELL, VERNAL D	25-7446	License	10/21/1988	DOMESTIC	0.06	0.0	
CRONQUIST, CAMERON; CRONQUIST, LORI	35-14895	Decreed	8/19/1977	IRRIGATION	0.09	5.0	
CROP PRODUCTION SERVICES	25-4250	Decreed	3/8/1963	COMMERCIAL	0.10	0.0	

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CROP PRODUCTION SERVICES	27-7371	Decreed	6/29/1983	COMMERCIAL	0.04	0.0	
CROP PRODUCTION SERVICES	35-8627	Decreed	4/4/1989	COMMERCIAL	0.16	0.0	
CROTTS, RICHARD S; MC CONNELL, FRANCES L	37-23627	Decreed	9/20/1974	IRRIGATION	0.08	6.4	
CROWN OF LIFE LUTHERAN CHURCH	25-7434	License	8/30/1988	COMMERCIAL	0.04	0.0	
CRUMLEY, DUSTIN R; CRUMLEY, FELICIA	35-14875	Decreed	4/1/1951	IRRIGATION	0.07	5.0	
CRUMRINE, ERIC R; CRUMRINE, SAMANTHA MARIE	36-11149	Decreed	5/20/1965	DOMESTIC, STOCKWATER	0.04	0.0	
CS PROPERTY DEVELOPMENT LLC	36-16189	Decreed	8/10/1973	IRRIGATION	0.04	3.0	
D & M WATER ASSN	29-7281	Decreed	8/4/1975	DOMESTIC	0.26	0.0	
D & M WATER ASSN	29-7367	Decreed	2/7/1977	DOMESTIC	0.40	0.0	
DALTON, DOUG	29-7858	License	2/22/1989	COMMERCIAL	0.08	0.0	
DANCE, DAVID P; DANCE, KARAN D	35-8822	License	7/3/1989	COMMERCIAL	0.01	0.0	
DANCING DRAGONFLY LLC	25-4165	Decreed	6/19/1959	DOMESTIC, IRRIGATION	0.16	2.0	
DANIEL, BRENDA	25-7447	License	10/25/1988	IRRIGATION	0.02	1.0	
DANIEL, BRENDA; DANIEL, DAVID S	25-7261	Decreed	10/8/1981	DOMESTIC, IRRIGATION, STOCKWATER	0.04	2.0	
DANIEL, MELVIN R JR	25-7538	License	9/19/1989	COMMERCIAL	0.07	0.0	
DASCANIO, ELIZABETH; DASCANIO, JUSTIN	35-14588	Decreed	12/31/1940	IRRIGATION	0.16	15.0	
DASCANIO, ELIZABETH; DASCANIO, JUSTIN	35-14587	Decreed	3/5/1948	IRRIGATION	0.11	15.0	
DASCANIO, ELIZABETH; DASCANIO, JUSTIN	35-14589	Decreed	9/28/1981	IRRIGATION	0.01	15.0	
DAVENPORT, KENDALL E; DAVENPORT, YOLANDA L	22-10395	Decreed	4/1/1947	DOMESTIC, IRRIGATION	0.06	1.1	
DAVIS, ERNIE; DAVIS, RHONDA	35-8814	License	9/5/1989	COMMERCIAL	0.04	0.0	
DAVISON, NANCY; DAVISON, RANDY LEE	25-7017A	Decreed	3/20/1972	IRRIGATION	0.42	21.0	
DE GIULIO RANCHES INC	35-10346	Decreed	6/1/1901	DOMESTIC, STOCKWATER	0.09	0.0	
DE MOSS, GARY A; DE MOSS, HELEN	37-22168	Decreed	9/20/1974	IRRIGATION, STOCKWATER	1.61	802.0	
DE MOTT, WILLIAM J; GROVER, LA VAR; RIGBY, WILLIAM F	25-7537	License	9/20/1989	COMMERCIAL	0.08	0.0	
DE VRIES, KRISTY; DE VRIES, WIETZE	45-14556	Decreed	3/10/1960	COMMERCIAL	0.10	0.0	
DE VRIES, KRISTY; DE VRIES, WIETZE	45-14557	Decreed	12/8/1981	COMMERCIAL	0.06	0.0	
DEAN, DONALD K; DEAN, LINDA J	45-11743	Decreed	9/30/1949	IRRIGATION	0.02	0.7	
DECKER, JENNY	25-10609	Decreed	6/30/1940	DOMESTIC, IRRIGATION	0.14	5.0	
DEES, ELDON G; DEES, KATHALINE; DEES, RONALD K; DEES, SHIRLEY	25-7351	Decreed	6/24/1983	DOMESTIC, STOCKWATER	0.06	0.0	
DERBYHAWK LLC	25-7553	License	9/27/1989	DOMESTIC	0.11	0.0	
DIAMOND A LIVESTOCK INC	37-21492	Decreed	6/1/1971	COMMERCIAL	0.04	0.0	
DIETRICH SCHOOL DISTRICT #314	37-4317	Decreed	8/1/1935	DOMESTIC	0.09	0.0	
DILWORTH, ALMA L; DILWORTH, THOMAS R	37-10029	Decreed	1/1/1917	DOMESTIC	0.05	0.0	
DIXON, ANNIE; JAHN, ROBERT	35-7823	License	11/22/1978	DOMESTIC, STOCKWATER	0.05	0.0	
DOMINICK, TERESA	25-7073F	Decreed	8/1/1975	IRRIGATION	0.10	5.0	
DOUG ANDRUS DISTRIBUTING INC	35-12529	Decreed	1/1/1950	COMMERCIAL	0.18	0.0	
DOWNS, LONNIE W	45-11932	Decreed	5/25/1953	COMMERCIAL	0.01	0.0	
DREW, STAN	29-8237	License	4/17/2000	DOMESTIC	0.11	0.0	
DUFFY & CONNIE ENTERPRISES LLC	22-7605	License	10/19/1988	COMMERCIAL	0.02	0.0	

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E Z LIVIN TRAILER COURT	45-10479	Decreed	12/31/1958	COMMERCIAL	0.20	0.0	
EAMES, LINDA J	25-7643	License	12/4/1995	DOMESTIC	0.18	0.0	
EAST FAIRVIEW WATER WELL CO	25-12791	Decreed	4/1/1961	DOMESTIC	0.11	0.0	
EAST RIVER COMMONS HOME OWNER ASSN	25-7143	Decreed	3/12/1978	DOMESTIC	0.16	0.0	
EDEN, GARY; EDEN, GLENNA R	37-10188	Decreed	1/1/1944	DOMESTIC, STOCKWATER	0.04	0.0	
EDSTROM CONSTRUCTION PROPERTIES LLP	22-14542	Permit	3/27/2023	INDUSTRIAL STORAGE, INDUSTRIAL, RECREATION STORAGE	4.00	0.0	
EGANS GREEN HOUSE	25-7433	License	7/25/1988	COMMERCIAL	0.04	0.0	
ELDREDGE, DALE C; ELDREDGE, RENEE J	37-10142	Decreed	5/1/1951	COMMERCIAL, DOMESTIC, STOCKWATER	0.08	0.0	
ELK RIDGE RV LLC	36-17282	Decreed	2/2/1954	COMMERCIAL	0.11	0.0	
ELK RIDGE RV LLC	36-17283	Decreed	3/1/1975	COMMERCIAL	0.03	0.0	Yes
ESKELSON, BRANDON	35-14508	Decreed	5/1/1959	DOMESTIC, IRRIGATION	0.05	2.0	
EVANS GRAIN & ELEVATOR CO	35-8848	License	11/6/1989	COMMERCIAL	0.04	0.0	
FALL RIVER TRADING POST	21-7412	License	3/1/1989	COMMERCIAL, DOMESTIC	0.04	0.0	
FALLS IRRIGATION DISTRICT / US BUREAU OF RECLAMATION	29-2262	Decreed	1/24/1946	IRRIGATION	2.00	0.0	
FALLS IRRIGATION DISTRICT / US BUREAU OF RECLAMATION	29-2267	Decreed	10/16/1949	IRRIGATION	0.44	0.0	
FALLS IRRIGATION DISTRICT / US BUREAU OF RECLAMATION	29-2288	Decreed	5/19/1950	IRRIGATION	2.00	0.0	
FALLS IRRIGATION DISTRICT / US BUREAU OF RECLAMATION	29-13388	Decreed	6/18/1950	IRRIGATION	2.30	0.0	
FALLS IRRIGATION DISTRICT / US BUREAU OF RECLAMATION	29-13389	Decreed	6/18/1950	IRRIGATION	0.21	0.0	
FALLS IRRIGATION DISTRICT / US BUREAU OF RECLAMATION	29-2306	Decreed	7/2/1951	IRRIGATION	2.80	0.0	
FALLS IRRIGATION DISTRICT / US BUREAU OF RECLAMATION	29-2307	Decreed	7/2/1951	IRRIGATION	2.00	0.0	
FALLS IRRIGATION DISTRICT / US BUREAU OF RECLAMATION	29-13426	Decreed	1/15/1952	IRRIGATION	2.02	0.0	
FALLS IRRIGATION DISTRICT / US BUREAU OF RECLAMATION	29-13427	Decreed	1/15/1952	IRRIGATION	0.73	0.0	
FALLS IRRIGATION DISTRICT / US BUREAU OF RECLAMATION	29-2614	Decreed	2/16/1953	IRRIGATION	1.52	0.0	
FALLS IRRIGATION DISTRICT / US BUREAU OF RECLAMATION	29-2341	Decreed	10/29/1953	IRRIGATION	2.00	0.0	
FALLS WATER CO INC	25-14383	Decreed	8/19/1952	IRRIGATION	0.08	77.5	
FALLS WATER CO INC	25-14385	Decreed	8/19/1952	IRRIGATION	0.05	77.5	
FALLS WATER CO INC	25-14442	Decreed	10/28/1953	IRRIGATION	0.07	13.0	
FANNING, DAWN	29-2344D	Decreed	12/31/1953	IRRIGATION	0.04	3.0	
FARMERS MERCHANT INC	35-7723	Decreed	7/4/1977	DOMESTIC, INDUSTRIAL	0.04	0.0	
FAULKNER LAND & LIVESTOCK CO INC	37-10597	Decreed	12/31/1949	DOMESTIC, STOCKWATER	0.17	0.0	
FEATHERSTON, SHIRLEY K	35-10999	Decreed	12/31/1927	DOMESTIC, IRRIGATION, STOCKWATER	0.10	1.3	
FEHRINGER, MARTIN	29-14051	Decreed	2/23/1966	IRRIGATION	0.02	1.5	
FELD, TODD	35-13284	Decreed	2/23/1972	COMMERCIAL, STOCKWATER	0.30	0.0	
FERGUSON, JEANINE; FERGUSON, LARRY G	25-10022	Decreed	12/31/1937	DOMESTIC, IRRIGATION, STOCKWATER	0.14	1.0	
FERGUSON, ROGER N	21-7385	License	9/30/1988	COMMERCIAL	0.04	0.0	
FIELDS, KAREN C; FIELDS, VIRGIL	37-7699	Decreed	2/23/1978	DOMESTIC, STOCKWATER	0.20	0.0	
FMC IDAHO LLC	29-2255C	Decreed	5/22/1939	INDUSTRIAL	0.64	0.0	
FMC IDAHO LLC	29-2255E	Decreed	9/16/1949	IRRIGATION	0.04	2.0	
FMC IDAHO LLC	29-11342	Decreed	9/1/1953	MUNICIPAL	1.10	0.0	

