

**BEFORE THE DEPARTMENT OF WATER RESOURCES  
OF THE STATE OF IDAHO**

IN THE MATTER OF DISTRIBUTION OF  
WATER TO WATER RIGHTS HELD BY  
MEMBERS OF THE BIG WOOD & LITTLE  
WOOD WATER USERS ASSOCIATION  
DIVERTING FROM THE BIG WOOD  
RIVER

Docket No. CM-DC-2015-001

IN THE MATTER OF DISTRIBUTION OF  
WATER TO WATER RIGHTS HELD BY  
MEMBERS OF THE BIG WOOD & LITTLE  
WOOD WATER USERS ASSOCIATION  
DIVERTING FROM THE LITTLE WOOD  
RIVER

Docket No. CM-DC-2015-002

**ORDER GOVERNING  
PARTICIPATION**

**BACKGROUND**

On February 24, 2015, the Director (“Director”) of the Idaho Department of Water Resources (“Department”) received two conjunctive management water delivery call letters from the Big Wood & Little Wood Water Users Association (“Association”). The letters allege that senior surface water users on the Big Wood and Little Wood Rivers are being injured by junior ground water users diverting ground water hydraulically connected to the Big Wood and Little Wood Rivers. The letters request the Director regulate diversions of ground water by holders of junior ground water rights consistent with the prior appropriation doctrine.

The Director initiated new contested case proceedings and assigned each delivery call letter its own docket number. The Big Wood Delivery Call was assigned docket no. CM-DC-2015-001. The Little Wood Delivery Call was assigned docket no. CM-DC-2015-002.

On March 20, 2015, the Department sent letters to the holders of ground water rights who might be affected by one or both of the above-described delivery calls. The purpose of the letters was to inform the water users of the delivery calls and notify them of a planned status conference. The letters invited the water users to file a written notice with the Department if they planned to participate in the status conference. The Department received over 100 notices of intent to participate.

The Department also published notice of the delivery calls and the status conference in the Idaho Mountain Express and Camas Courier on March 25th, 2015 & April 1st, 2015; and the Times News on March 26th, 2015 & April 2nd, 2015.

On May 4, 2015, the Director held a status conference in Shoshone, Idaho. Over 90 individuals participated in the status conference.

By separate order dated today, the Director scheduled the pre-hearing conference in both contested cases. The purpose of the pre-hearing conference is to establish a hearing schedule in the contested cases.

Nearly all of the entities that filed a notice of intent to participate are holders of ground water rights that may be affected by one or both of the delivery calls. The ground water right holders that filed a notice of intent to participate are respondents as defined by the Department's Rule of Procedure 154 (IDAPA 37.01.01.154). Respondents are parties to the contested case proceedings and are entitled to actively participate in the pre-hearing conference. Although ground water right holders that filed a notice of intent to participate are considered respondent-parties, some entities that filed notices of intent to participate no longer seek to actively participate in the contested case proceedings.

It also appears that one or more entities that filed a notice of intent to participate do not hold ground water rights that may be affected by one or both of the delivery calls. For these entities, filing a notice of intent to participate is not sufficient to establish party status. These entities must seek leave to participate as a party in the contested case proceedings through other means.

Finally, additional time should be afforded to holders of ground water rights to file written notices of intent to participate in this matter. The Director will extend the deadline for filing notices of intent to participate.

## ORDER

Consistent with the foregoing, the Director HEREBY ORDERS that participation in this matter will be governed as follows:

- 1) Holders of ground water rights that may be affected by one or both of the above-described delivery calls **who wish to actively participate in the contested case proceedings** and **who have already filed with the Department a notice of intent to participate** do not need to file any other documents to continue to participate.
- 2) Holders of ground water rights that may be affected by one or both of the above-described delivery calls **who filed with the Department a notice of intent to participate** in the contested case proceedings but **no longer wish to actively participate in the contested cases** must file written notice with the Department of their intent to no longer participate **by May 27, 2015**. \*\*Note - If the holder of a

ground water right chooses to not participate, the water right holder may still be legally bound by the results of the contested case proceedings.\*\*

- 3) Holders of ground water rights that may be affected by one or both of the above-described delivery calls **that have not filed a notice of intent to participate** but **wish to actively participate in the contested case proceedings** must file with the Department a written notice of intent to participate in CM-DC-2015-001 or CM-DC-2015-002 or both cases, **by May 27, 2015**. The notice of intent to participate must identify the ground water right number(s) of the ground water right(s) that may be affected,
  
- 4) **Interested entities that do not hold ground water rights that may be affected by one or both of the delivery calls, but who filed with the Department a notice of intent to participate** in contested case proceedings related to the above-described delivery calls, must seek leave to participate as a party in the contested case proceedings related to the delivery calls through other means (e.g. file a petition to intervene in accordance with the Department's Rules of Procedure, IDAPA 37.01.01) **by May 27, 2015**.

DATED this 13<sup>th</sup> day of May 2015.

  
GARY SPACKMAN  
Director

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on this 13<sup>th</sup> day of May 2015, I served a true and correct copy of the above and foregoing document described below, served on the following by placing a copy of the same in the United States mail, postage prepaid and properly addressed to the following:

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