

**BEFORE THE IDAHO 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 AUTHORIZING DISCOVERY
AND LIMITING TESTIMONY OF
DEPARTMENT WITNESSES;
SCHEDULING ORDER;
NOTICE OF INTENT TO TAKE
OFFICIAL NOTICE; AND
NOTICE OF HEARING**

BACKGROUND

On July 19, 2023, the Department issued its *Sixth Final Order Regarding Methodology for Determining Material Injury to Reasonable In-Season Demand and Reasonable Carryover* (“*Sixth Methodology Order*”). The *Sixth Methodology Order* established nine steps for determining material injury to members of the Surface Water Coalition (“SWC”).

On August 25, 2026, the Department issued a *Notice of Opportunity for Hearing Pursuant to Idaho Code § 42-1701A(5)* (“*Notice*”), providing notice that prior to the start of the 2027 irrigation season, the Director intends to revise the *Sixth Methodology Order* “to account for the physical configurations of the SWC entities’ diversion works that limit the amount of water that can physically be diverted over a specific period.” *Notice* at 1. The *Notice* further stated that the maximum historical daily diversion of each SWC member, as reported by the Water District 01 watermaster, would be used to determine maximum physical diversion capacity and thereby establish an upper limit for reasonable in-season demand (“RISD”). *Id.*

The *Notice* set out the proposed revision as two new paragraphs to be inserted into the *Sixth Methodology Order*. Proposed paragraph 44 identifies maximum historical diversion values and corresponding monthly diversion-potential values for each SWC member for May through September. *Notice* at 1–2. Proposed paragraph 45 provides that, when calculated CWN/Ep exceeds the applicable maximum diversion capacity, RISD for that month is limited to the maximum diversion capacity. *Id.* The *Notice* advised affected persons that they had through September 1, 2026, to request a hearing on the issuance of an order revising the *Sixth Methodology Order* “as outlined above.” *Id.* at 2.

On August 31, 2026, the SWC filed the *Surface Water Coalition’s Request for Hearing*. On September 1, 2026, the City of Pocatello, City of Idaho Falls, and Coalition of Cities (collectively, the “Cities”) filed the *Cities’ Joint Request for Hearing*. Also on September 1, 2026, Jerry D. Bingham and Valerie H. Bingham filed *Jerry D. Bingham’s and Valerie H. Bingham’s Request for Hearing*.

On September 2, 2026, Idaho Ground Water Appropriators, Inc. (“IGWA”) filed *IGWA’s Notice of Intent to Participate in Requested Hearings*.

On September 19, 2026, the Director issued an *Order Granting Requests for Hearing and Limiting Scope of Hearing; Notice of Prehearing Conference*. The order granted all three requests for hearing, but limited the scope of the hearing to:

the proposed revision identified in the *Notice of Opportunity for Hearing*, including the factual basis for and appropriateness of the proposed maximum historical diversion and diversion-potential values, the use of maximum historical daily diversion to establish maximum physical diversion capacity, and the operation and effect of proposed paragraphs 44 and 45 on the calculation of RISD.

Order Granting Req. for Hr’g & Limiting Scope of Hr’g; Not. of Prehr’g Conf., at 4.

On September 28, 2026, the Director conducted a prehearing conference. The SWC, City of Pocatello, City of Idaho Falls, Coalition of Cities, and IGWA appeared represented by counsel. During the conference, discovery needs were discussed and the Director identified two Department witnesses who will testify during the hearing and be made available to the parties for depositions requested in advance of the hearing—Craig Chandler, Water District 1 Watermaster, and Ethan Geisler, Technical Services Bureau Chief. Additionally, the Director outlined a compressed hearing schedule and no objections to the proposed schedule were raised.

Pursuant to IDAPA 37.01.01.514, this order memorializes and clarifies the rulings made and scheduling agreements reached during the prehearing conference.

ORDER

IT IS HEREBY ORDERED that as of September 28, 2026, and pursuant to IDAPA 37.01.01.521, the parties are authorized to conduct and engage in the methods of discovery listed under IDAPA 37.01.01.520.01. Barring any conflicting discovery procedures or limitations set forth in the Department’s Rules of Procedure, IDAPA 37.01.01, or an order of the presiding officer, discovery shall conform to Title V of the Idaho Rules of Civil Procedure.

IT IS FURTHER ORDERED that testimony by the Department witnesses identified for this contested case shall be limited as follows:

- (1) Testimony of Craig Chandler, Water District 1 Watermaster, shall be limited to analysis and evaluation of historical diversion values and diversion capacities.
- (2) Testimony of Ethan Geisler, Technical Services Bureau Chief, shall be limited to his participation in preparing the proposed revisions to the *Sixth Methodology Order* and evaluation of any alternative revision language.