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FOSTER FAMILY FARMS INC	35-8773	License	6/7/1989	COMMERCIAL, DOMESTIC	0.04	0.0	
FOSTER FAMILY FARMS INC	35-8774	License	6/20/1989	COMMERCIAL	0.04	0.0	
FOUR SEASONS WATER CO	27-7351	License	4/20/1983	DOMESTIC	0.29	0.0	
FOUR SQUARE WATER WELL CORP	25-7327	Decreed	2/4/1985	DOMESTIC, IRRIGATION	0.16	3.0	
FOWLER, GARY L; SOMSEN, DIANNE L; SOMSEN, G FRANK; SOMSEN, KRISTINE P; SOMSEN-FOWLER, SARA D	45-13574	Decreed	4/28/1954	IRRIGATION	0.49	321.0	
FOWLER, GARY L; SOMSEN, DIANNE L; SOMSEN, G FRANK; SOMSEN, KRISTINE P; SOMSEN-FOWLER, SARA D	45-2491	Decreed	3/25/1955	IRRIGATION	3.14	321.0	
FRANKLIN DON WIXOM & ZOE FAR WIXOM FAMILY TRUST	45-10575	Decreed	3/15/1939	IRRIGATION, STOCKWATER	0.10	5.0	
FREMONT COUNTY	22-4015	Decreed	4/1/1962	INDUSTRIAL	0.33	0.0	
FULLMER, APRIL; FULLMER, NICHOLAS	25-4106	Decreed	4/1/1959	IRRIGATION	0.05	1.7	
FUNK, LEROY; FUNK, RONDA	45-2672	Decreed	10/26/1961	IRRIGATION	1.00	71.0	
GARDNER FARMS	35-14829	Decreed	6/30/1950	COMMERCIAL, STOCKWATER	0.86	0.0	
GARDNER FARMS	35-14825	Decreed	6/4/1954	IRRIGATION	0.20	320.0	
GARY & PAMELA ROGERS FAMILY TRUST	34-7118B	Decreed	11/24/1975	IRRIGATION	8.81	440.0	
GENERAL MILLS OPERATIONS INC	35-2857B	Decreed	1/16/1967	INDUSTRIAL	0.23	0.0	
GERRATT, LARRY	45-2180	Decreed	10/13/1934	IRRIGATION	2.00	151.0	
GERRATT, LARRY	45-11613	Decreed	7/22/1955	IRRIGATION	0.60	151.0	
GILLEN, NORMAN	27-7585	License	4/20/1999	DOMESTIC	0.14	0.0	
GLEN CAPPS INC	36-8176	Decreed	3/31/1983	COMMERCIAL, DOMESTIC	0.04	0.0	
GO LLC	27-12180	Decreed	9/30/1905	COMMERCIAL, INDUSTRIAL	0.76	0.0	
GOLDEN VALLEY MEAT LLC	35-7642	Decreed	10/1/1976	COMMERCIAL	0.05	0.0	
GOLDEN VALLEY MEAT LLC	35-8710	License	3/8/1989	COMMERCIAL	0.94	0.0	
GONZALES, FERNANDO B; GONZALES, IRENE H	29-7238	Decreed	10/31/1974	DOMESTIC, IRRIGATION	0.11	8.0	
GONZALES, FERNANDO B; GONZALES, IRENE H	29-7984	Decreed	4/23/1990	IRRIGATION	0.03	8.0	
GONZALEZ, LAURA; ORTIZ, JULIO	29-14346	Decreed	12/16/1963	IRRIGATION	0.03	2.0	
GOOCH, BEATRICE; GOOCH, ELLIS	37-21156	Decreed	2/18/1971	COMMERCIAL, STOCKWATER	0.02	0.0	
GOUGH, SHAUN	37-23373	License	8/22/1988	IRRIGATION	0.03	1.5	
GRAFF, MICHAEL R	36-4206	Decreed	1/1/1952	DOMESTIC, IRRIGATION	0.04	2.0	
GRAVES, FRANCES M; GRAVES, RICHARD L	37-7371	Permit	7/31/1974	DOMESTIC, IRRIGATION, STOCKWATER	6.49	320.0	
GRAYBEAL, EMILY; GRAYBEAL, JASON	37-4052	Decreed	4/1/1962	DOMESTIC, IRRIGATION	0.08	1.4	
GRISENTI, CHEYANNA; GRISENTI, TYSON	36-17209	Decreed	6/21/1960	IRRIGATION	0.08	4.0	
GROVER, ALICE MAE; GROVER, MELVIN G	25-7480	License	1/9/1989	DOMESTIC, IRRIGATION, STOCKWATER	0.07	3.0	
GROVER, JACK H; GROVER, ROBERTA CAROL	35-10496	Decreed	4/1/1948	COMMERCIAL	0.02	0.0	
GUMMERSON, CHARLES E; GUMMERSON, REBECCA M	45-4033A	Decreed	8/1/1935	DOMESTIC, IRRIGATION, STOCKWATER	0.08	1.8	
GUNDERSON, ADEN	35-14176	Decreed	12/31/1940	IRRIGATION	0.21	20.0	
GUNDERSON, ADEN	35-14174	Decreed	3/5/1948	IRRIGATION	0.15	20.0	
GUNDERSON, ADEN	35-14178	Decreed	9/28/1981	IRRIGATION	0.01	20.0	
GUNDERSON, BONNIE; GUNDERSON, GARTH	35-14584	Decreed	12/31/1940	IRRIGATION	0.03	3.2	
GUNDERSON, BONNIE; GUNDERSON, GARTH	35-14583	Decreed	3/5/1948	IRRIGATION	0.02	3.2	

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GUNDERSON, BRENT G	35-4275B	Decreed	6/1/1938	IRRIGATION	0.08	5.7	
H & T PROPERTIES LLC	36-8312	License	8/15/1986	STOCKWATER	0.05	0.0	
HAFFNER, JOYCE; HAFFNER, WAYNE	36-16650	Decreed	1/1/1940	DOMESTIC, IRRIGATION	0.03	0.4	
HAMILTON LAND & LIVESTOCK	32-4049	Decreed	1/28/1926	DOMESTIC, IRRIGATION, STOCKWATER	0.15	1.0	
HAMMOND, LORNA O; THE SHELTERED TRUST	35-8016	License	1/18/1982	DOMESTIC, STOCKWATER	0.06	0.0	
HANCOCK, DEAN	25-14496	Decreed	4/22/1979	IRRIGATION	0.02	1.0	
HANSEN, WILLIAM KORBY	25-7458	License	11/8/1988	DOMESTIC, IRRIGATION	0.09	1.7	
HARDY, ANITA KAY	36-17152	Decreed	11/7/1974	IRRIGATION	0.63	31.5	
HAROLDSEN, G ERIC; HAROLDSEN, GRANT O	25-7300	Decreed	1/5/1983	DOMESTIC, STOCKWATER	0.06	0.0	
HARPER, DAVID; HARPER, HEATHER	35-14725	Decreed	12/31/1940	IRRIGATION	0.18	17.2	
HARPER, DAVID; HARPER, HEATHER	35-14722	Decreed	3/5/1948	IRRIGATION	0.12	17.2	
HARPER, DAVID; HARPER, HEATHER	35-14728	Decreed	9/28/1981	IRRIGATION	0.01	17.2	
HARRIS, BILL B	25-7489	License	2/23/1989	DOMESTIC, STOCKWATER	0.06	0.0	
HART, BOB; HART, MELANIE	25-7520	License	10/16/1989	COMMERCIAL	0.04	0.0	
HART, BOB; HART, NORMA; JOHNSTON, JACOB; JONES, ROBERT I; STIBAL, JOHN	25-7081	Decreed	1/28/1976	DOMESTIC	0.19	0.0	
HASLAM, LAVORE	35-8629	License	4/8/1986	DOMESTIC, STOCKWATER	0.06	0.0	
HAYES, AMY; HAYES, DESTRY	35-14638	Decreed	6/1/1938	IRRIGATION	0.04	3.3	
HAYES, AMY; HAYES, DESTRY	35-14639	Decreed	9/28/1981	IRRIGATION	0.02	3.3	
HEATH, AFTON M; HEATH, CLEM J	35-8617	Decreed	8/18/1985	COMMERCIAL	0.04	0.0	
HELENA CHEMICAL CO	22-7520	Decreed	11/7/1985	COMMERCIAL	0.02	0.0	
HELSLEY HENDRIX, JEANINE P; HELSLEY, BRIAN T	36-16561	Decreed	2/8/1971	IRRIGATION	0.03	3.0	
HENRIE, JAREM	25-7302	Decreed	1/25/1983	DOMESTIC, IRRIGATION, STOCKWATER	0.05	2.0	
HENSLEY, FLOYD W; LOCKES, DAROLD; REYNOLDS, LYNN; WESSEL, TERESA	25-7084	Decreed	1/28/1976	DOMESTIC	0.06	0.0	
HERITAGE DEVELOPMENT	29-8173	License	7/19/1996	DOMESTIC	0.27	0.0	
HIGHWAY ESTATES WATER USERS INC	25-7038	Decreed	9/20/1973	DOMESTIC	0.20	0.0	
HIGLEY DEVELOPMENTS LLC	25-14444	Decreed	10/28/1953	IRRIGATION	0.05	2.8	
HILLSDALE HIGHWAY DISTRICT	45-13664	Decreed	4/28/1951	IRRIGATION	0.33	18.4	
HINCKLEY, LA PREAL	25-14005	License	10/12/2003	IRRIGATION	0.06	3.0	
HOBBS, LAURA LEE	25-7540	License	8/18/1989	DOMESTIC	0.10	0.0	
HOFFBUHR INVESTMENT CO LLC	45-13668	Decreed	4/28/1951	IRRIGATION	0.02	1.0	
HOLDAWAY, CHAD	31-4069	Decreed	12/31/1961	DOMESTIC, STOCKWATER	0.16	0.0	
HOLLY FARMS LTD	37-12380	Decreed	12/31/1920	DOMESTIC, STOCKWATER	0.23	0.0	
HONDO, AKIYE I; HONDO, DANIEL A	45-2664	Decreed	8/30/1961	IRRIGATION	2.00	157.0	
HOOPER, LLOYD C	25-7531	License	10/22/1989	COMMERCIAL	0.04	0.0	
HOPKINS PACKING CO	35-13636	Decreed	9/2/1911	COMMERCIAL, STOCKWATER	0.11	0.0	
HUETTIG, BRIAN J; HUETTIG, LARRY; HUETTIG, NANCY	36-16866	Decreed	1/8/1951	COMMERCIAL	0.03	0.0	
HUFF CREEK LLC	37-2676	Decreed	12/11/1961	IRRIGATION	1.85	450.4	
HULSE, BETTY J; HULSE, VERNON R	25-14185	Decreed	4/1/1903	IRRIGATION	0.06	2.0	
HULTS , JOSEPH; HULTS, KAY A	36-17221	Decreed	1/5/1966	IRRIGATION	1.41	100.4	

