

RECEIVED

JUL 03 2006

DEPARTMENT OF
WATER RESOURCES

KATHLEEN MARION CARR
Office of the Field Solicitor
960 Broadway, Suite 400
Boise, ID 83706
Telephone: (208) 334-1911
Facsimile: (208) 334-1918

U.S. Department of the Interior, Bureau of Reclamation

**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)	RECLAMATION'S PETITION FOR
IRRIGATION DISTRICT, AMERICAN)	CLARIFICATION OF DIRECTOR'S
FALLS RESERVOIR DISTRICT #2,)	THIRD SUPPLEMENTAL ORDER
BURLEY IRRIGATION DISTRICT,)	AMENDING REPLACEMENT WATER
MILNER IRRIGATION DISTRICT,)	REQUIREMENTS FINAL 2005 &
MINIDOKA IRRIGATION DISTRICT,)	ESTIMATED 2006
NORTH SIDE CANAL COMPANY, AND)	
TWIN FALLS CANAL COMPANY)	
)	
)	

The U. S. Department of the Interior, Bureau of Reclamation ("Reclamation"), by and through its attorney, petitions for clarification of the Director's *Third Supplemental Order Amending Replacement Water Requirements Final 2005 & Estimated 2006* (hereafter "*Third Supplemental Order*"). Pursuant to IDWR's Rule of Procedure 770, any party may file a petition to clarify any order. IDAPA 37.01.01.770. Reclamation requests a clarification as to the Director's legal basis for determining carryover storage amounts in the *Third Supplemental Order*.

In the *Third Supplemental Order* the Director states "as applicable" the "requirements set forth" in the May 2nd [2005] Order in the above captioned case are incorporated into this Supplemental Order. *Third Supplemental Order* at 22. Similarly,

the Director states that "as applicable" the Conclusions of Law set forth in the May 2nd Order are incorporated into this Supplemental Order. *Third Supplemental Order* at 20.

The Director cites to paragraph 119 of the May 2nd Order in two places as defining the "reasonable amount of carryover" to which the Surface Water Coalition is entitled. *See Third Supplemental Order* at p.3 and ¶ 55. However, paragraph 119 of the May 2nd Order is derived from paragraph 118. Paragraph 118 provides:

Members of the Surface Water Coalition are entitled to maintain a reasonable amount of carryover storage to minimize shortages in future dry years pursuant to Rule 42.01.g of the Conjunctive Management Rules (IDAPA 37.03.11.042.01g).

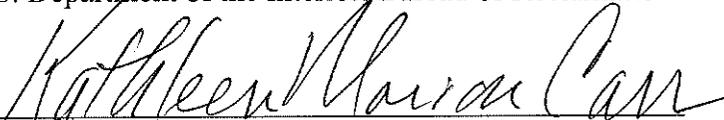
In the Matter of Distribution of Water to Various Water Rights Held by or for the Benefit of A&B Irrigation District, American Falls Reservoir District #2, Burley Irrigation District, Milner Irrigation District, Minidoka Irrigation District, North Side Canal Company and Twin Falls Canal Company, Finding of Fact, ¶ 119 at 26 (May 2, 2005).

No provision in the *Third Supplemental Order* explains how the Director determined the legal basis for the Surface Water Coalition's reasonable carryover amount. Thus, it appears that paragraph 118 of the May 2nd Order is applicable and supplements the legal determinations in the *Third Supplemental Order*.

Reclamation respectfully requests that the Director indicate whether paragraph 118 of the May 2nd Order is the foundation for the legal basis for determining the "reasonable amount of carryover" to which the Surface Water Coalition is entitled.

Respectfully submitted this 3 day of July, 2006.

U.S. Department of the Interior, Bureau of Reclamation

By 
KATHLEEN MARION CARR

CERTIFICATE OF SERVICE

The undersigned certifies that on them 3 day of July 2006, a true and correct copy of the foregoing was served on the following person(s) as shown below:

Director, Karl J. Dreher
Idaho Department of Water Resources
322 East Front Street
P.O. Box 83720
Boise, ID 83720-0098
By Hand Carry and Facsimile
(208) 287-6700

Travis Thompson
Barker Rosholt & Simpson, LLP
113 Main St. W, Ste. 303
Twin Falls, ID 83301-6167
By U.S. Mail and Facsimile
(208) 735-2444

Jeffrey C. Fereday
Michael C. Creamer
Givens Pursley, LLP
P. O. Box 2720
Boise, ID 83701
By U.S. Mail and Facsimile
(208) 388-1300

W. Kent Fletcher
Fletcher Law Office
P. O. Box 248
Burley, ID 83318
By U.S. Mail and Facsimile
(208) 878-2548

C. Thomas Arkoosh
Arkoosh Law Office, Chtd.
P. O. Box 32
Gooding, ID 83330-0032
By U.S. Mail and Facsimile
(208) 934-8873

John K. Simpson
Barker Rosholt & Simpson, LLP
P. O. Box 2139
Boise, ID 83701-2139
By U.S. Mail and Facsimile
(208) 344-6034

Roger Ling
Ling Robinson & Walker
P. O. Box 396
Rupert, ID 83350
By U.S. Mail and Facsimile
(208) 436-6804

James S. Lochhead
Adam T. DeVoe
Brownstein Hyatt & Farber, P.C.
410 17th St., 22nd Floor
Denver, CO 80202
By U.S. Mail and Facsimile
(303) 223-1111

Scott L. Campbell
Moffatt Thomas Barrett Rock & Fields,
Chtd
P. O. Box 829
Boise, ID 83701
By U.S. Mail and Facsimile
(208) 385-5384

James Tucker
Idaho Power Company
1221 W. Idaho St.
Boise ID 83702
By U.S. Mail and Facsimile
(208) 388-6935

Josephine P. Beeman
Beeman & Associates, P.C.
409 West Jefferson Street
Boise, ID 83702
By U.S. Mail and Facsimile
(208)331-0954

Michael S. Gilmore
Deputy Attorney General, State of Idaho
Statehouse, Room 210
Boise, ID 83720
By U.S. Mail and Facsimile
(208) 334-2830

Idaho Department of Water Resources
Eastern Region Office
900 N. Skyline Dr.
Idaho Falls, ID 83402-6105
By U.S. Mail and Facsimile
(208)525-7177

U.S. Bureau of Reclamation
Matt Howard, PN-3130
1150 N. Curtis Road
Boise, ID 83706-1234
By U.S. Mail and Facsimile
(208) 378-5305

Sarah A. Klahn
WHITE & JANKOWSKI, LLP
511 16th Street, Ste. 500
Denver, CO 80202
By U.S. Mail and Facsimile
(303) 825-5632

Terry T. Uhling
J.R. Simplot Company
Post Office Box 27
Boise, ID 83707-2110
By U.S. Mail & Facsimile
(208)388-2112

Idaho Department of Water Resources
Southern Region Office
1341 Fillmore St., Ste. 200
Twin Falls, ID 83301-3033
By U.S. Mail and Facsimile
(208)736-3037


Kathleen Marion Carr