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 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 **STIPULATION AND JOINT MOTION TO APPROVE INSERTIONS INTO THE *SIXTH METHODOLOGY ORDER***

THIS STIPULATION AND JOINT MOTION TO APPROVE INSERTIONS INTO THE *SIXTH METHODOLOGY ORDER* (this "*Stipulation*") is made and entered into to be effective as of the date of the latest signature date set forth below, by and between the following parties:

1. **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** (collectively the "SWC");
2. **The City of Pocatello, City of Idaho Falls, and the Coalition of Cities**[1] (collectively the "Cities"); and
3. **Jerry D. Bingham and Valerie H. Bingham** (collectively "Bingham"); and
4. **Idaho Ground Water Appropriators, Inc.** ("IGWA").

The SWC, Cities, Bingham, and IGWA may be referred to collectively herein as the "parties."

RECITALS:

A. 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 SWC.

B. 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

[1] The Coalition of Cities is composed of the Cities of Bliss, Burley, Carey, Declo, Dietrich, Gooding, Hazelton, Heyburn, Jerome, Paul, Richfield, Rupert, Shoshone, and Wendell.

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*.

C. 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 from Water District 1 data dating back to 1977. *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.

D. The SWC, Cities, and Bingham filed requests for hearing by September 1, 2026, in accordance with *Notice*; IGWA filed a *Notice of Intent to Participate in Requested Hearings* on September 2, 2026. The Director subsequently issued an *Order Granting Requests for Hearing and Limiting Scope of Hearing; Notice of Prehearing Conference* on September 14, 2026 and a subsequent *Order Authorizing Discovery and Limiting Testimony of Department Witnesses; Scheduling Order; Notice of Intent to Take Official Notice; and Notice of Hearing* on September 29, 2026, the latter of which provided notice of a hearing to be held on the matters identified by the Director in the *Notice* on November 3-4, 2026.

E. In the interests of settling any dispute over the proposed paragraphs listed above and in lieu of participating in an administrative hearing concerning the matters identified by the Director in the *Notice* as provided for under Idaho law, the parties have elected to enter into this *Stipulation* pursuant to IDAPA 37.01.01.612.

AGREEMENTS:

1. **Stipulated Insertions into the *Sixth Methodology Order*; Joint Motion to Approve and Vacate Hearing**. The parties hereby stipulate and agree to the insertions contained in **Exhibit 1** to be included in the *Sixth Methodology Order.* The parties further jointly move the Director to adopt the insertions contained in **Exhibit 1**, substitute said insertions for those contained in the *Notice*, and if such language is accepted and adopted by the Director, to vacate the hearing and all other associated deadlines in this matter.

2. **Reservation of Rights**. The parties agree and acknowledge that this *Stipulation* is entered into for the purpose of resolving any dispute regarding matters associated with the contested case and the Director's *Notice* thereto and reserve all other rights to

participate in matters or proceedings associated with the *Sixth Methodology Order*. Further, the parties agree that nothing in this *Stipulation* shall be used against any party as an admission against any interest in any future administrative or judicial proceeding. Finally, nothing in this *Stipulation* shall be interpreted or construed as any waiver of the Binghams' claims of priority, i.e. "first in time first in right" pursuant to Idaho law.

3. **Reliance Upon Statements**. The parties hereto specifically acknowledge that they were represented by counsel in this matter and agree that other than as is set forth herein, they have executed this Stipulation without relying upon any statements or representations written or oral, as to any statement of law or fact made by any other party or attorney.

4. **Counterparts**. This *Stipulation* may be executed in counterparts, each of which is deemed an original but all of which constitute one and the same instrument. The signature pages may be detached from each counterpart and combined into one instrument.

