



State of Idaho

DEPARTMENT OF WATER RESOURCES

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C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

June 2, 2015

Robert E. Williams
Williams, Meservy & Lothspeich, LLP
P.O. Box 168
Jerome, Idaho 83338

Candice McHugh
Chris M. Bromley
McHugh Bromley, PLLC
380 S. 4th Street, Suite 103
Boise, ID 83702

Re: SWC Delivery Call
Docket No. CM-DC-2010-001

Dear Ms. McHugh and Messers. Williams and Bromley:

I am returning to you the *Notice of Secured Water* ("Notice") submitted on behalf of the Coalition of Cities ("Cities") in the Surface Water Coalition ("SWC") delivery call. I cannot approve the Notice because the Cities do not have an approved mitigation plan for the SWC delivery call. The Notice describes the actions the Cities propose to take to mitigate for injury to the SWC. The Cities are in effect proposing a mitigation plan. I can only approve mitigation activities that are conducted pursuant to approved mitigation plans. *In Matter of Distribution of Water to Various Water Rights Held By or For Ben. of A & B Irrigation Dist.*, 155 Idaho 640, 654, 315 P.3d 828, 842 (2013); *Order on Petition for Judicial Review*, Gooding County Case No. 2008-551 (July 24, 2009). To recognize and approve the actions proposed in the Notice would be contrary to established case law. If you want the mitigation activities proposed in the Notice to be approved for mitigation in the SWC delivery call, you must resubmit the Notice as a Conjunctive Management Rule 43 mitigation plan to be processed in accordance with the conjunctive management rules.

Sincerely,

A handwritten signature in black ink that reads "Gary Spackman".

Gary Spackman
Director

Encl.
Cc: Parties

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 2nd day of June, 2015, the letters to Candice McHugh, Chris Bromley, and Robert Williams for the Coalition of Cities and Michael Creamer and Jeffrey Fereday for Tessengerlo Kerley, Inc., dated June 2, 2015, was served by the method indicated below, and addressed to the following:

| | |
|--|---|
| John K. Simpson Travis L. Thompson Paul L. Arrington BARKER ROSHOLT & SIMPSON, LLP 195 River Vista Place, Ste. 204 Twin Falls, ID 83301-3029 | <input checked="" type="checkbox"/> U.S. Mail, postage prepaid <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> Email |
| W. Kent Fletcher FLETCHER LAW OFFICE P.O. Box 248 Burley, ID 83318 | <input checked="" type="checkbox"/> U.S. Mail, postage prepaid <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> Email |
| Randall C. Budge Thomas J. Budge RACINE OLSON P.O. Box 1391 Pocatello, ID 83204-1391 | <input checked="" type="checkbox"/> U.S. Mail, postage prepaid <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> Email |
| Kathleen M. Carr U.S. Dept. Interior 960 Broadway, Ste 400 Boise, ID 83706 | <input checked="" type="checkbox"/> U.S. Mail, postage prepaid <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> Email |
| David W. Gehlert Natural Resources Section Environment and Natural Resources Division U.S. Department of Justice 999 18 th Street South Terrace, Suite 370 Denver, CO 80202 | <input checked="" type="checkbox"/> U.S. Mail, postage prepaid <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> Email |
| Matt Howard U.S. Bureau of Reclamation 1150 N Curtis Road Boise, ID 83706-1234 | <input checked="" type="checkbox"/> U.S. Mail, postage prepaid <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> Email |

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|--|---|
| <p>Sarah A. Klahn Mitra Pemberton WHITE JANKOWSKI 511 16th St., Ste. 500 Denver, CO 80202</p> | <input checked="" type="checkbox"/> U.S. Mail, postage prepaid <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> Email |
| <p>A. Dean Tranmer City of Pocatello P.O. Box 4169 Pocatello, ID 83205</p> | <input checked="" type="checkbox"/> U.S. Mail, postage prepaid <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> Email |
| <p>William A. Parsons Parsons, Smith & Stone, LLP P.O. Box 910 Burley, ID 83318</p> | <input checked="" type="checkbox"/> U.S. Mail, postage prepaid <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> Email |

Deborah J. Gibson

Deborah Gibson
Administrative Assistant for the Director