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HULTZ, JEAN ISLAY	35-4187	Decreed	7/1/1962	COMMERCIAL, DOMESTIC	0.06	0.0	
HUNSTMANS PROPERTIES	27-7511	License	4/20/1990	COMMERCIAL	0.33	0.0	
HURD, KENNETH L; HURD, PATRICIA L	37-10987	Decreed	1/1/1929	DOMESTIC	0.06	0.0	
ID DEPARTMENT OF LANDS	37-12535	Decreed	1/1/1962	COMMERCIAL	0.04	0.0	
ID DEPARTMENT OF LANDS	37-7372	License	6/30/1999	IRRIGATION, STOCKWATER	6.40	287.0	
ID DEPARTMENT OF PARKS AND RECREATION	41-7006	Decreed	5/20/1971	IRRIGATION	0.18	3.0	
ID DEPARTMENT OF PARKS AND RECREATION	36-17147	Decreed	8/7/1973	IRRIGATION	0.06	5.0	
ID DEPARTMENT OF TRANSPORTATION	25-2111	Decreed	1/28/1953	DOMESTIC	0.38	0.0	
ID DEPARTMENT OF TRANSPORTATION	36-15466	Decreed	10/1/1955	COMMERCIAL	0.04	0.0	
ID DEPARTMENT OF TRANSPORTATION	22-7317	Decreed	1/31/1980	COMMERCIAL, DOMESTIC	0.04	0.0	
ID DEPARTMENT OF TRANSPORTATION	31-7372	Decreed	1/28/1982	INDUSTRIAL	0.05	0.0	
ID DEPARTMENT OF TRANSPORTATION	35-8625	License	1/13/1986	DOMESTIC	0.06	0.0	
IDAHO FALLS COUNTRY CLUB INC	25-13372	Decreed	12/31/1961	COMMERCIAL, IRRIGATION	0.67	132.0	
IDAHO FALLS FARMS LLC	35-14677	Decreed	2/3/1953	IRRIGATION	5.08	1079.5	
IDAHO POTATO PACKERS CORP	35-8909	License	8/3/1990	COMMERCIAL	0.01	0.0	
INGREDION INC	25-4162	Decreed	6/30/1952	COMMERCIAL	0.86	0.0	
INTERSTATE MFG	36-8454	License	9/14/1989	COMMERCIAL	0.04	0.0	
IRELAND ACRES #2	25-7273	Decreed	2/1/1982	DOMESTIC	0.05	0.0	
IRELAND ACRES MOBILE HOME PARK	25-7195	Decreed	6/4/1980	DOMESTIC	0.54	0.0	
J & D PROPERTIES LLC	31-7511	License	11/30/1988	COMMERCIAL	0.03	0.0	
J & L HOLDINGS LLC	25-14481	Decreed	3/20/1959	IRRIGATION	0.03	2.5	
J & L HOLDINGS LLC	25-14509	Decreed	4/22/1979	IRRIGATION	0.04	2.0	
J D HEISKELL HOLDINGS LLC	37-22664	Decreed	8/19/1952	COMMERCIAL	0.01	0.0	
J R SIMPLOT CO	29-7036	Decreed	9/10/1969	DOMESTIC, INDUSTRIAL	0.03	0.0	
J T LAND LLC	36-15271	Decreed	7/10/1947	DOMESTIC, STOCKWATER	0.07	0.0	
JACOBS, GEORGE J	25-7321	License	5/9/1983	DOMESTIC, STOCKWATER	0.08	0.0	
JANSSEN, KARLEEN A	25-12143	Decreed	2/8/1985	COMMERCIAL	0.04	0.0	
JARVIS, WADE DEE	29-11410	Decreed	5/14/1960	DOMESTIC, IRRIGATION, STOCKWATER	0.08	1.2	
JEFFERSON SCHOOL DISTRICT #251	35-8683	License	12/2/1988	INDUSTRIAL	0.02	0.0	
JEFFERSON SCHOOL DISTRICT #251	25-7472	License	1/23/1989	DOMESTIC	0.07	0.0	
JENKINS, FRANK L	22-11197	Decreed	6/6/1980	COMMERCIAL, DOMESTIC	0.04	0.0	
JENKINS, JOEL	25-11303	Decreed	4/1/1930	COMMERCIAL	0.04	0.0	
JENSON, RONALD; JENSON, SHARON	25-10156	Decreed	10/1/1959	DOMESTIC, IRRIGATION, STOCKWATER	0.09	1.5	
JENTZSCH, RODNEY A	36-13599	Decreed	4/15/1956	COMMERCIAL, DOMESTIC	0.04	0.0	
JEROME CHEESE CO	35-14253	Decreed	8/19/1952	MITIGATION	0.06	0.0	
JEROME COUNTY ROD & GUN CLUB	36-8620	License	11/14/1991	COMMERCIAL, IRRIGATION	0.02	0.5	
JOHNSON, DON A; JOHNSON, LAURIE	25-7493	License	3/8/1989	DOMESTIC	0.06	0.0	
JOHNSON, MELISSA	25-7455	License	10/21/1988	DOMESTIC, IRRIGATION	0.07	1.0	
JOHNSON, RODNEY M; JOHNSON, SHERRY L	36-17277	Decreed	11/28/1977	IRRIGATION	0.04	2.0	

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JONES, CLYDE R; JONES, HELEN	25-12037	Decreed	12/31/1948	IRRIGATION	0.11	5.4	
JOSEPHSON, JEANETTE; JOSEPHSON, JOHN	35-8719	License	4/14/1989	INDUSTRIAL	0.04	0.0	
JOURNEYS END HOMEOWNERS ASSN	35-13612	License	11/24/2003	DOMESTIC	0.40	0.0	
JOURNEYS END HOMEOWNERS ASSN	35-13611	License	1/13/2007	COMMERCIAL, DOMESTIC	0.11	0.0	
K & J HOLDING LLC	31-10737	Decreed	12/12/1948	COMMERCIAL, DOMESTIC, STOCKWATER	0.04	0.0	
K & M LAND COMPANY LLC	36-15028	Decreed	5/1/1910	DOMESTIC, STOCKWATER	0.06	0.0	
K & M LAND COMPANY LLC	36-16301	Decreed	6/11/1957	COMMERCIAL, STOCKWATER	0.02	0.0	
KAREY LANE WELL ASSN	35-7698	Decreed	8/11/1983	DOMESTIC	0.14	0.0	
KAREY LANE WELL ASSN	35-8943	License	5/3/1991	DOMESTIC	0.09	0.0	
KAY, JUSTINE; KAY, THOMAS F; LEVESQUE, GLENDA R	34-2484	Decreed	8/12/1966	IRRIGATION	0.01	2.0	
KEITH SKAAR FARMS INC	25-13312	Decreed	5/1/1962	COMMERCIAL	0.04	0.0	
KERBS OIL CO INC	45-7644	License	5/22/1989	COMMERCIAL	0.04	0.0	
KEYBANK NATIONAL ASSOC	25-7517	License	8/24/1989	COMMERCIAL	0.50	0.0	
KING, FERRIL; KING, RENE	36-8440	License	9/7/1989	COMMERCIAL	0.02	0.0	
KINGHORN, KAYLYNN; KINGHORN, LORAN; PARSONS, KARLA M; PARSONS, WILLIAM T	35-13441	Decreed	5/1/1960	COMMERCIAL	0.04	0.0	
KIRBY, DORIS F; KIRBY, ELWOOD	35-7860	License	6/20/1979	DOMESTIC	0.08	0.0	
KIT CIRCLE LLC	22-7296	Decreed	6/19/1979	DOMESTIC	0.16	0.0	
KITS FOUNDRY & MACHINE SHOP INC	27-7460	License	5/16/1989	DOMESTIC, INDUSTRIAL	0.05	0.0	
KLASSEN, HAROLD J	35-8724	License	4/10/1989	COMMERCIAL	0.02	0.0	
KLOEPFER INC	45-13665	Decreed	4/28/1951	IRRIGATION	0.42	24.0	
KOCH MATERIALS CO	35-12087	Decreed	5/1/1962	COMMERCIAL, FIRE PROTECTION, INDUSTRIAL	0.11	0.0	
KOON, JACK E	22-7751	License	9/18/1992	DOMESTIC	0.06	0.0	
KOYLE, JOHN DENNIS; KOYLE, SHANNA	37-2663	Decreed	5/31/1961	IRRIGATION	2.12	156.0	
KREMER, RUTH; KREMER, W B	25-12184	Decreed	6/1/1950	DOMESTIC, IRRIGATION, STOCKWATER	0.09	1.9	
KROGSTAD, RYAN	25-11545	Decreed	4/1/1927	DOMESTIC, IRRIGATION, STOCKWATER	0.06	0.7	
KRUCKEBERG, ALEISHA; KRUCKEBERG, MATTHEW	35-14727	Decreed	12/31/1940	IRRIGATION	0.02	2.4	
KRUCKEBERG, ALEISHA; KRUCKEBERG, MATTHEW	35-14724	Decreed	3/5/1948	IRRIGATION	0.02	2.4	
KRUCKEBERG, ALEISHA; KRUCKEBERG, MATTHEW	35-14730	Decreed	9/28/1981	IRRIGATION	0.01	2.4	
KUNZLER, KAREN; KUNZLER, WILLIAM JUNIOR	45-2375E	Decreed	4/28/1951	IRRIGATION	0.03	1.5	
L & S LAND HOLDINGS LLC	36-10098	Decreed	1/1/1935	DOMESTIC, STOCKWATER	0.05	0.0	
L & S LAND HOLDINGS LLC	36-10899	Decreed	1/31/1950	STOCKWATER	0.04	0.0	
L2 LTD PARTNERSHIP	31-12500	Decreed	6/22/1953	IRRIGATION	0.02	5.5	
L2 LTD PARTNERSHIP; L3 LTD PARTNERSHIP	32-4058	Decreed	7/1/1953	DOMESTIC, STOCKWATER	0.16	0.0	
L3 LTD PARTNERSHIP	31-12501	Decreed	6/22/1953	IRRIGATION	0.07	5.5	
LAIRD, WILLIAM G	36-15071	Decreed	12/31/1947	COMMERCIAL, DOMESTIC	0.11	0.0	
LAKESHORE FARMS 2 LLC	31-10665	Decreed	12/31/1925	DOMESTIC	0.10	0.0	
LAMBERT, LYLE; LAMBERT, NADINE	29-7640	Decreed	5/17/1982	DOMESTIC, IRRIGATION, STOCKWATER	0.04	1.0	
LAMBERT, R J	35-8670	License	9/14/1988	COMMERCIAL	0.04	0.0	
LAND VIEW FERTILIZER INC	36-15347	Decreed	1/1/1961	COMMERCIAL	0.08	0.0	

