

**BEFORE THE DEPARTMENT OF WATER RESOURCES  
OF THE STATE OF IDAHO**

<b>IN THE MATTER OF DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY OR FOR THE BENEFIT OF A&amp;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</b>	<b>CM-DC-2010-001</b>  <b>ORDER REVISING JULY 2021 FORECAST SUPPLY</b>  <i>(METHODOLOGY STEPS 7 – 8)</i>
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The Director (“Director”) of the Idaho Department of Water Resources (“Department”) finds, concludes, and orders as follows:

**FINDINGS OF FACT**

**A. Background**

1. On April 19, 2016, the Director issued the *Fourth Amended Final Order Regarding Methodology for Determining Material Injury to Reasonable In-Season Demand and Reasonable Carryover* (“Methodology Order”). The Methodology Order established nine steps for determining material injury to members of the Surface Water Coalition (SWC). This order applies Steps 7 and 8 of the Methodology Order.

2. On April 19, 2021, the Director issued the *Final Order Regarding April 2021 Forecast Supply (Methodology Steps 1 – 3)* (“April Forecast Supply Order”). The April Forecast Supply Order predicted a demand shortfall to the SWC of 40,500 acre-feet for the 2021 irrigation season. *April Forecast Supply Order* at 3. At that time, the only member of the SWC predicted to experience material injury during the 2021 irrigation season was the Twin Falls Canal Company (TFCC). The Director ordered that, by May 1, 2021, ground water users with consumptive water rights “junior to May 30, 1989, within the Eastern Snake Plain Aquifer area of common ground water supply shall establish, to the satisfaction of the Director, that they can mitigate for their proportionate share of the predicted [demand shortfall] of 40,500 acre-feet in accordance with an approved mitigation plan.” *Id.* at 6. The Director also ordered that, “if a junior ground water user cannot establish...that they can mitigate for their proportionate share of the predicted [demand shortfall] in accordance with an approved mitigation plan, the Director will issue an order curtailing the junior-priority ground water user.” *Id.*

3. On May 20, 2021, the Director issued a *Final Order Curtailing Ground Water Rights Junior to May 30, 1989* (“First Curtailment Order”). The Director ordered that:

[A]t 12:01 a.m. on or before June 3, 20[21], ground water users holding water rights bearing priority dates junior to May 30, 1989, within the [Eastern Snake Plain Aquifer area of common ground water supply] listed in Attachment A to this order shall curtail/refrain from diversion and use of ground water pursuant to those water rights unless notified by the Department that the order of curtailment has been modified or rescinded as to their water rights.

*First Curtailment Order at 3-4.*

4. On July 20, 2021, the Director issued the *Order Revising April 2021 Forecast Supply (Methodology Step 6)* (“July Forecast Supply Order”), revising the in-season demand shortfall (DS) to 170,000 acre-feet. *July Forecast Supply Order at 10.* The Director ordered that:

On or before August 3, 2021, ground water users holding consumptive water rights bearing priority dates junior to June 14, 1977, within the Eastern Snake Plain Aquifer area of common ground water supply shall establish, to the satisfaction of the Director, that they can mitigate for their proportionate share of the predicted DS of 170,000 acre-feet in accordance with an approved mitigation plan. If a junior ground water user cannot establish, to the satisfaction of the Director that they can mitigate for their proportionate share of the predicted DS of 170,000 acre-feet in accordance with an approved mitigation plan, the Director will issue an order curtailing the junior-priority ground water user.

*Id.* The July Forecast Supply Order kept the First Curtailment Order in effect. *Id.*

5. On August 4, 2021, the Director issued the *Final Order Curtailing Ground Water Rights Junior to June 14, 1977* (“Second Curtailment Order”). The Director ordered that:

[A]t 12:01 a.m. on or before August 4, 2021, ground water users holding water rights bearing priority dates junior to June 14, 1977, within the [Eastern Snake Plain Aquifer area of common ground water supply] listed in Attachment A to this order shall curtail/refrain from diversion and use of ground water pursuant to those water rights unless notified by the Department that the order of curtailment has been modified or rescinded as to their water rights.

*Second Curtailment Order at 3-4.*<sup>1</sup>

6. Step 7 of the Methodology Order requires:

Shortly before the estimated Time of Need, but following the events described in Steps 5 and 6, the Director will, for each member of the SWC: (1) recalculate RISD [(reasonable in-season demand)]; (2) issue a revised FS [(forecast supply)]; and (3) establish the Time of Need. The revised FS for each SWC entity is the sum of the year-to-date actual natural flow diversions, the forecasted natural flow supply for

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<sup>1</sup> Department staff are currently actively engaged in enforcement of the Second Curtailment Order.

the remainder of the season, and the storage allocation for each member of the SWC. The forecasted natural flow supply for the remainder of the season will be based on analogous year(s) with similar Blackfoot to Milner reach gains. The storage allocation will be based on the actual preliminary storage allocations issued by the BOR [(United States Bureau of Reclamation)] and Water district 01.

