

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF THE MITIGATION
PLAN FILED BY J.R. SIMPLOT COMPANY
FOR THE DISTRIBUTION OF WATER TO
WATER RIGHTS HELD BY THE SURFACE
WATER COALITION

Docket No. CM-MP-2025-002

**AMENDED FINAL ORDER
APPROVING MITIGATION PLAN
FOR 2025**

The Director of the Idaho Department of Water Resources (“Department”) finds, concludes, and orders as follows:

FINDINGS OF FACT

1. On July 17, 2025, the Department received J. R. Simplot Company’s (“Simplot”) *Application for Approval of Mitigation Plan* (“*Mitigation Plan*”), filed in relation to the Surface Water Coalition¹ (“SWC”) delivery call case, Docket No. CM-DC-2010-001. The *Simplot Mitigation Plan* was submitted pursuant to Rule 43 of the Department’s Rules for Conjunctive Management of Surface and Ground Water Resources (“CM Rules”). IDAPA 37.03.11.043.

2. With its proposed *Mitigation Plan*, Simplot seeks to mitigate for diversions made pursuant to Water Right Nos. 29-7089 and 29-2515² during the 2025 irrigation season. *Mitigation Plan* ¶ 2, at 1.³ Simplot estimates the steady state impacts of pumping ground water under Water Right Nos. 29-7089 and 29-2515 on the Snake River to be 147.1 acre-feet, but proposes to mitigate for the maximum diversion volume allowed under the rights—704 acre-feet. *Mitigation Plan* Attach., at 6–7; see *Mitigation Plan* ¶ 4.a, at 1–2.

3. The effective period of the *Mitigation Plan* is only the 2025 irrigation season. *Id.* ¶ 4, at 1–2; see *Mitigation Plan* Attach., at 3.

4. During the 2025 irrigation season, the Director initially found that Twin Falls Canal Company (“TFCC”) was “the only member of the SWC predicted to experience material injury” but later revised the prediction to include injury to both TFCC and American Falls Reservoir District #2 (“AFRD2”). *Order Revising July 2025 Forecast Supply (Methodology Steps 7-8 Order)* § A.2, at 1, § E.23, at 10, No. CM-DC-2010-001 (Sep. 11, 2025).

¹ The SWC is comprised 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.

² According to Department records, Water Right Nos. 29-7089 and 29-2515 are in the name of Michaud Creek Ranches, Inc., but Simplot states it is the successor in interest to those water rights. *Mitigation Plan*, at 1.

³ The *Mitigation Plan* does not provide page numbers on the main document or the included attachments. With attachments, the plan is eight pages long. For clarity, this order references the plan as though the pages in the filing are numbered one through eight.

5. To support its plan, Simplot holds up to 2,500 acre-feet of storage water in the Palisades Reservoir under a contract with the United States Bureau of Reclamation. *Mitigation Plan* ¶ 3, at 1. In June, intending to mitigate for its proportionate share of injury to TFCC, Simplot leased 704 acre-feet of its Palisades Reservoir storage water through Water District 01's Rental Pool to credit TFCC's storage accounts for the 2025 irrigation season. *Id.* ¶¶ 3–4.a, at 1–2, Attach., at 4 (private lease agreement). In its plan, Simplot indicates it will not divert more than 704 acre-feet—the maximum authorized diversion volume under Water Right Nos. 29-7089 and 29-2515—during the 2025 irrigation season. *Id.* ¶ 4.a, at 1–2. Simplot also indicates its point of diversion is metered, so pumping volumes will be recorded and reported to Water District 120 to ensure compliance throughout the season. *Id.* ¶ 4.b, at 2.

6. Notice of the *Mitigation Plan* was published in the: Idaho Statesman, Idaho Mountain Express, Post Register, and Idaho State Journal on August 6 and 13, 2025; Times News and Lewiston Tribune on August 7 and 14, 2025; Rexburg Standard Journal on August 8 and 15, 2025; and republished in Mountain Home News on August 20 and 27, 2025. No protests were received.

CONCLUSIONS OF LAW

1. Idaho Code § 42-602, addressing the authority of the Director over the supervision of water distribution within water districts, provides:

The director of the department of water resources shall have direction and control of the distribution of water from all natural water sources within a water district to the canals, ditches, pumps and other facilities diverting therefrom. Distribution of water within water districts created pursuant to section 42-604, Idaho Code, shall be accomplished by watermasters as provided in this chapter and supervised by the director.

The director of the department of water resources shall distribute water in water districts in accordance with the prior appropriation doctrine. The provisions of chapter 6, title 42, Idaho Code, shall apply only to distribution of water within a water district.