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LAND VIEW INC	36-11048	Decreed	9/1/1954	COMMERCIAL, DOMESTIC	0.15	0.0	
LARSEN, HELEN	35-8127	License	4/28/1983	DOMESTIC, STOCKWATER	0.08	0.0	
LARSEN, PEGGY A; LARSEN, RICHARD J	31-7129	License	7/30/1974	DOMESTIC, STOCKWATER	0.08	0.0	
LARSON, BECKY J; LARSON, CHARLES W	45-4160	Decreed	3/15/1962	IRRIGATION	1.70	173.0	
LAZY EIGHT ESTATES DIVISION 2 HOMEOWNERS ASSN INC	25-14189	License	10/26/2006	DOMESTIC	0.50	0.0	
LEBSACK, KENNETH L; LEBSACK, LEANNE H	35-10634	Decreed	7/1/1950	COMMERCIAL	0.04	0.0	
LEE, MARTIN R	36-8410	License	2/10/1989	COMMERCIAL	0.03	0.0	
LEISHMAN ELECTRIC	22-7558	License	8/30/1988	COMMERCIAL	0.02	0.0	
LEZAMIZ, SID	37-10363	Decreed	9/1/1959	COMMERCIAL	0.11	0.0	
LIMA, GUADALUPE	36-17128	Decreed	9/20/1973	IRRIGATION	0.02	1.2	
LITTLE SKY FARMS LLLP	37-2526A	Decreed	11/28/1951	IRRIGATION	3.59	208.0	
LOJA LLC	25-13579	Decreed	9/1/1945	COMMERCIAL, DOMESTIC	0.27	0.0	
LOJA LLC	25-7424	License	4/1/1988	IRRIGATION	0.09	3.0	
LONE STAR WATER USERS COOP ASSN INC	37-4344	Decreed	4/1/1940	COMMERCIAL, DOMESTIC, STOCKWATER	0.07	0.0	
LOPES, JOE S; LOPES, VERNA F	37-10175	Decreed	10/11/1934	DOMESTIC, STOCKWATER	0.15	0.0	
LORDS, DARRELL M	35-8778	License	5/31/1989	IRRIGATION	0.10	4.5	
LOST RIVER FARMS	34-14346	Decreed	8/12/1966	IRRIGATION	0.38	177.0	
LOVELL, HOPE; LOVELL, JAMES R	25-7598	License	9/25/1991	IRRIGATION	0.03	1.9	
LYNCH, LESLIE R	36-7154	Decreed	1/25/1971	INDUSTRIAL	0.02	0.0	
M & B INVESTMENTS LLC	25-14163	License	12/9/2004	DOMESTIC	0.30	0.0	
M & B INVESTMENTS LLC	25-14379	License	8/13/2012	DOMESTIC	0.39	0.0	
MAD MOOSE PIZZA IDAHO LLC	22-7633	License	3/2/1989	COMMERCIAL	0.04	0.0	
MADISON SCHOOL DISTRICT #321	22-14474	Permit	5/13/2022	DOMESTIC	0.26	0.0	
MAEBE, RICHARD	36-10527	Decreed	5/1/1948	DOMESTIC, IRRIGATION	0.08	2.6	
MAGIC VALLEY GROWERS LTD	37-20612	Decreed	6/1/1956	INDUSTRIAL	0.10	0.0	
MAGIC VALLEY PRODUCE INC	36-13763	Decreed	10/1/1955	COMMERCIAL	0.04	0.0	
MAGNIFY LAND CONSULTING LLC	36-17208	Decreed	4/13/1976	IRRIGATION	0.20	10.0	
MARSHALL, DON W	25-7462	License	11/10/1988	DOMESTIC, IRRIGATION	0.07	1.0	
MARTIAN, ERICA; MARTIAN, PETER	35-7855	Decreed	5/1/1979	COMMERCIAL, HEATING	0.04	0.0	
MASON, JOHN D; MASON, VALERIE	29-7294	Decreed	11/4/1975	DOMESTIC, IRRIGATION	0.12	8.0	
MASONER, MRS MERLE	36-11978	Decreed	1/1/1963	COMMERCIAL	0.02	0.0	
MASONS	35-8828	License	7/28/1989	COMMERCIAL	0.04	0.0	
MAUGHAN, GAYLORD L	31-12220	Decreed	8/22/1955	IRRIGATION	0.07	3.5	
MAUPIN, JESSICA; MAUPIN, JUSTIN DEELANE	22-7656	License	11/21/1989	COMMERCIAL	0.04	0.0	
MC ALISTER, G P; MC ALISTER, JEN	36-11921	Decreed	4/23/1947	DOMESTIC	0.14	0.0	
MC CALL OIL & CHEMICAL	25-7045	Decreed	2/25/1974	DOMESTIC, INDUSTRIAL	0.08	0.0	
MC COWIN, BRENDA	25-7544	License	8/16/1989	DOMESTIC	0.07	0.0	
MC COY, VALERIE	34-10329	Decreed	12/31/1955	IRRIGATION	0.02	1.0	
MC GARRY, THERON R; MC GARRY, TIM R	22-4150	Decreed	9/1/1948	DOMESTIC, STOCKWATER	0.23	0.0	

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MEADOW LARK COURT LLC	22-10170	Decreed	6/15/1960	COMMERCIAL, STOCKWATER	0.20	0.0	
MENAN PRODUCE INC	25-12178	Decreed	11/1/1953	DOMESTIC, INDUSTRIAL	0.10	0.0	
MERRILL, CHRISTOPHER; MERRILL, CINDY	25-13580	Decreed	1/1/1963	DOMESTIC, IRRIGATION	0.14	5.0	
MERRILL, KENT	25-14364	License	2/28/1992	IRRIGATION	0.19	12.2	
MEYER LAND COMPANY LLC	25-11617	Decreed	12/31/1950	COMMERCIAL	0.17	0.0	
MEYERS, M JAY	29-2407	Decreed	3/6/1959	IRRIGATION	2.54	127.0	
MICHAUD CREEK RANCHES INC	29-2515	Decreed	1/5/1966	IRRIGATION	2.00	196.0	
MICHAUD CREEK RANCHES INC	29-7089	Decreed	6/9/1972	IRRIGATION	1.08	196.0	
MICKELSEN, LINDON A; MICKELSEN, LOREEN A	27-10416	Decreed	6/1/1962	COMMERCIAL, DOMESTIC, STOCKWATER	0.09	0.0	
MIKESELL, ELEANOR	31-10268	Decreed	5/1/1957	COMMERCIAL, DOMESTIC	0.04	0.0	
MIKKOLA, ARTHUR; MIKKOLA, MARK	25-7389	Decreed	11/2/1983	DOMESTIC, STOCKWATER	0.06	0.0	
MILES, BETTY; MILES, KENNETH RICK	25-14502	Decreed	4/22/1979	IRRIGATION	0.03	1.5	
MILES, BETTY; MILES, KENNETH RICK	25-14524	Decreed	4/22/1979	IRRIGATION	0.02	1.0	
MILLER, CHARLES; MILLER, RACHEL	25-7442	License	9/8/1988	DOMESTIC, IRRIGATION	0.05	1.0	
MILLER, LYNETTE R; MILLER, MARVIN G	25-4194	Decreed	11/1/1960	IRRIGATION	0.13	7.0	
MILLER, PAMELLA K	36-16655	Decreed	4/1/1961	STOCKWATER	0.03	0.0	
MILLERCOORS USA LLC	45-11838	Decreed	6/15/1936	COMMERCIAL	0.04	0.0	
MILNER IRRIGATION DISTRICT	45-4171	Decreed	1/1/1941	COMMERCIAL, DOMESTIC	0.06	0.0	
MILO WATER ASSN	25-4266	Decreed	10/30/1946	DOMESTIC, IRRIGATION	0.17	2.9	
MINIDOKA COUNTY HIGHWAY DISTRICT	45-13662	Decreed	4/28/1951	IRRIGATION	1.84	103.0	
MINIDOKA IRRIGATION DISTRICT	36-13480	Decreed	5/31/1962	COMMERCIAL	0.04	0.0	
MISTY VALLEY LLC	22-14350	Decreed	3/20/1959	AESTHETIC STORAGE, DIVERSION TO STORAGE, FIRE PROTECTION STORAGE	0.01	0.0	
MODEL WATER USERS ASSN INC	35-7986	Decreed	6/1/1981	DOMESTIC	0.10	0.0	
MODERN MILLS ROCKFORD INC	35-13014	Decreed	4/1/1960	COMMERCIAL	0.05	0.0	
MONK, AUBRIE; MONK, STEVEN	35-14753	Decreed	2/2/1952	IRRIGATION	0.06	6.0	
MONK, AUBRIE; MONK, STEVEN	35-14754	Decreed	4/23/1961	IRRIGATION	0.04	6.0	
MORGAN, CODY G; MORGAN, KATHY	36-17092	Decreed	3/11/1954	COMMERCIAL, STOCKWATER	0.04	0.0	
MORGANS PASTURE LAND CO LLC	35-14551	Decreed	1/6/1955	IRRIGATION	4.20	279.0	
MORRISS, JUDITH L; MORRISS, VIRGIL R	25-7483	License	12/22/1988	DOMESTIC, IRRIGATION, STOCKWATER	0.04	3.0	
MOUNTAIN RIVER SPORTSMANS RV PARK & CAMP	25-14229	License	9/2/2008	COMMERCIAL	0.20	0.0	
MOUNTAIN WEST BARK PRODUCTS INC	22-7573	License	8/8/1988	COMMERCIAL	0.08	0.0	
MOYLE, KEVIN A; MOYLE, TAYLOR N	36-17240	License	3/16/1989	COMMERCIAL, DOMESTIC, STOCKWATER	0.33	0.0	
MULLINS, CODY; MULLINS, KRISTY TADDONIO	45-14569	Decreed	6/1/1939	IRRIGATION	0.06	4.5	
NAPOLI, MARIA; ULIAN, PETER	34-7211	Decreed	1/6/1978	DOMESTIC, IRRIGATION	0.10	4.0	
NEIBAUR, RYAN	25-7561	License	3/2/1990	IRRIGATION	4.00	360.5	
NELSEN DAIRY	36-8745	License	11/7/1995	COMMERCIAL, STOCKWATER	0.11	0.0	
NELSON, MERLA	22-11385	Decreed	6/8/1935	DOMESTIC, IRRIGATION	0.05	2.5	
NEST EGG INVESTMENTS LLC	25-14419	License	12/27/2014	COMMERCIAL	0.07	0.0	
NEW PHASE INVESTMENTS LLC	25-14186	License	9/18/2006	COMMERCIAL	0.05	0.0	