This information will be used to recalculate RISD and adjust the projected DS for each member of the SWC. RISD will be calculated utilizing the project efficiency, BD [(baseline year demand)], and the cumulative actual CWN [(crop water need)] determined up to that point in the irrigation season. The Director will then issue revised RISD and DS values.

*Methodology Order* at 38.

7. Step 8 of the Methodology Order requires:

At the Time of Need, junior ground water users are required to deliver to each injured member of the SWC the Step 7 revised DS calculated at the Time of Need. Alternatively, any additional mitigation obligation calculated in Step 6 and Step 7 can be satisfied from the each [*sic*] SWC member's reasonably carryover if (a) the reasonable carryover exceeds the additional mitigation obligation, and (b) the junior ground water users secure sufficient water to replace the reasonable carryover pursuant to an approved mitigation plan.

The Director will review, at the end of the season, the volume and efficiencies of application of surface water, the amount of mitigation water delivered by junior ground water users, and may, in the exercise of his professional judgment, readjust the reasonable carryover shortfalls to reflect these considerations.

*Id.*

## **B. Climate**

8. The April 2021 Joint Forecast prepared by the United States Army Corps of Engineers and the United States Bureau of Reclamation (BOR) predicted 2,600,000 acre-feet of natural flow at the Heise gage for the period April – July, 2021. *April Forecast Supply Order* at 2. The Joint Forecast “is generally as accurate a forecast as is possible given current data gathering and forecasting techniques.” *Methodology Order* at 17.

9. The months of April, May, June, and July were dry. According to data measured at the Natural Resources Conservation Service's SNOTEL sites in the Upper Snake River Basin, the basin received 49%, 121%, 13%, and 98% of average precipitation in April, May, June, and July, respectively. The National Weather Service's Twin Falls weather station reported 29%, 51%, 2%, and 32% of normal precipitation in April, May, June, and July, respectively. Twin

Falls temperatures were 0.3 degrees below normal for April, 0.1 degrees above normal for May, 8.4 degrees above normal for June, and 5.9 degrees above normal for July.<sup>2</sup>

### **C. Reasonable In-Season Demand**

10. RISD is the volume of water that would be required to be diverted at the point of diversion during the year of evaluation to grow the specific crops within the service area of the entity. In April, the demand from the 2006/2008/2012 baseline year (BLY) represents the RISD. During the irrigation season, the RISD for the already expired portion of the irrigation season is recalculated by dividing the actual crop water need (CWN) for each entity by the project efficiency for that entity. For the future remainder of the irrigation season, the RISD is the demand predicted from the July-October 2006/2008/2012 BLY. RISD is calculated on a monthly timestep.

#### **i. Crop Water Need**

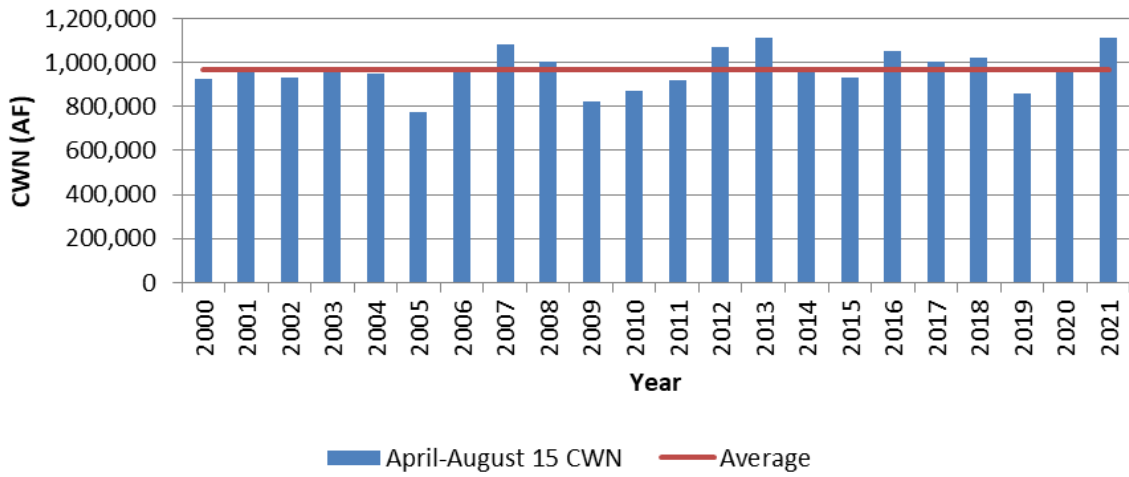
11. CWN is the project wide volume of irrigation water required for crop growth so crop development is not limited by water availability. CWN is the difference between the fully realized consumptive use associated with crop development, or evapotranspiration, and effective precipitation. CWN is an input variable for calculating RISD for those months of the irrigation season that are complete. Actual RISD for the completed portion of the irrigation season is combined with monthly predicted baseline demands for the remaining months of the irrigation season to calculate a season-total RISD volume. Demand shortfall is then calculated as the difference between the adjusted forecast supply and the RISD. For specifics regarding determination of CWN, see *Methodology Order* at 14.

