

**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
REQUESTS TO WITHDRAW
REQUESTS FOR HEARING**

BACKGROUND

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 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.”¹ *Id.* at 6.

The Director indicated 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 20,900 acre-feet is 2,121 acre-feet.” *Id.* at 5, n.4.

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 requested 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 requested a hearing regarding the

¹ A&B holds the following groundwater rights that are junior to August 25, 1991: 36-15127B, 36-15193B, 36-15194B, 36-15195B, and 36-15196B. *Petition* at 2.

Director's method of determining A&B's proportionate share of the predicted DS. *Id.* at 3. A&B further provided "notice of non-use of its junior ground water rights subject to the [As-Applied Order] for the 2019 irrigation season." *Id.* at 4.

On May 14, 2019, the Director issued an *Order Granting Request for Hearing* in response to A&B's Petition.² Subsequently, Sun Valley Company and the City of Bellevue timely filed *Petitions to Intervene* in this matter. On June 3, 2019, the Director issued an *Order Granting Petitions to Intervene* for both the Sun Valley Company and the City of Bellevue.

On June 7, 2019, the Director issued the *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 stated that while the pertinent A&B water rights will be kept on the curtailment list, A&B will not have a mitigation obligation so long as "[it] 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." *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. The Director also revised the A&B's predicted DS. *Id.* at 3.

On June 27, 2019, A&B filed *A&B Irrigation District's Notice of Withdrawal of Request for Hearing* ("Notice of Withdrawal"), withdrawing its request for hearing regarding the Director's determination of A&B's proportionate share of the predicted DS. In the *Notice of Withdrawal*, A&B "confirm[ed] that it will not be delivering groundwater pursuant to its enlargement ground water rights as the lands will receive surface water for the 2019 irrigation season. A&B further recently confirmed the same with the Water District 130 Watermaster." *Id.* at 2. The Department received no opposition to A&B's requests to withdraw its request for hearing.

ORDER

IT IS HEREBY ORDERED that A&B's request to withdraw its request for hearing regarding the Director's original 2019 determination of A&B's proportionate share of the predicted DS 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 9th day of July 2019.



GARY SPACKMAN
Director

² When the Director granted A&B's request for hearing, he concluded that A&B's request for reconsideration was moot and was, therefore, not considered. *Order Granting Request for Hearing* at 2.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 10th day of July 2019, the above and foregoing was served on the following by the method(s) indicated below:

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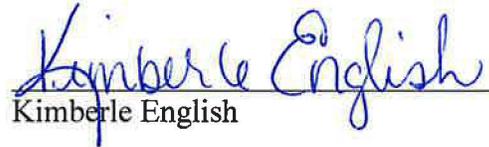
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