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NICKELSON, DALENE C	25-7193A	Decreed	4/30/1980	DOMESTIC, IRRIGATION, STOCKWATER	0.02	2.9	
NORTH HIGHLANDER FARMS INC	25-7438	License	8/8/1988	COMMERCIAL	0.04	0.0	
NORTHLAND TERRACE WATER USERS ASSN INC	27-7138	License	5/18/1979	DOMESTIC	0.68	0.0	
NORTHSIDE RANCH CO LLC	36-2318B	Decreed	2/28/1957	STOCKWATER	0.05	0.0	
NORTHWEST PIPELINE CORP	45-2531	Decreed	7/6/1956	DOMESTIC, INDUSTRIAL	0.04	0.0	
NULPH BROTHERS INC	27-7466	License	5/3/1989	COMMERCIAL	0.04	0.0	
NUR WATER CORP INC	25-7035	Decreed	6/13/1973	DOMESTIC	0.62	0.0	
NUTTALL, ALIESHA DAWN; NUTTALL, JEFFREY DOUGLAS	25-7275	Decreed	2/8/1982	DOMESTIC, IRRIGATION, STOCKWATER	0.03	1.0	
OLSEN, GARY; OLSEN, PATRICIA	25-12353	Decreed	10/7/1953	COMMERCIAL, DOMESTIC	0.16	0.0	
OLTMANNS, JAN	25-12862	Decreed	12/31/1935	COMMERCIAL, DOMESTIC	0.06	0.0	
ON TIME FINANCIAL LLC	22-14478	Permit	7/14/2022	COMMERCIAL, DOMESTIC	0.21	0.0	
OSTERHOUT, DANA; OSTERHOUT, GAYLEN; OSTERHOUT, LORRIE; OSTERHOUT, VIRGINIA M	45-10587	Decreed	6/30/1958	COMMERCIAL, DOMESTIC, IRRIGATION	0.08	0.5	
OVERLOOK MHP LLC	45-10950	Decreed	1/30/1961	DOMESTIC, IRRIGATION	0.15	2.0	
PALACIO, WILLIAM M	37-19847	Decreed	3/15/1952	IRRIGATION	0.44	22.0	
PARKER, BRENT E; PARKER, KRISTINE	25-7073E	Decreed	8/1/1975	IRRIGATION	0.20	10.0	
PARKINSON FARMS	34-2289	Decreed	5/13/1949	IRRIGATION	1.00	306.0	
PARKINSON FARMS	34-2497	Decreed	9/27/1966	IRRIGATION	0.57	480.0	
PARKINSON FARMS	34-2490	Decreed	10/25/1966	IRRIGATION	2.09	306.0	
PARKINSON FARMS	34-2506	Decreed	3/2/1967	IRRIGATION	1.17	480.0	
PARKINSON FARMS	34-2505	Decreed	3/3/1967	IRRIGATION	1.06	480.0	
PARKINSON FARMS	34-4008	Decreed	4/1/1967	IRRIGATION	2.60	480.0	
PARKINSON FARMS	34-10393	Decreed	5/1/1976	IRRIGATION	0.26	306.0	Yes
PARNELL, KEVIN	37-21266	Decreed	2/27/1979	IRRIGATION, MITIGATION	0.07	3.6	
PATTON & LINTON INC	29-10994	Decreed	3/1/1956	INDUSTRIAL	0.13	0.0	
PAUL, LILAH; PAUL, WALTER T	45-2259	Decreed	5/24/1948	IRRIGATION	0.12	4.1	
PAULS, DEBBRAH; PAULS, RONALD	37-4390	Decreed	7/1/1916	DOMESTIC, IRRIGATION, STOCKWATER	0.04	1.2	
PAULS, DEBBRAH; PAULS, RONALD	37-4391	Decreed	7/1/1941	DOMESTIC, IRRIGATION, STOCKWATER	0.04	1.2	
PERFORMIX NUTRITION SYSTEMS LLC	36-17195	Decreed	12/24/1948	COMMERCIAL	0.09	0.0	
PERFORMIX NUTRITION SYSTEMS LLC	36-17196	Decreed	5/27/1974	COMMERCIAL	0.06	0.0	
PETERSEN, KIMBERLY ANN; PETERSEN, RYAN CLAIR	34-7219	Decreed	7/4/1978	COMMERCIAL, HEATING, IRRIGATION, MITIGATION	0.92	69.8	
PHINNEY, DAVID; RICHARDS, DEBORA	35-14870	Decreed	6/27/1983	DOMESTIC, IRRIGATION	0.02	0.5	
PILKINTON, C R; PILKINTON, THOMAS R	36-7650B	Decreed	7/30/1976	IRRIGATION	0.08	4.0	
PINGREE LAND CO LLC	29-7806	Decreed	12/10/1985	COMMERCIAL	0.01	0.0	
PIONEER WATER USERS ASSN INC	35-7671	Decreed	2/7/1977	DOMESTIC	0.11	0.0	
POCATELLO CHUBBUCK SCHOOL DISTRICT #25	29-11688	Decreed	8/10/1914	DOMESTIC, IRRIGATION	0.12	5.7	
PONY ACRES WATER ASSN	29-7625	Decreed	12/15/1981	DOMESTIC, IRRIGATION	0.16	2.0	
POPE, CAROL C	34-4133	Decreed	5/1/1960	DOMESTIC, IRRIGATION	0.12	6.2	
POWER COUNTY	29-2284	Decreed	3/2/1949	INDUSTRIAL, MITIGATION BY NON-USE	4.50	0.0	
POWER COUNTY	29-2301	Decreed	4/24/1951	INDUSTRIAL, MITIGATION BY NON-USE	4.00	0.0	

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PRICE, MARJORIE	22-14447	Permit	2/16/2022	COMMERCIAL	0.02	0.0	
PRINCE, CARI L; PRINCE, JAMES J	36-17191	Decreed	2/20/1964	IRRIGATION	1.94	97.0	
PRODUCERS LIVESTOCK MARKETING ASSN	36-14310	Decreed	12/31/1948	COMMERCIAL, DOMESTIC, STOCKWATER	0.19	0.0	
PROW, REBECCA; PROW, SCOTT E	45-13972	Decreed	11/12/1957	IRRIGATION	0.04	2.8	
QUALITY INSULATION & CONSTRUCTION INC	25-7539	License	8/18/1989	COMMERCIAL	0.04	0.0	
QUINTON, BERNADENE L; QUINTON, RAY E	25-7536	License	9/18/1989	COMMERCIAL	0.02	0.0	
R C WILLEY HOME FURNISHINGS	35-14596	Permit	5/25/2018	COMMERCIAL	0.78	0.0	
RABURN, JAYNEE N; RABURN, LENARD H	29-7143B	Decreed	7/2/1973	DOMESTIC, IRRIGATION	0.03	1.0	
RANCH PROPERTIES LLC	45-11969	Decreed	6/1/1939	IRRIGATION	0.86	65.2	
RANDALL, GLADYS	22-7594	License	8/25/1988	COMMERCIAL	0.04	0.0	
RANDALL, JULIA; RANDALL, SCOTT	25-10298	Decreed	12/31/1949	DOMESTIC	0.08	0.0	
RANSTROM, GENE M	45-13667	Decreed	4/28/1951	IRRIGATION	0.21	13.0	
RAYMOND, W CRAIG	25-13401	Decreed	6/28/1954	IRRIGATION, STOCKWATER	0.09	3.5	
REED, CHARLES LE ROY	35-12258	Decreed	6/1/1955	COMMERCIAL, DOMESTIC, STOCKWATER	0.09	0.0	
REED, DEBORAH	25-14465	Decreed	6/2/1931	IRRIGATION	0.01	0.2	
REED, GREGG	25-14464	Decreed	6/2/1931	IRRIGATION	0.01	0.2	
REED, SANDRA F; REED, TERRY H	25-14456	Decreed	6/2/1931	DOMESTIC, IRRIGATION, STOCKWATER	0.10	4.6	
REES, CARL C; REES, PATRICIA	29-7240	Decreed	11/29/1974	DOMESTIC, IRRIGATION, STOCKWATER	0.09	1.3	
REESE, REBECCA J; REESE, RICHARD D	35-14774	Decreed	4/1/1951	IRRIGATION	0.08	5.5	
RHODEHOUSE, KEVIN	35-2924	Decreed	7/21/1965	INDUSTRIAL, STOCKWATER	1.11	0.0	
RHODEHOUSE, KEVIN	35-8659	License	10/15/1987	COMMERCIAL, STOCKWATER	0.15	0.0	
RICHAN, CLYDE L; RICHAN, ELVERA L	36-8486	License	9/19/1989	COMMERCIAL, DOMESTIC	0.03	0.0	
RICHARDS, DENICE	27-7343	Decreed	3/2/1983	DOMESTIC, IRRIGATION	0.08	5.0	
RICHARDSON, BRIAN	35-8769	License	5/31/1989	COMMERCIAL, DOMESTIC	0.07	0.0	
RICHESIN, CLIFTON; RICHESIN, REBA	36-4120	Decreed	6/16/1916	DOMESTIC, IRRIGATION	0.06	0.7	
RICKS, CONNIE	25-7183	Decreed	1/14/1980	DOMESTIC, STOCKWATER	0.06	0.0	
RIGBY AIR VILLAGE LLC	25-14182	License	3/24/2006	COMMERCIAL	0.20	0.0	
RIM ROCK LEASING LLC	36-8512	License	2/27/1990	COMMERCIAL	0.02	0.0	
RINDFLEISCH, JAMES A	34-7511	Permit	6/12/1989	IRRIGATION	1.85	92.4	
RINGEL, LORI; RINGEL, MERLYN R	35-14629	Decreed	12/31/1940	IRRIGATION	0.05	4.7	
RINGEL, LORI; RINGEL, MERLYN R	35-14628	Decreed	3/5/1948	IRRIGATION	0.03	4.7	
RINGEL, LORI; RINGEL, MERLYN R	35-14630	Decreed	9/28/1981	IRRIGATION	0.01	4.7	
RIVERBEND ESTATES	29-8015	License	6/22/1990	DOMESTIC	0.25	0.0	
RIVERVIEW ACRES #2 WATER CORP	35-11348	Decreed	6/1/1960	DOMESTIC	0.16	0.0	
RIVERVIEW TWO LLC	35-8632	Decreed	1/19/1981	COMMERCIAL, INDUSTRIAL	0.04	0.0	
ROBINSON WATER ASSN INC	25-4064	Decreed	6/1/1942	DOMESTIC	0.10	0.0	
ROBINSON, TIMOTHY L	36-17115	Decreed	3/15/1963	IRRIGATION	0.02	1.0	
ROEDER, JAMES L; ROEDER, JOHN	29-7177	License	3/4/1974	DOMESTIC, STOCKWATER	0.08	0.0	
ROSENBERG RANCH & FARMS LLC	25-11823	Decreed	7/16/1927	DOMESTIC, STOCKWATER	0.74	0.0	