2. In addition, Idaho Code § 42-1805(8) provides the Director with authority “[t]o promulgate, adopt, modify, repeal and enforce rules implementing or effectuating the powers and duties of the department.”

3. Idaho Code § 42-603 grants the Director authority to adopt rules governing water distribution. In accordance with chapter 52, title 67, Idaho Code, the Department adopted rules regarding the conjunctive management of surface and ground water. IDAPA 37.03.11.000. “The [CM Rules] prescribe procedures for responding to a delivery call made by the holder of a senior-priority surface or ground water right against the holder of a junior-priority ground water right in an area having a common ground water supply.” IDAPA 37.03.11.001.

4. CM Rule 42.02 states: “The holder of a senior-priority surface or ground water right will be prevented from making a delivery call for curtailment of pumping of any well used

by the holder of a junior-priority ground water right where use of water under the junior-priority right is covered by an approved and effectively operating mitigation plan.” IDAPA 37.03.11.042.02.

5. CM Rule 43.01 (a–d) sets forth the criteria for submission of a mitigation plan to the Director.

6. CM Rule 43.03 establishes the “[f]actors that may be considered by the Director in determining whether a proposed mitigation plan will prevent injury to senior rights” One factor that may be considered by the Director is “[w]hether the mitigation plan will provide replacement water, at the time and place required by the senior-priority water right” IDAPA 37.03.11.043.03.b.

7. To mitigate for its injury during the 2025 irrigation season to TFCC, Simplot leased storage water to TFCC that is equal to the maximum diversion volume allowed under Water Right Nos. 29-7089 and 29-2515. *Mitigation Plan* ¶ 4.a, at 1, Attach., at 4–5. Accordingly, the mitigation activities proposed by Simplot are the type of activities that provide replacement water at the time and place required by TFCC during the 2025 irrigation season. At the time Simplot submitted its *Mitigation Plan*, the Director had only determined an injury to TFCC. In his *Methodology Steps 7-8 Order*, the Director determined 59,600 acre-feet of injury to TFCC and 4,100 acre-feet of injury to AFRD2 for a total injury determination of 63,700 AF. *Methodology Step 7-8 Order*, at 10. Because the *Mitigation Plan* only proposes to mitigate for injury to TFCC, the Director will only approve this plan to mitigate for injury to TFCC. If Simplot intends for this *Mitigation Plan* to protect it against an injury determination for any other member of the SWC, it will need to submit an amendment to its *Mitigation Plan*.

8. The *Mitigation Plan* should be approved for the 2025 irrigation season only. The Director may review any future mitigation plans submitted by Simplot to determine whether they comply with the requirements set forth in the CM Rules.

ORDER

Based upon and consistent with the foregoing, IT IS HEREBY ORDERED that the *Application for Approval of Mitigation Plan* submitted by J. R. Simplot Company on July 17, 2025, is APPROVED as to its mitigation obligations for Twin Falls Canal Company only for the 2025 irrigation season.

DATED this 24th day of September 2025.



MATHEW WEAVER
Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 24th day of September 2025, the above and foregoing was served on the following by the method(s) indicated below:

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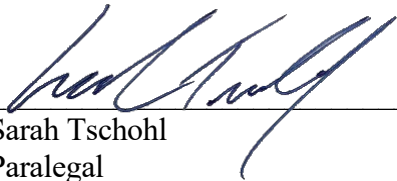
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**EXPLANATORY INFORMATION TO ACCOMPANY A
FINAL ORDER**

(To be used in connection with actions when a hearing was **not** held)

The accompanying document is a "Final Order" issued by the Idaho Department of Water Resources ("Department") pursuant to Idaho Code § 67-5246.

PETITION FOR RECONSIDERATION

(See Idaho Code § 67-5246(4))

Any party may file a petition for reconsideration of this final order within fourteen (14) days of the service date of this order as shown on the certificate of service. **Note: the petition must be received by the Department within this fourteen (14) day period.** The presiding officer will act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law.

REQUEST FOR HEARING

(See Idaho Code § 42-1701A(3))

Unless the right to a hearing before the Department or the Water Resource Board is otherwise provided by statute, any person aggrieved by any final decision, determination, order or action of the Director, and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to Idaho Code § 42-1701A(3). A written petition to the Director contesting this final order and requesting a hearing must be filed with the Department by any aggrieved person **within fifteen (15) days after service of this final order.**

CERTIFICATE OF SERVICE

(See IDAPA 37.01.01.053, 37.01.01.202)

All documents filed with the Department in connection with a petition for reconsideration or a request for hearing of this final order shall be served on all other parties to the proceedings in accordance with Rules of Procedure 53 and 202.