12. As calculated from the beginning of the irrigation season (April 1), the SWC's volumetric CWN for the current water year through August 15 is 1,113,813 acre-feet. This volume is 112% of the April 1 through August 15 ten-year average CWN (2011-2020) and 109% of the CWN for the (2006/2008/2012) BLY. As calculated from April 1 through August 15, from the year 2000 to now, 2021 has the largest CWN volume of any irrigation season. The following graphs summarize monthly volumetric CWN values.

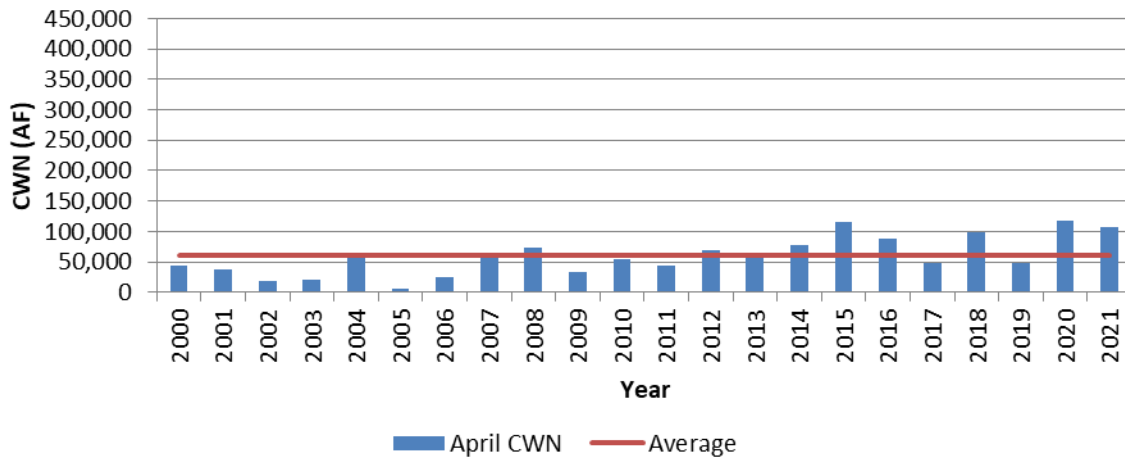
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<sup>2</sup> Precipitation and temperature data obtained from the NOAA National Weather Service Preliminary Monthly Climate Data for the Twin Falls 3SE weather station (Twin Falls Airport).