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ROWLAND, ROBERT	29-13892	Decreed	10/28/1953	IRRIGATION, STOCKWATER	2.12	117.6	
ROY E HANSON JR MFG	25-11479	Decreed	12/31/1925	COMMERCIAL	0.04	0.0	
RUDY, THOMAS A	45-7278	Decreed	12/6/1976	DOMESTIC	0.24	0.0	
S E M LARSEN TRUST	35-14855	Decreed	4/21/1948	IRRIGATION	0.04	2.1	
SAKOTA, MABEL S	22-10886	Decreed	7/29/1953	DOMESTIC, IRRIGATION	0.04	0.5	
SAND BOX RV LLC	21-13334	Decreed	2/24/1953	COMMERCIAL	0.03	0.0	
SAND BOX RV LLC	21-13335	Decreed	6/7/1957	COMMERCIAL	0.02	0.0	
SAND BOX RV LLC	21-13333	Decreed	8/4/1979	COMMERCIAL	0.03	0.0	
SCC PROPERTIES LLC	37-23469	Decreed	11/25/1962	IRRIGATION	0.38	19.0	
SCHAEFFER, DIANNE RAE	36-17234	Decreed	1/22/1958	STOCKWATER	0.18	0.0	
SCHNEIDER, ARLYNN; SCHNEIDER, FRED	35-11852	Decreed	4/1/1934	COMMERCIAL, DOMESTIC	0.08	0.0	
SCHREINER FARMS IDAHO LLC	35-2488	Decreed	1/10/1957	IRRIGATION	0.02	2.0	
SCHREINER FARMS IDAHO LLC	35-2922	Decreed	4/7/1958	IRRIGATION	0.01	2.0	
SCHREINER FARMS IDAHO LLC	35-8951	License	7/29/1991	IRRIGATION	0.88	44.0	
SCHROEDER, MICHELLE; SCHROEDER, NATHAN	29-4104	Decreed	7/28/1955	IRRIGATION	3.00	150.0	
SCHWANS SALES ENTERPRISES INC	27-7439	License	8/14/1987	COMMERCIAL	0.04	0.0	
SCOTT, LAMOND; SCOTT, RUTH	35-10855	Decreed	1/4/1954	COMMERCIAL, DOMESTIC	0.04	0.0	
SELENSKY, CATHY; SELENSKY, CLARENCE J	25-7392B	License	12/16/1983	IRRIGATION	0.15	5.0	
SERR, DALLAS	36-2730	Decreed	7/30/1954	IRRIGATION	1.00	50.0	
SHOSHONE BANNOCK TRIBES	29-13779	Decreed	11/22/1919	IRRIGATION, STOCKWATER	0.58	29.2	
SHOSHONE BANNOCK TRIBES	27-7000	Decreed	7/27/1967	MUNICIPAL	0.50	0.0	
SHOSHONE BANNOCK TRIBES	29-7326	Decreed	4/28/1976	IRRIGATION	2.53	160.0	
SHOSHONE BANNOCK TRIBES	29-13941	Decreed	10/3/1977	IRRIGATION	0.18	10.5	
SHURTLIFF, MERLENE; SHURTLIFF, RODNEY	35-8855	License	9/7/1989	DOMESTIC, STOCKWATER	0.08	0.0	
SILVER CREEK DISTILLERS INC	25-7194	License	12/1/1988	INDUSTRIAL	0.11	0.0	
SIMPER, HAIZER ONEAL; SIMPER, JENSEN BRYN	35-14901	Decreed	8/19/1977	IRRIGATION	0.11	6.0	
SIMPSON, DANNY V; SIMPSON, JULIE M	37-22930	Decreed	11/25/1962	IRRIGATION	0.05	2.3	
SIX S RANCH LLC	45-2454	Decreed	8/18/1953	IRRIGATION	1.48	263.3	
SJC PROPERTIES LLC	35-14873	Decreed	7/20/1976	STOCKWATER	2.70	0.0	
SLAGOWSKI, JOE; SLAGOWSKI, NICOLE	31-12232	Decreed	12/31/1943	STOCKWATER	0.12	0.0	
SMITH, BLAINE; SMITH, GARRY	22-7554	License	8/8/1988	COMMERCIAL	0.02	0.0	
SMITH, EDWARD A	29-2275	Decreed	8/13/1948	IRRIGATION	2.20	200.3	
SMITH, EDWARD A	29-2339	Decreed	9/17/1953	IRRIGATION	2.68	140.0	
SMITH, JOAN; SMITH, SCOTT	34-14313	License	7/8/1992	IRRIGATION	0.01	1.0	
SMITH, K DARBY; SMITH, RACHELLE	25-14533	Decreed	1/25/1965	IRRIGATION	0.05	5.5	
SMITH, K DARBY; SMITH, RACHELLE	25-14532	Decreed	3/4/1974	IRRIGATION	0.03	5.5	
SMITH, NORBERT DARRELL	29-7171	Decreed	2/4/1974	DOMESTIC	0.16	0.0	
SMITH, RICHARD F	22-14612	Decreed	7/5/1973	MUNICIPAL	0.25	0.0	
SNAKE RIVER BUSINESS PARK BLDG #1 LLC	35-14787	Permit	8/19/2022	COMMERCIAL	0.20	0.0	

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SNAKE RIVER SCHOOL DISTRICT #52	35-11206	Decreed	6/15/1924	COMMERCIAL	0.03	0.0	
SNELL, MARK	29-7696	License	3/16/1983	DOMESTIC, IRRIGATION	0.08	2.0	
SOHN, EDNA G; SOHN, HERBERT F; SOHNS INC	35-8333	Decreed	12/12/1983	COMMERCIAL, DOMESTIC	0.08	0.0	
SOMSEN, DIANNE L; SOMSEN, G FRANK	45-2428	Decreed	12/15/1952	IRRIGATION	1.30	432.0	
SOMSEN, DIANNE L; SOMSEN, G FRANK	45-2485	Decreed	11/8/1954	IRRIGATION	2.68	432.0	
SOUTH INTERCHANGE PROPERTIES LLC	35-14700	Decreed	12/24/1948	IRRIGATION	0.13	23.8	
SOUTH LANDS LLC C/O BARRY SOUTH	25-14390	License	10/15/2013	COMMERCIAL	0.50	0.0	
SOUTH PARK ESTATES WATER & SEWER INC	27-7052	Decreed	3/12/1975	DOMESTIC, FIRE PROTECTION	0.33	0.0	
SOUTH PARK ESTATES WATER & SEWER INC	27-7581	License	10/21/1997	DOMESTIC, FIRE PROTECTION	0.69	0.0	
SOUTH, BARRY; SOUTH, ELINOR	35-14616	Decreed	12/31/1940	IRRIGATION	0.04	3.3	
SOUTH, BARRY; SOUTH, ELINOR	35-14614	Decreed	3/5/1948	IRRIGATION	0.02	3.3	
SOUTH, BARRY; SOUTH, ELINOR	35-14618	Decreed	9/28/1981	IRRIGATION	0.01	3.3	
SPAHR, ARIANNE; SPAHR, JASON	35-14585	Decreed	9/28/1981	IRRIGATION	0.01	3.2	
SPENCER, DAVID R; SPENCER, MICHELLE	31-11946	Decreed	6/22/1953	COMMERCIAL, STOCKWATER	0.12	0.0	
SPENCER, DAVID R; SPENCER, MICHELLE	31-11942	Decreed	7/25/1955	COMMERCIAL, STOCKWATER	0.03	0.0	
STANDING 16 RANCH LAND CO LLC	36-14504	Decreed	11/12/1945	DOMESTIC, STOCKWATER	0.03	0.0	
STANDING 16 RANCH LAND CO LLC	36-14505	Decreed	11/26/1946	COMMERCIAL, DOMESTIC	0.03	0.0	
STANGER, KARA; STANGER, SPENCER	35-14726	Decreed	12/31/1940	IRRIGATION	0.06	5.2	
STANGER, KARA; STANGER, SPENCER	35-14723	Decreed	3/5/1948	IRRIGATION	0.04	5.2	
STANGER, KARA; STANGER, SPENCER	35-14729	Decreed	9/28/1981	IRRIGATION	0.01	5.2	
STANGER, MARILYN	25-7541	License	7/12/1989	COMMERCIAL	0.02	0.0	
STARMARC LLC	36-12462	Decreed	12/31/1958	COMMERCIAL	0.07	0.0	
STATE OF IDAHO	35-4271A	Decreed	6/1/1945	FISH PROPAGATION	50.00	0.0	
STEEL, KEVIN J	35-8756	License	5/11/1989	COMMERCIAL, DOMESTIC	0.02	0.0	
STOKES, ELIZABETH DORTHEA; STOKES, JOSHUA WYNNDALE	37-8112	Decreed	6/2/1983	COMMERCIAL, COOLING	0.02	0.0	
STROMBERG REPAIR INC	25-7445	License	10/18/1988	COMMERCIAL	0.04	0.0	
STUBBS, AVIS B; STUBBS, ROSS A	35-8210	License	6/16/1983	DOMESTIC	0.06	0.0	
SULLIVAN HOLDINGS LLC	35-8775	License	5/26/1989	COMMERCIAL	0.01	0.0	
SUMMERS, RICHARD K; SUMMERS, STELLA F	25-7518	License	8/24/1989	COMMERCIAL, DOMESTIC	0.08	0.0	
SUNDOWN CORP INC	35-10256	Decreed	5/1/1920	COMMERCIAL, STOCKWATER	0.07	0.0	
SUNROC CORPORATION	25-14562	Decreed	2/24/1953	INDUSTRIAL	0.07	0.0	
SUNROC CORPORATION	29-13891	Decreed	10/28/1953	IRRIGATION, STOCKWATER	0.90	48.0	
SUNROC CORPORATION	25-14563	Decreed	6/7/1957	INDUSTRIAL	0.03	0.0	
SUNROC CORPORATION	25-14561	Decreed	8/4/1979	DIVERSION TO STORAGE, INDUSTRIAL STORAGE, INDUSTRIAL	0.08	0.0	
SUNROC CORPORATION	29-7754	License	6/17/1983	COMMERCIAL	0.81	0.0	
SUNROC CORPORATION	25-14559	Permit	10/24/2024	DIVERSION TO STORAGE, INDUSTRIAL FROM STORAGE, INDUSTRIAL STORAGE, INDUSTRIAL	0.82	0.0	
SUNSET FARM & RANCH LLC	34-2277	Decreed	10/3/1946	IRRIGATION	2.00	728.4	
SUNSET FARM & RANCH LLC	34-2480B	Decreed	9/11/1966	IRRIGATION	2.00	728.4	