A&B IRRIGATION DISTRICT, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY, AMERICAN FALLS RESERVOIR DISTRICT #2 AND MINIDOKA IRRIGATION DISTRICT



Date: October 16, 2026

By: Travis L. Thompson, of the firm Parsons Behle and Latimer
Attorneys for A&B Irrigation District, Burley Irrigation District, Twin Falls Canal Company, North Side Canal Company, and Milner Irrigation District, American Falls Reservoir District #2, and Minidoka Irrigation District

Date: October 16, 2026

/s/ Norman M. Semanko

By: Norman M. Semanko, of the firm Parsons Behle and Latimer
Attorneys for A&B Irrigation District, Burley Irrigation District, Twin Falls Canal Company, North Side Canal Company, and Milner Irrigation District, American Falls Reservoir District #2, and Minidoka Irrigation District

CITY OF POCATELLO

Date: October 16, 2026

By: Maximilian C. Bricker, of the firm Somach Simmons & Dunn, P.C.
Attorneys for City of Pocatello

CITY OF IDAHO FALLS

Date: October 16, 2026

By: Robert L. Harris, of the firm Holden, Kidwell, Hahn & Crapo, P.L.L.C.
Attorneys for City of Idaho Falls

COALITION OF CITES



Date: October 20, 2026

By: Candice M. McHugh, of the firm McHugh Bromley, PLLC
Attorneys for Coalition of Cities

JERRY D. BINGHAM AND VALERIE H. BINGHAM

Date: 10/16/2024

By: Reed W. Larsen, of the firm Cooper & Larsen, Chartered
Attorneys for Jerry D. Bingham and Valerie H. Bingham

IDAHO GROUND WATER APPROPRIATORS, INC.

Date: 10/16/2026

By: Thomas J. Budge, of the firm Racine Olson, PLLP
Attorneys for Idaho Ground Water Appropriators, Inc.

Exhibit 1

44. May through September RISD Adjustment: In May through September, the calculated RISD, which is equal to the CWN divided by Ep, can overestimate the maximum volume of water an irrigation delivery entity has diverted through its diversion works system. Overestimation occurs when the CWN value for a given month, divided by Ep, exceeds the maximum historical monthly diversion volume for that entity. To account for conditions affecting the usability of the RISD value for May through September, the values may be adjusted for each individual irrigation delivery entity in the SWC as described below.

	Date of Max Historical Diversion (mo./yr.)	Max Historical Monthly Diversion (Acre-feet)	May Diversion Potential (Acre-feet)	June Diversion Potential (Acre-feet)	July Diversion Potential (Acre-feet)	August Diversion Potential (Acre-feet)	September Diversion Potential (Acre-feet)
A&B	6/2021	17,536	18,121	17,536	18,121	18,121	17,536
AFRD2	7/2005	100,090	100,090	96,861	100,090	100,090	96,861
BID	7/1978	81,621	81,621	78,988	81,621	81,621	78,988
Milner	7/1979	19,785	19,785	19,147	19,785	19,785	19,147
Minidoka	7/1978	92,788	92,788	89,795	92,788	92,788	89,795
NSCC	7/1990	233,595	233,595	226,060	233,595	233,595	226,060
TFCC	7/1979	226,143	226,143	218,848	226,143	226,143	218,848

Max SWC Historical Diversion Volume (based on Water District 1 records, and corresponding monthly Max Diversion Potential in Acre-Feet).

45. When the calculation of CWN/Ep results in a value for the months of May through September that is less than or equal to the maximum diversion potential for that month, as outlined in the table above, the RISD for that month is equal to the calculated CWN/Ep volume. When the calculation of CWN/Ep results in a value greater than the maximum diversion potential for that month, the RISD for that month is equal to the maximum diversion potential.

46. If Water District 1 records show a monthly volume diverted in excess of the maximum historical monthly diversion set forth in the table in Paragraph 44, or modifications to the diversion infrastructure decreases the maximum diversion works capacity of an individual irrigation entit(ies), such information may be submitted on or before April 1st of a given year for consideration by the Director in future orders.