



April 29, 2026

The Honorable Raúl R. Labrador
Attorney General
700 W. Jefferson Street
P.O. Box 83720
Boise, Idaho 83720-0010

RE: Swan Falls Settlement Framing Questions

Attorney General Labrador,

The Idaho Water Resource Board (IWRB) holds water rights 2-201, 2-223, and 2-224 at the Murphy Gaging Station immediately downstream of Swan Falls Dam. Water for reallocation to issue trust water rights is available as a result of the subordination of Idaho Power's hydropower water rights at Swan Falls Dam. These were features of the Swan Falls Settlement (Settlement) between the State of Idaho and the Idaho Power Company. In general, trust water rights have a priority date junior to the IWRB rights and were issued for a defined term. Most trust water rights are located in tributary aquifers connected to the Snake River, including the Eastern Snake Plain Aquifer.

The following questions concern the authorities and responsibilities of the Director of the Department of Water Resources regarding administration of trust water rights to maintain the IWRB water rights at the Murphy Gaging Station.

Question 1) Trust Water Rights Term Limits

Does the Director have the authority to review term-limited trust water rights and cancel a term-limited trust water right if the review determines the trust water right is no longer in the public interest, or if the water supply is no longer sufficient to reliably maintain the trust water right and the IWRB rights at the Murphy Gaging Station? Does that same authority, if present, extend to trust water rights that do not have a term limitation on the face of the water right?

Question 2) Administration of Trust Water Rights

Given the time-delay effects that exist between the Snake River and connected tributary aquifers, does the Director have the authority to preemptively curtail trust water rights, based on a forecast, to maintain sufficient flows in the Snake River to maintain the IWRB rights at the Murphy Gaging Station? Or must administration of trust water rights occur only when there is a shortfall of flow available to meet the IWRB water rights? Does the Settlement require the Director to undertake administration of the trust water rights, or must the IWRB first request

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that administration? Can curtailment of the trust water rights be avoided through development of a mitigation plan?

As water supplies become ever-tighter in the Snake River Basin, answers to these questions are fundamental to water right administration on the Snake River. I respectfully request an Attorney General's Opinion regarding the answers to these questions. Should you have any questions, I can be reached at (208) 287-4800 or mathew.weaver@idwr.idaho.gov. I appreciate your attention to this matter.

Respectfully,



Mathew Weaver, Director
Idaho Department of Water Resources

CC: Phil Skinner, Chief Deputy Attorney General
Joy Vega, Division Chief, Office of the Attorney General
Garrick Baxter, Office of the Attorney General