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SUNSET FARM & RANCH LLC	34-14772	Decreed	8/18/1974	IRRIGATION	6.86	728.4	
SUNSET SUBDIVISION WATER USERS ASSN	35-10715	Decreed	9/21/1959	DOMESTIC	0.15	0.0	
SWENDSEN, BRENT; SWENDSEN, NANCY	25-7464	License	11/30/1988	COMMERCIAL	0.04	0.0	
SWENSON, HANS	37-23303	Decreed	9/20/1974	IRRIGATION	0.12	6.0	
TABER, DONALD E	37-10161	Decreed	4/1/1955	COMMERCIAL	0.04	0.0	
TABLE ROCK HOLDINGS	35-13320	License	8/7/2001	DOMESTIC	0.10	0.0	
TANNER, BLAINE; TANNER, TORI	25-10634	Decreed	4/1/1958	DOMESTIC, IRRIGATION, STOCKWATER	0.10	2.0	
TANNER, KATHY; TANNER, REYNOLD	25-2139	Decreed	10/30/1961	IRRIGATION	1.54	38.0	
TAYLOR, CHRISTY; TAYLOR, MICHAEL	29-14367	Decreed	12/24/1948	IRRIGATION	0.06	6.0	
TAYLOR, CHRISTY; TAYLOR, MICHAEL	29-14369	Decreed	5/27/1974	IRRIGATION	0.03	6.0	
TAYLOR, LOIS; TAYLOR, LYLE D	25-7110	Decreed	5/9/1977	IRRIGATION	1.30	65.0	
TAYLOR, RODNEY R; TAYLOR, STEPHANIE A	37-2526B	Decreed	11/28/1951	IRRIGATION	0.06	3.0	
TAYLORS QUIK STOP INC	25-7450	License	10/25/1988	COMMERCIAL	0.04	0.0	
TELFORD, MARK; TELFORD, PAIGE	34-4132	Decreed	6/1/1955	IRRIGATION	2.00	480.0	
TELFORD, MARK; TELFORD, PAIGE	34-10058	Decreed	7/7/1955	IRRIGATION	1.67	480.0	
TELFORD, MICHAEL S; TELFORD, ROBERT	37-8212	Decreed	5/11/1983	COMMERCIAL, STOCKWATER	0.01	0.0	
TELFORD, MICHAEL S; TELFORD, SHANNON J	34-2401A	Decreed	9/1/1961	IRRIGATION	3.70	2223.8	
TELFORD, MICHAEL S; TELFORD, SHANNON J	34-4015	Decreed	9/1/1961	IRRIGATION	1.64	2223.8	
TERRETON PUMP NO 2	31-7515	License	1/7/1989	COMMERCIAL, DOMESTIC	0.10	0.0	
TERRETON TRACTOR INC	31-7346	Decreed	12/2/1980	COMMERCIAL, DOMESTIC	0.04	0.0	
TETON WATER WORKS LLC	27-7359C	License	6/3/1983	COMMERCIAL, DOMESTIC	0.03	0.0	
TFT LLC	21-7419	License	3/9/1989	COMMERCIAL, DOMESTIC	0.02	0.0	
THATCHER SUMMIT INC	22-7626	License	4/8/1989	COMMERCIAL	0.04	0.0	
THE DAVID JAY BROWN & DEBRA L BROWN LTD PARTNERSHIP	37-2670	Decreed	7/24/1961	IRRIGATION	3.00	155.0	
THE LOVELAND FAMILY TRUST	27-11205	Decreed	1/31/1939	DOMESTIC, STOCKWATER	0.44	0.0	
THE LOVELAND FAMILY TRUST	27-7069	Decreed	12/3/1976	IRRIGATION	3.42	171.0	
THOMASON, TIMOTHY D	36-4243	Decreed	9/1/1952	DOMESTIC, STOCKWATER	0.06	0.0	
THOMPSON, BETTY L; THOMPSON, LYNN	29-7075A	Decreed	2/4/1972	IRRIGATION	0.10	5.6	
THOMPSON, HOWARD M	25-7508	License	6/19/1989	DOMESTIC, STOCKWATER	0.11	0.0	
TOWN & COUNTRY MOBILE HOME PARK LLC	35-4258	Decreed	6/1/1962	DOMESTIC	0.22	0.0	
TRAINOR, LISA; TRAINOR, MARK	25-7392A	License	12/16/1983	IRRIGATION	0.14	7.0	
TURNER LAND & LIVESTOCK LLC	45-4033	Decreed	8/1/1935	IRRIGATION	1.67	80.0	
TYLER, ALDON	25-7542	License	7/14/1989	DOMESTIC	0.06	0.0	
UNION PACIFIC RAILROAD CO	36-4204	Decreed	8/18/1903	COMMERCIAL, DOMESTIC, MUNICIPAL	0.33	0.0	
UNION PACIFIC RAILROAD CO	36-4201	Decreed	3/24/1913	INDUSTRIAL, STOCKWATER	0.22	0.0	
UNION PACIFIC RAILROAD CO	29-4332	Decreed	5/14/1913	INDUSTRIAL	0.05	0.0	
UNION PACIFIC RAILROAD CO	36-4205	Decreed	5/4/1918	STOCKWATER	0.06	0.0	
UNION PACIFIC RAILROAD CO	36-4202	Decreed	6/5/1925	INDUSTRIAL	0.04	0.0	
UNION PACIFIC RAILROAD CO	36-4203	Decreed	9/13/1957	COMMERCIAL, DOMESTIC, MUNICIPAL	0.22	0.0	

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Owner	Water Right No.	Basis	Priority Date	Water Use List	Diversion Rate (cfs)	Total Acres	Enlargement
UNITED ALLIANCE & FIDELITY CORP	25-7387	Decreed	12/4/1983	IRRIGATION	0.10	5.0	
US BUREAU OF INDIAN AFFAIRS	29-12559	Decreed	8/23/1954	IRRIGATION	2.06	102.6	
US BUREAU OF INDIAN AFFAIRS	29-12560	Decreed	8/23/1954	IRRIGATION	3.75	187.9	
US BUREAU OF INDIAN AFFAIRS	29-12565	Decreed	8/23/1954	COOLING	0.04	0.0	
US BUREAU OF LAND MANAGEMENT	35-14177	Decreed	12/31/1940	IRRIGATION	0.47	44.0	
US BUREAU OF LAND MANAGEMENT	35-14175	Decreed	3/5/1948	IRRIGATION	0.32	44.0	
US BUREAU OF LAND MANAGEMENT	35-4068	Decreed	5/31/1948	IRRIGATION	0.62	31.0	
US BUREAU OF LAND MANAGEMENT	35-4072	Decreed	5/1/1950	IRRIGATION	2.37	152.0	
US BUREAU OF LAND MANAGEMENT	37-20839	Decreed	2/6/1974	IRRIGATION	0.19	64.0	
US BUREAU OF LAND MANAGEMENT	36-7466	Decreed	4/10/1974	STOCKWATER, WILDLIFE	0.10	0.0	
US BUREAU OF LAND MANAGEMENT	36-7497	Decreed	8/21/1974	STOCKWATER, WILDLIFE	0.05	0.0	
US BUREAU OF LAND MANAGEMENT	35-7685	Decreed	3/22/1977	IRRIGATION	2.48	124.0	
US BUREAU OF LAND MANAGEMENT	21-7517	License	2/27/1992	STOCKWATER, WILDLIFE	0.07	0.0	
US BUREAU OF LAND MANAGEMENT	36-8726	Permit	4/28/1994	STOCKWATER, WILDLIFE	0.12	0.0	
US BUREAU OF LAND MANAGEMENT	21-13032	License	2/24/2006	STOCKWATER, WILDLIFE	0.02	0.0	
US BUREAU OF LAND MANAGEMENT	34-14459	Permit	8/26/2014	STOCKWATER, WILDLIFE	0.15	0.0	
US DEPT OF INTERIOR	31-2322	Decreed	5/9/1953	WILDLIFE	5.78	0.0	
US FISH & WILDLIFE SERVICE	31-2251	Decreed	11/4/1931	IRRIGATION	2.20	109.9	
US FISH & WILDLIFE SERVICE	31-4066	Decreed	11/12/1936	DOMESTIC, IRRIGATION	0.06	1.0	
US FISH & WILDLIFE SERVICE	31-4016	Decreed	6/15/1955	IRRIGATION	1.60	80.0	
US FISH & WILDLIFE SERVICE	31-2350	Decreed	10/20/1955	WILDLIFE	11.06	0.0	
US FISH & WILDLIFE SERVICE	31-2362	Decreed	5/13/1957	WILDLIFE	10.60	0.0	
US FISH & WILDLIFE SERVICE	31-2363	Decreed	5/13/1957	WILDLIFE	39.00	0.0	
US FISH & WILDLIFE SERVICE	31-11229	Decreed	11/5/1957	WILDLIFE	7.12	0.0	
US FISH & WILDLIFE SERVICE	31-11230	Decreed	3/20/1962	WILDLIFE	11.06	0.0	
US FISH & WILDLIFE SERVICE	31-11231	Decreed	5/7/1962	WILDLIFE	15.70	0.0	
US FISH & WILDLIFE SERVICE	31-11232	Decreed	5/7/1962	WILDLIFE	43.30	0.0	
US FISH & WILDLIFE SERVICE	31-7301	Decreed	6/2/1978	WILDLIFE	8.78	0.0	
US NATIONAL PARK SERVICE	34-12383	Decreed	5/2/1924	COMMERCIAL, DOMESTIC, IRRIGATION	0.00	0.0	
US NATIONAL PARK SERVICE	34-12385	Decreed	7/23/1928	COMMERCIAL, DOMESTIC, IRRIGATION	0.00	0.0	
USDA ARS SHEEP EXPERIMENT STATION	31-11201	Decreed	10/30/1915	ADMINISTRATIVE	0.27	0.0	
USDA ARS SHEEP EXPERIMENT STATION	31-11202	Decreed	10/30/1915	ADMINISTRATIVE	0.33	0.0	
USDA ARS SHEEP EXPERIMENT STATION	31-11200	Decreed	11/21/1916	ADMINISTRATIVE	0.23	0.0	
USDA ARS SHEEP EXPERIMENT STATION	34-7546	Decreed	6/29/1983	DOMESTIC, IRRIGATION, STOCKWATER	0.25	2.8	
VALLEY READY MIX INC	25-7167	License	1/29/1979	INDUSTRIAL	0.36	0.0	
VALLEY SCHOOL DISTRICT #262	36-15190	Decreed	9/1/1954	DOMESTIC, IRRIGATION	0.15	0.2	
VALLEY VIEW DAIRY LLC	36-17182	Decreed	4/27/1954	COMMERCIAL, STOCKWATER	0.13	0.0	
VALLEY WIDE COOP INC	22-7622	License	12/30/1988	COMMERCIAL, DOMESTIC	0.03	0.0	
VAN BEEK, JOHN W	36-11075B	Decreed	12/31/1944	STOCKWATER	0.05	0.0	