IT IS FURTHER ORDERED that the following schedule is ADOPTED:

- Oct. 2, 2026** Deadline for the parties to file a list of expert witnesses they intend to rely upon at the hearing, including names, addresses, and an updated curricula vitarum. However, a curricula vitarum is not required if the expert identified is an employee of the Department
- Oct. 16, 2026** Deadline for the parties to complete all discovery, including depositions. Given the compressed schedule, all answers and any objections to written discovery requests must be served by this deadline, so long as the requests were served at least 7 days prior to the completion deadline.
- Oct. 26, 2026** Deadline for the parties to submit to the Department and exchange any expert reports they intend to rely upon at the hearing on this matter. Given the compressed schedule, rebuttal expert reports will not be considered.
- Oct. 27, 2026** Deadline for the parties to file a list of the names and addresses of all witnesses that they may call to testify at the hearing on this matter. A short summary of the scope of each witnesses' anticipated testimony shall be included, and expert witnesses shall be identified as such. Unless the expert identified is an employee of the Department, the expert must be noted as an author of an expert report disclosed in this matter or as an anticipated rebuttal witness.

Deadline for the parties to file an index of exhibits and to provide all parties and the Department with an electronic copy (via e-file email or USB flash drive) of their pre-marked exhibits. Each exhibit must be an independent file, and all file text must be machine readable. Exhibits must be pre-marked in the bottom right corner of every page and must include the name of the party proposing the exhibit, the exhibit number, and a page number. Each exhibit must start with page 1 and be consecutively numbered through the end of the exhibit, inclusive of any attachments. The parties shall use the following reserved exhibit numbers and reach out to the Director if additional numbers are needed:

Exhibit Nos.	Assigned Party
1–99	SWC
100–199	Cities
200–299	Binghams
300–399	IGWA

Nov. 3, 2026

Prior to the start of the hearing, the parties must submit to the Department three physical copies of their pre-marked exhibits.¹ Exhibits must be organized in binders that are labeled with the party's name and include dividers that identify each exhibit by its number.

NOTICE OF INTENT TO TAKE OFFICIAL NOTICE

Pursuant to Rule of Procedure 602, the Director hereby notifies the parties that he intends to take official notice of the Memorandum from Craig Chandler, Water District 1 Watermaster, to Mathew Weaver, Director (August 24, 2026) (subject: "Physical Diversion Rates Below Blackfoot"), a copy of which is attached hereto as Attachment A.

NOTICE OF HEARING

NOTICE IS HEREBY GIVEN that the Director will hold a hearing in this matter on **November 3–4, 2026**. Day one of the hearing will begin at **10:00 a.m. (MT)**. The hearing will take place at the Department's State Office, located at 322 E. Front Street, 6th Floor, Conference Rooms 602B–D, Boise, Idaho. All parties who wish to participate in the hearing and their witnesses shall be present in person.

The hearing will be held in accordance with the provisions of Chapter 17, Title 42, and Chapter 52, Title 67, Idaho Code, and the Department's Rules of Procedure, IDAPA 37.01.01. A copy of the Rules of Procedure may be obtained from the Department upon request or at <https://adminrules.idaho.gov/rules/current/37/370101.pdf>.

The hearing will be conducted in a facility that meets the accessibility requirements of the Americans with Disabilities Act. If you require reasonable accommodation to attend, participate in, or understand the hearing, please advise the Department no later than five (5) days before the hearing. Inquiries for reasonable accommodations should be directed to Sarah Tschohl, Idaho Department of Water Resources, PO Box 83720, Boise, Idaho 83720-0098, telephone (208) 287-4815, or email sarah.tschohl@idwr.idaho.gov.

DATED this 29th day of September 2026.



MATHEW WEAVER
Director

¹ The three copies required for the Department covers use by witnesses.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 29th day of September 2026, the above and foregoing was served by the method indicated below, and addressed to the following:

John K. Simpson IdaH20, PLLC PO Box 152 Boise, ID 83701-0152 jks@idahowaters.com	☒ U.S. Mail, postage prepaid ☒ Email
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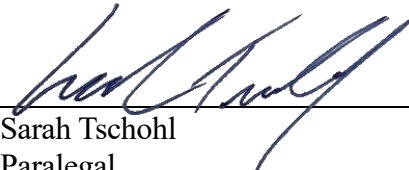
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Sarah Tschohl
Paralegal

Memorandum

To: Mathew Weaver, Director

From: Craig Chandler, WD1 Watermaster

Date: 8/24/2026

Re: Physical Diversion Rates Below Blackfoot

Water District 1 analyzed the maximum observed daily diversion rates for the major diversions below Blackfoot using records dating back to 1977. The table below summarizes the results, including the maximum daily diversion rate observed for each entity and the year in which it occurred.

		Historic Max (cfs)	Year
13087500	Southside Twin Falls TCSI	3852	1979
13087000	Northside Twin Falls TCNI	3964	1993
13086530	AFRD #2 MIII	1708	2005
13086000	Milner Irrigation MLCI	336	1981
13080500	Burley Irrigation District SMCI	1420	1978
13080000	Minidoka Irrigation District NMCI	1790	1977
13085500	A&B Irrigation District MPCl	332	2021