

W. Kent Fletcher, #2248
Fletcher Law Office
P.O. Box 248
Burley, Idaho 83318-0248
Telephone: (208) 678-3250
Facsimile: (208) 878-2548
wkf@pmt.org

*Attorney for American Falls Reservoir District
No. 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

AFFIDAVIT OF LYNN HARMON

STATE OF IDAHO)
)ss.
County of Lincoln)

I, Lynn Harmon, being first duly sworn upon oath, depose and say:

1. I am over the age of 18 and make this affidavit based upon my personal knowledge.
2. I am the manager of the American Falls Reservoir District No. 2 (AFRD2).
3. In his *Final Order Establishing 2012 Reasonable Carryover (Methodology Step 9)*

dated November 26, 2012 the Director determined that AFRD2 was injured by a 17,318 AF

shortfall to carryover storage. This was later revised by the Director in his *Final Order Regarding 2013 Forecast Supply (Methodology Steps 1-4)* dated April 17, 2013 to a 14,605 AF carryover shortfall and was revised to no carryover shortfall by the *Order Releasing IGWA From 2012 Reasonable Carryover Shortfall Obligation (Methodology Step 5)* dated June 17, 2013.

4. The Director predicted no in-season material injury to AFRD2 in his April 17, 2013 *Final Order Regarding April 2013 Forecast Supply (Methodology Steps 1-4)*. AFRD2 and the other members of the Surface Water Coalition disagreed with the Director's assessment of injury for the 2013 irrigation season and requested reconsideration of the order. AFRD2 further requested the Director consider updated hydrologic information for purposes of assessing the 2013 water supply conditions. AFRD2 specifically requested the Director consider updated modeling for purposes of predicting available natural flow below Blackfoot during the irrigation season. Based upon my experience and knowledge of the Upper Snake water supply conditions, the predicted unregulated flow of the Snake River at Heise for the period of April – July is not a reliable or accurate indicator of expected natural flow below Blackfoot, particularly after any runoff period.

5. AFRD2's water management goal is always to provide adequate water to the District's water users to grow an optimum crop with the available water. However, we also manage conservatively whenever possible to protect carryover storage for the following year.

6. At the date of final storage allocation in June, AFRD2 received a full storage allocation for its water rights in American Falls Reservoir, minus evaporation.

7. When the 2013 irrigation season started, the Board of AFRD2 hoped to be able to deliver 5/8" to its water users during the season, which is needed by our water users to fully irrigate crops. Since, after the irrigation season began, the Director changed the amounts that

would be supplied to AFRD2, it became apparent that AFRD2 could not rely upon the amounts that the Director ordered as mitigation. Flows in and into the Snake River deteriorated very quickly in 2013. There was no large runoff past Blackfoot and it was obvious to me in the spring and early summer that the available water supply would be less than what the Director predicted in his orders. After the issuance of his April 17, 2013 and June 17, 2013 Orders and because of the deteriorating water conditions, the Board of AFRD2 was very concerned about water supplies. On July 1, 2013, the Board made a determination to cut water deliveries to AFRD2 water users by 20% to ½” commencing July 15, 2013 for the rest of the season or until water supplies ran out. Since July 15, 2013, AFRD2 has been delivering 1/2” to its water users, which has stressed crops and reduced yields. Meanwhile, junior ground water users have irrigated without reduction.

8. If weather and demand conditions remain anywhere near previous dry year patterns and even if we continue with very conservative operations as forced upon us by reduced water supply conditions, I am estimating that AFRD2 will finish the irrigation season with little or no carryover storage.

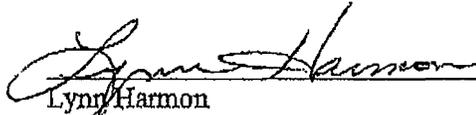
9. In the *Order Revising April 2013 Forecast Supply (Methodology Steps 6-8)* dated August 27, 2013, the Director revised our predicted material injury for the 2013 irrigation season from nothing to 54,000 acre-feet, but because of his methodology is only requiring junior ground water users to supply 7,300 AF of mitigation water. By the Director's own calculations, AFRD2 has been injured by 46,700 AF that will not be mitigated, even though AFRD2 has a water right senior to the junior ground water users' rights who have been diverting the entire 2013 irrigation season.

10. In his August 27, 2013 Order, the Director also found that the "Time of Need"

occurred on August 29, 2013. The real time of need for any mitigation water was early in the irrigation season so that AFRD2 water users could make appropriate plans concerning 2013 crops. By waiting until the end of August or early September to supply a previously unknown amount of mitigation water, the Director fails to afford AFRD2's water users and its Board adequate time and any reasonable opportunity to plan for the 2013 crop year and to properly adjust deliveries during the season. Had the 54,000AF been provided to AFRD2 early in the irrigation season, it would have been used to irrigate crops and AFRD2 could deliver additional water to our shareholders with our normal 5/8" deliveries for a much longer time.

11. I certify under penalty of perjury pursuant to the law of the State of Idaho that the foregoing is true and correct.

DATED this 6 day of September, 2013.



Lynn Harmon

Manager, American Falls Reservoir District No. 2