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Owner	Water Right No.	Basis	Priority Date	Water Use List	Diversion Rate (cfs)	Total Acres	Enlargement
VAN BEEK, JOHN W	36-11076B	Decreed	12/31/1944	STOCKWATER	0.05	0.0	
VAN DYKE, VIRGINIA	37-10019	Decreed	2/1/1961	COMMERCIAL, STOCKWATER	0.06	0.0	
VAN ORDEN, JAY; VAN ORDEN, SHELLI	35-8713	License	4/1/1989	COMMERCIAL	0.02	0.0	
VEENSTRA FAMILY LIMITED PARTNERSHIP	37-4051	Decreed	9/1/1961	IRRIGATION, STOCKWATER	1.34	235.0	
VEENSTRA, FRANK W	36-17233	Decreed	1/31/1961	STOCKWATER	0.38	0.0	
VERBREE LAND HOLDINGS LLC	36-10668	Decreed	1/1/1918	DOMESTIC, STOCKWATER	0.20	0.0	
WADE, NANCY; WADE, RONALD	25-7425	License	6/6/1988	DOMESTIC, IRRIGATION	0.05	1.0	
WAGNER JR, EDWARD P; WAGNER, KRISTIE L	35-8856	Decreed	8/11/1989	DOMESTIC, STOCKWATER	0.10	0.0	
WALKER, ROLAND L	25-11822	Decreed	5/15/1935	DOMESTIC, STOCKWATER	0.70	0.0	
WALKER, ROLAND L	25-11825	Decreed	11/18/1955	COMMERCIAL	0.30	0.0	
WALKER, ROLAND L	25-11821	Decreed	6/19/1962	DOMESTIC, STOCKWATER	1.32	0.0	
WALKER, YOUNG HARVEY	34-2440	Decreed	10/10/1961	IRRIGATION, STOCKWATER	1.55	190.0	
WALKER, YOUNG HARVEY	34-10473	Decreed	8/10/1977	IRRIGATION	0.36	190.0	Yes
WALL, DIANA R; WALL, LARRY G	36-8451	License	9/28/1989	COMMERCIAL	0.02	0.0	
WALTERS, BRUCE A; WALTERS, MARCEY L	25-7596	License	6/26/1991	DOMESTIC, IRRIGATION	0.15	10.0	
WANSTROM, JOSEPH SCOTT	34-2339A	Decreed	6/3/1957	IRRIGATION	0.17	18.0	
WANSTROM, JOSEPH SCOTT	34-7172	Decreed	3/13/1977	IRRIGATION	0.94	47.0	
WARD, OPAL M; WARD, OWEN K	35-8892	License	3/28/1990	DOMESTIC	0.18	0.0	
WARNER, KAREN; WARNER, VAN H	25-14072	Decreed	10/31/1938	IRRIGATION, STOCKWATER	0.11	3.0	
WASSERLEIN, WILLIAM	45-14563	Decreed	6/1/1939	IRRIGATION	0.02	1.8	
WATTERSON, CONNIE; WATTERSON, LARRY	45-13663	Decreed	4/28/1951	IRRIGATION	0.08	4.3	
WELLS, DELOS H	35-8220	License	8/4/1983	DOMESTIC, IRRIGATION	0.11	9.5	
WELLS, DELOS H; WELLS, LUELLA	35-10874	Decreed	10/1/1962	DOMESTIC, IRRIGATION	0.20	8.0	
WESTERN AG PRODUCTS LLC	45-10305	Decreed	6/15/1949	DOMESTIC, INDUSTRIAL	0.04	0.0	
WESTERN SLOPE LLC	35-14615	Decreed	12/31/1940	IRRIGATION	0.88	83.0	
WESTERN SLOPE LLC	35-14613	Decreed	3/5/1948	IRRIGATION	0.61	83.0	
WESTERN SLOPE LLC	35-14617	Decreed	9/28/1981	IRRIGATION	0.05	83.0	
WESTOVER RANCH CORP	22-7543	License	12/14/1988	DOMESTIC	0.10	0.0	
WHEELER, DEE RAY; WHEELER, LINDA	36-8488	License	10/10/1989	COMMERCIAL	0.03	0.0	
WHITWORTH, BOYD	45-7638	License	3/10/1989	INDUSTRIAL	0.06	0.0	
WILDE, CECIL; WILDE, NANCY JO	25-11653	Decreed	5/1/1942	IRRIGATION	0.09	4.5	
WILLIAMS, LYNETTE D; WILLIAMS, ROBERT E	35-12733	Decreed	4/1/1945	DOMESTIC	0.17	0.0	
WILLMORE, JUDY	31-7551	License	8/26/1991	COMMERCIAL	0.04	0.0	
WILSON, JOHN CHARLES	29-7916	License	3/20/1990	IRRIGATION	0.09	4.5	
WOOD, HOWARD; WOOD, SHEILA	34-2478	Decreed	6/16/1966	IRRIGATION	0.76	38.0	
WOOD, KENT; WOOD, MELANIE	45-14177	Decreed	4/29/1954	IRRIGATION	0.08	6.4	
WOOD, RODERICK BARRY	37-11243	Decreed	12/31/1940	DOMESTIC, STOCKWATER	0.04	0.0	
WOODLAND HEIGHTS WATER USERS ASSN	35-7576	Decreed	1/28/1976	DOMESTIC	0.38	0.0	
WOODVILLE WATER & SEWER DISTRICT	35-11318	Decreed	5/1/1939	COMMERCIAL, DOMESTIC	0.35	0.0	

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Owner	Water Right No.	Basis	Priority Date	Water Use List	Diversion Rate (cfs)	Total Acres	Enlargement
WRIGHT, DEE; WRIGHT, RUBY	25-7256	Decreed	5/12/1981	IRRIGATION	0.10	1.4	
WRIGHT, MARK; WRIGHT, SUSAN MARIE	36-17286	Decreed	6/7/1968	IRRIGATION	0.09	4.5	
Y DELL BOWL LLC	45-11850	Decreed	2/16/1937	COMMERCIAL, DOMESTIC	0.04	0.0	
YANCEY, CLEM R	35-7955	License	3/10/1981	DOMESTIC, STOCKWATER	0.06	0.0	
YOUNG & YOUNG LIVESTOCK LLC	25-14494	Permit	8/3/2021	DOMESTIC	0.23	0.0	
YOUNG, DE VONA; YOUNG, WILLIAM N	25-7437	License	8/26/1988	DOMESTIC, STOCKWATER	0.07	0.0	
YOUNG, JUDY D; YOUNG, KENNETH A	25-7436	License	9/14/1988	IRRIGATION	0.03	1.5	

EXPLANATORY INFORMATION TO ACCOMPANY A FINAL ORDER

(To be used in connection with actions when a hearing was **not** held)

The accompanying document is a "**Final Order**" issued by the Idaho Department of Water Resources ("Department") pursuant to Idaho Code § 67-5246.

PETITION FOR RECONSIDERATION

(*See* Idaho Code § 67-5246(4))

Any party may file a petition for reconsideration of this 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 presiding officer 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.

REQUEST FOR HEARING

(*See* Idaho Code § 42-1701A(3))

Unless the right to a hearing before the Department or the Water Resource Board is otherwise provided by statute, any person aggrieved by any final decision, determination, order or action of the Director, and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to Idaho Code § 42-1701A(3). A written petition to the Director contesting this final order and requesting a hearing must be filed with the Department by any aggrieved person **within fifteen (15) days after service of this final order**.

CERTIFICATE OF SERVICE

(*See* IDAPA 37.01.01.053, 37.01.01.202)

All documents filed with the Department in connection with a petition for reconsideration or a request for hearing of this final order shall be served on all other parties to the proceedings in accordance with Rules of Procedure 53 and 202.

RAÚL R. LABRADOR
ATTORNEY GENERAL

JOY M. VEGA
Chief of Energy and Natural Resources Division

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Attorney for Respondents

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF MINIDOKA

A&B IRRIGATION DISTRICT, Petitioner, vs. THE IDAHO DEPARTMENT OF WATER RESOURCES, and MATHEW WEAVER in his capacity as the Director of the Idaho Department of Water Resources, Respondents, and IDAHO GROUND WATER APPROPRIATORS, INC., AMERICAN FALLS-ABERDEEN GROUND WATER DISTRICT, CITY OF BLISS, CITY OF BURLEY, CITY OF CAREY, CITY OF DECLO, CITY OF DIETRICH, CITY OF GOODING, CITY OF HAZELTON, CITY OF HEYBURN, CITY OF JEROME, CITY OF PAUL, CITY OF RICHFIELD, CITY OF RUPERT, CITY OF SHOSHONE, CITY OF WENDELL, Intervenors.	Case No. CV34-26-00462 **AGENCY'S CERTIFICATE OF RECORD**
IN THE MATTER OF DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY AND FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT NO. 2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, NORTHSIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY	

I, Mathew Weaver, Director of the Idaho Department of Water Resources, do hereby certify that the above and foregoing record was compiled under my direction, and is a true and correct record of the pleadings, papers, and proceedings offered and admitted therein as shown in the table of contents and index to this record.

DATED this 17th day of June 2026.

MATHEW WEAVER
Director

RAÚL R. LABRADOR
ATTORNEY GENERAL

JOY M. VEGA
Chief of Energy and Natural Resources Division

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Attorney for Respondents

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF MINIDOKA

A&B IRRIGATION DISTRICT, Petitioner, vs. THE IDAHO DEPARTMENT OF WATER RESOURCES, and MATHEW WEAVER in his capacity as the Director of the Idaho Department of Water Resources, Respondents, and IDAHO GROUND WATER APPROPRIATORS, INC., AMERICAN FALLS-ABERDEEN GROUND WATER DISTRICT, CITY OF BLISS, CITY OF BURLEY, CITY OF CAREY, CITY OF DECLO, CITY OF DIETRICH, CITY OF GOODING, CITY OF HAZELTON, CITY OF HEYBURN, CITY OF JEROME, CITY OF PAUL, CITY OF RICHFIELD, CITY OF RUPERT, CITY OF SHOSHONE, CITY OF WENDELL, Intervenors.	Case No. CV34-26-00462 **NOTICE OF LODGING THE SETTLED AGENCY RECORD WITH THE DISTRICT COURT**
IN THE MATTER OF DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY AND FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT NO. 2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, NORTHSIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY	

On May 21, 2026, the Idaho Department of Water Resources ("Department") served its *Notice of Lodging the Agency Record with the Agency* ("*Notice*") in this matter pursuant to I.R.C.P. 84(j)(1). The *Notice* gave the parties fourteen (14) days from the date of the *Notice* to file any objection to the agency record. On June 3, 2026, A&B Irrigation District filed *A&B Irrigation District's Objection to the Agency Record* and on June 4, 2026, American Falls-Aberdeen Ground Water District filed *American Falls-Aberdeen Ground Water District's Objection to Agency Record*. On June 17, 2026, the Director issued his *Agency Decision on Objections and Order Settling the Agency Record*. The agency record is now deemed settled.

YOU ARE HEREBY NOTIFIED that the settled record is being filed with the District Court, pursuant to I.R.C.P. 84(k) and the Court's May 14, 2026 *Procedural Order*, through iCourt e-filing. A copy of the settled agency record has also been served upon the parties through iCourt serve.

DATED 17th day of June 2026.

STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL

GARRICK L. BAXTER
Deputy Attorney General

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 17th day of June 2026, I caused to be served a true and correct copy of the foregoing *Notice of Lodging the Settled Agency Record With the District Court*, via iCourt E-File and Serve, upon the following:

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