

**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)	Docket No. CM-DC-2010-001
THE BENEFIT OF A&B IRRIGATION DISTRICT,)	
AMERICAN FALLS RESERVOIR DISTRICT #2,)	ORDER RELEASING IGWA
BURLEY IRRIGATION DISTRICT, MILNER)	FROM 2013 REASONABLE
IRRIGATION DISTRICT, MINIDOKA IRRIGATION)	CARRYOVER SHORTFALL
DISTRICT, NORTH SIDE CANAL COMPANY,)	OBLIGATION
AND TWIN FALLS CANAL COMPANY)	
)	
)	
)	

FINDINGS OF FACT

1. On June 23, 2010, the Director (“Director”) of the Idaho Department of Water Resources (“Department”) issued his *Second Amended 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 Surface Water Coalition (“SWC”).

2. Step 9 of the Methodology Order states that, on or before November 30th of each year, the Director will project the SWC's reasonable carryover shortfall, if any. *Methodology Order* at 37. If the Director projects a reasonable carryover shortfall, junior ground water users shall have fourteen days to establish their ability to secure “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 injured members of the SWC.” *Id.* at 38.

3. Step 10 of the Methodology Order further explains, "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." *Id.*

4. On November 27, 2013, the Director issued his *Final Order Establishing 2013 Reasonable Carryover (Methodology Step 9)* ("2013 Step 9 Order") in which the Director determined the reasonable carryover shortfall obligation for junior ground water users for 2013. The Director concluded that American Falls Reservoir District No. 2 ("AFRD2") and Twin Falls Canal Company ("TFCC") are the only SWC entities with a reasonable carryover shortfall for 2013, and that their final 2013 adjusted carryover shortfall values are 40,819 acre-feet and 5,176 acre-feet respectively, a combined obligation of 45,995 acre-feet. *2013 Step 9 Order* at 5.

Consistent with the Methodology Order, the 2013 Step 9 Order required that junior ground water users establish their ability to provide 40,819 acre-feet to AFRD2 and 5,176 to TFCC or alternatively, notify the Department of their intention to implement Step 10. *Id.* at 5.

5. On November 27, 2013, the Idaho Ground Water Appropriators, Inc. ("IGWA"), on behalf of junior ground water users, requested that the Department implement Step 10 of the Methodology Order and model the transient impacts of the proposed curtailment based on the Department's water rights database and the Eastern Snake Plain Aquifer Model. Email from Randy Budge, Atty. for IGWA, to Gary Spackman, Dir. of IDWR, *SWC Delivery Call, Docket No. CM-DC-2010-001 - Reasonable Carryover* (Nov. 27, 2013).

6. On December 16, 2013, the Director issued the *Final Order Establishing 2013 Reasonable Carryover (Methodology Step 10)* ("2013 Step 10 Order"). The 2013 Step 10 Order concluded that IGWA's obligation pursuant to Step 10 for 2013 is 11,924 acre-feet

7. The 2013 Step 10 Order provided junior ground water users fourteen days to establish, to the satisfaction of the Director, of their ability to provide 11,924 acre-feet to AFRD2 and TFCC to satisfy Methodology Step 10.

8. On December 31, 2013, IGWA filed with the Department *IGWA 's Notice of Secured Water Supply Re 2013 Methodology Order (Step 10)* ("Notice") informing the Department that it had secured 11,924 acre-feet of storage water to fully satisfy its 2013 Step 10 reasonable carryover obligation.

