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, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY	)	**ORDER REMOVING REQUIREMENT FOR USE OF RENTED STORAGE WATER**

On April 19, 2005, the Director of the Department of Water Resources ("Director" or "Department") issued his order *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*, which was amended May 2, 2005 (hereafter referred to as "the May 2, 2005 Surface Water Coalition Order"). The parties listed in the caption above will be jointly identified hereafter as the "Surface Water Coalition."

The May 2, 2005 Surface Water Coalition Order found that senior natural flow and storage water rights were reasonably predicted to incur material injury by diversion and consumptive use of ground water under junior priority rights. As part of the May 2, 2005 Surface Water Coalition Order, the Director ordered ground water districts representing certain holders of junior priority ground water rights to submit a plan for replacement water with the Department no later than April 29, 2005.

Following issuance of the May 2, 2005 Surface Water Coalition Order, the Idaho Ground Water Appropriators ("IGWA") proposed a replacement water plan, the Director ordered that IGWA submit additional information, and IGWA submitted a revised replacement water plan. The collective information submitted by IGWA will be referred to hereafter as "IGWA's Replacement Water Plan." One of the components of IGWA's Replacement Water Plan was 20,000 acre-feet of storage water rented from the Peoples Irrigation Company, the Idaho Irrigation District, and the New Sweden Irrigation District, through a private rental agreement. The organizations may be referred to hereafter as "the Upper Snake River water delivery organizations."

On June 24, 2005, the Director issued his *Order Approving IGWA's Replacement Water Plan* (referred to hereafter as "the June 24, 2005 Approval Order"). A provision of

the June 24, 2005 Approval Order restricted use of the 20,000 acre feet of storage water rented from the Peoples Irrigation Company, the Idaho Irrigation District, and the New Sweden Irrigation District as follows:

> . . . IGWA must assign storage water rented directly from one of the upper Snake River water delivery organizations to the Department for allocation to the Surface Water Coalition members until the lease and exchange arrangements with the USBR [United States Bureau of Reclamation] are complete. None of the 20,000 acre-feet can be used for any other purpose until at least 21,241 acre-feet (obligation for 2005, less FMC lease, and less idled lands) are available for delivery from [ ] storage water held or leased by the USBR that has been placed at the disposal of IGWA, for assignment to the Department for allocation, through an exchange approved by the Department.

Another component of IGWA's Replacement Water Plan was a proposed exchange of USBR storage water with downstream natural flow water rights held by IGWA through private water right rental agreements with the natural flow water right holders. At the time of the issuance of the Director's June 24, 2005 Approval Order, the arrangements for an exchange were uncertain. The Director required conditional dedication of the 20,000 acre-feet of rented storage water to insure that IGWA's Replacement Water Plan would not be largely dependent on a proposed exchange that might never be completed.

Following the Director's June 24, 2005 Approval Order, several factors have increased the likelihood that the exchange will be completed: (1) IGWA filed an application for exchange with the Department; (2) storage rights held by USBR for exchange were identified; (3) USBR and IGWA are negotiating the final language of an exchange agreement; and (4) IGWA, the Department, and holders of natural flow water rights from whom IGWA leased the water rights have determined the number of irrigated acres that will be idled and have identified the associated water rights that can be exchanged with the USBR for upstream storage water.

As a result of the increased likelihood that the exchange will be approved and the resultant availability of additional storage water from the exchange with the USBR, it is no longer necessary that the 20,000 acre-feet be exclusively dedicated to IGWA's Replacement Water Plan.

ORDER

IT IS HEREBY ORDERED that dedication of 20,000 acre feet of rental storage water from IGWA's Replacement Water Plan required by the Director's June 24, 2005 Approval Order is no longer required. The 20,000 acre feet of rental storage water can be delivered for conversion projects in the North Side Canal Company service area, to the Sandy Pipeline, or for other projects or uses approved by the Department.

IT IS FURTHER ORDERED that the paragraph of the June 24, 2005 Approval Order requiring conditional dedication of 20,000 acre-feet of rental storage water from IGWA's Replacement Water Plan is **REMOVED** from the June 24, 2005 Approval Order.

Dated this 8 th day of July, 2005.

KARL J. DREHER
Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 8th day of July, 2005, the above and foregoing, was served by the method indicated below, and addressed to the following:

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