9. The Notice explained that IGWA has 10,879 acre-feet of storage water remaining from its 2013 leases to meet the Step 10 reasonable carryover shortfall. *Notice* at 2. Because IGWA does not own storage space in any reservoir, it needs to assign its remaining storage water to another entity to utilize it the next season. IGWA's Notice explained that it had assigned 6,500 acre-feet to the State of Wyoming and the remaining balance of 4,379 acre-feet to TFCC. *Id.* IGWA also explained that it had "a verbal commitment from Fremont-Madison Irrigation District to lease the shortfall of 1,045 acre-feet which will satisfy the full 2013 reasonable carryover obligation." *Id.*

10. On January 10, 2014, the Director issued his *Order Determining Deficiency in IGWA's Notice of Secured Water; Curtailing Ground Water Rights Junior to July 1, 1985* ("Deficiency Order"). The Deficiency Order concluded that IGWA failed to satisfy the 2013 Step 10 Order because its Notice did not provide the Director with adequate documentation establishing that it had secured the water necessary to meet the carryover obligation. *Deficiency Order* at 4.

11. Due to IGWA's failure to satisfy the 2013 Step 10 Order, the Deficiency Order also ordered the curtailment of certain ground water users with consumptive water rights bearing priority dates junior to July 1, 1985, commencing on February 18, 2014, at 12:01 a.m. A list of the affected water rights was attached to the Deficiency Order. The Deficiency Order afforded IGWA with the opportunity to lift the curtailment by providing the Director with the appropriate documentation of its secured water supply.

12. On January 14, 2014, IGWA's *Amended Notice of Storage Water Supply Re 2013 Methodology Order (Step 10)* ("Amended Notice"), was filed with the Department. IGWA's Amended Notice states that on January 10, 2014, the Water District 1 Rental Pool Subcommittee approved its request for an extension of time to assign its remaining storage water. The Amended Notice also states that in order to establish that it had secured the required volume of storage water to mitigate for the predicted shortfall to reasonable carryover, IGWA assigned 10,879 AF of storage water to TFCC and AFRD2 and also provided the Director with a signed option to lease the remaining 1,045 AF from North Fork Reservoir Company. *Order Adopting IGWA's Amended Notice of Secured Water (Methodology Step 10)* at 3.

13. On February 2, 2014, the Director issued his *Order Adopting IGWA's Amended Notice of Secured Water (Methodology Step 10)* stating that IGWA had satisfied the requirements of the 2013 Step 10 Order and that the curtailment required by the Deficiency Order was revoked.

14. The Day of Allocation in Water District 01 occurred on or about July 5, 2014. On or about July 9, 2014 the watermaster for Water District 01 published the storage allocations for storage space holders. Both AFRD2 and TFCC will receive their full storage allocation this season, less evaporation.

CONCLUSIONS OF LAW

1. In the 2013 Step 10 Order, the Director predicted AFRD2 and TFCC would suffer a reasonable carryover shortfall of 11,924 acre-feet. In response, IGWA assigned 10,879 AF of storage water to TFCC and AFRD2 and also provided the Director with a signed option to lease the remaining 1,045 AF from North Fork Reservoir Company.

2. The Day of Allocation in Water District 01 occurred on or about July 5, 2014. On or about July 9, 2014 the watermaster for Water District 01 published the storage allocations for storage space holders. Both AFRD2 and TFCC will receive a full storage allocation this season, less evaporation.

3. Methodology Step 5 states in pertinent part: "If the storage allocations held by members of the SWC fill, there is no reasonable carryover shortfall." *Methodology Order* at 36. Because both AFRD2 and TFCC will receive a full storage allocation, there is no reasonable carryover shortfall.

4. Because there is no reasonable carryover shortfall, the Director releases IGWA from its 2013 reasonable carryover obligation. The watermaster for Water District 01 is instructed to allow access to the volume of water secured from North Fork Reservoir Company for the predicted reasonable carryover shortfall.

ORDER

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

Because both AFRD2 and TFCC will receive a full storage allocation, IGWA is no longer required to provide storage water to AFRD2 and TFCC for the predicted 2013 reasonable carryover shortfall. The watermaster for Water District 01 is hereby instructed to allow access to the volume of water it secured to meet the 2013 predicted reasonable carryover shortfall.

Dated this 6th day of August, 2014.



GARY SPACKMAN
Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 10th day of August, 2014, the above and foregoing, was served by the method indicated below, and addressed to the following:

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