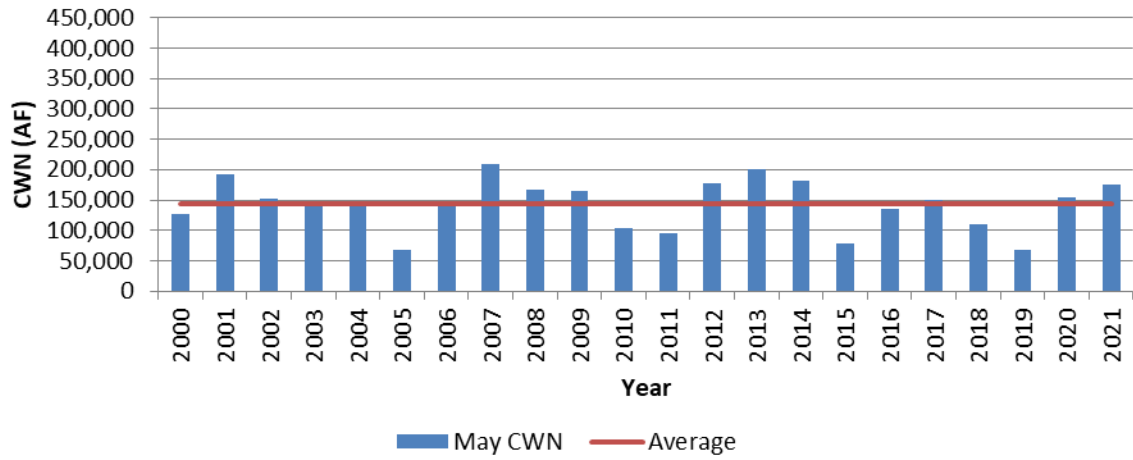
### SWC April-August 15 Volumetric CWN



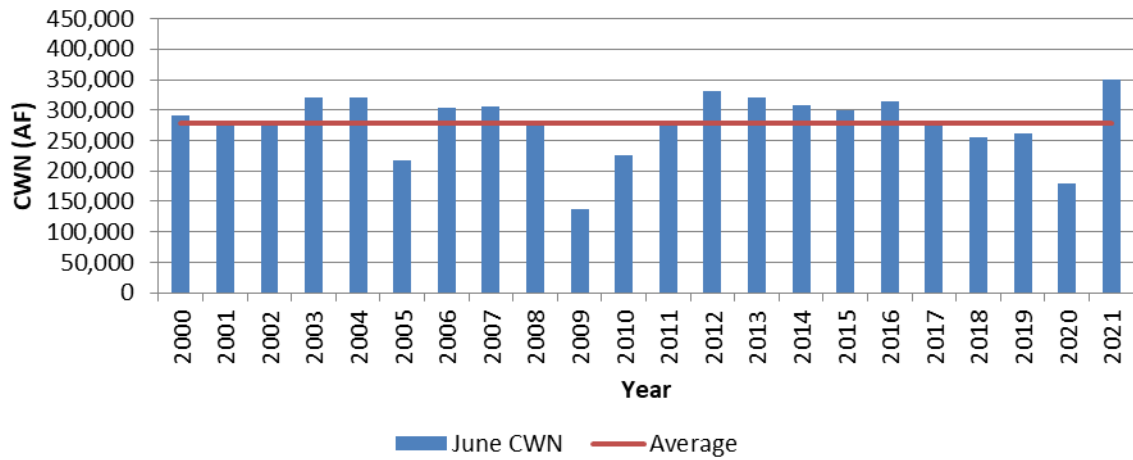
### SWC April Volumetric CWN

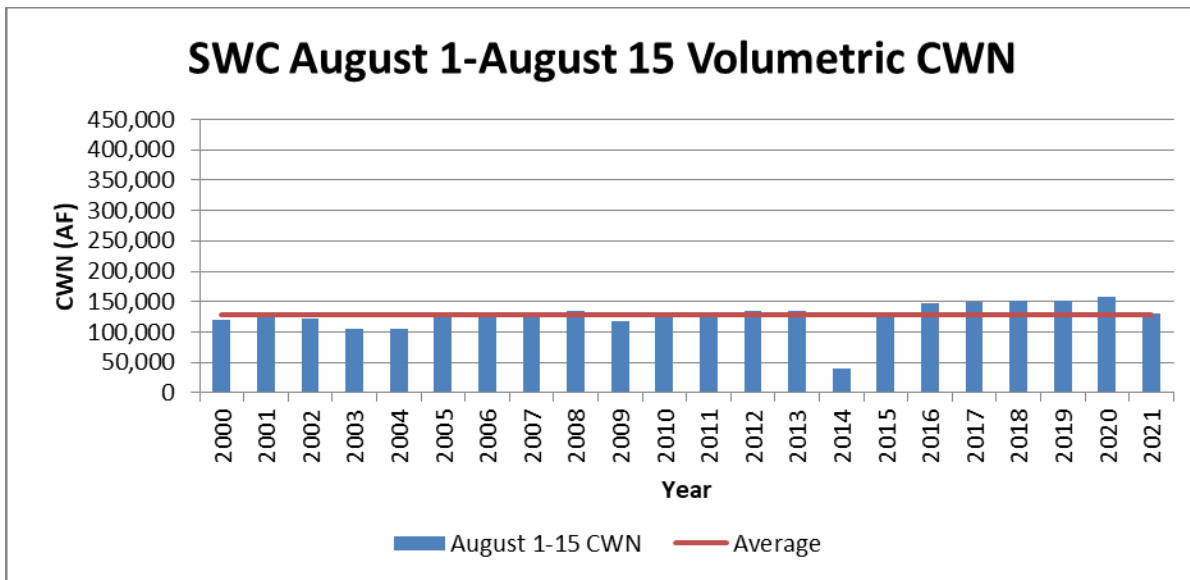
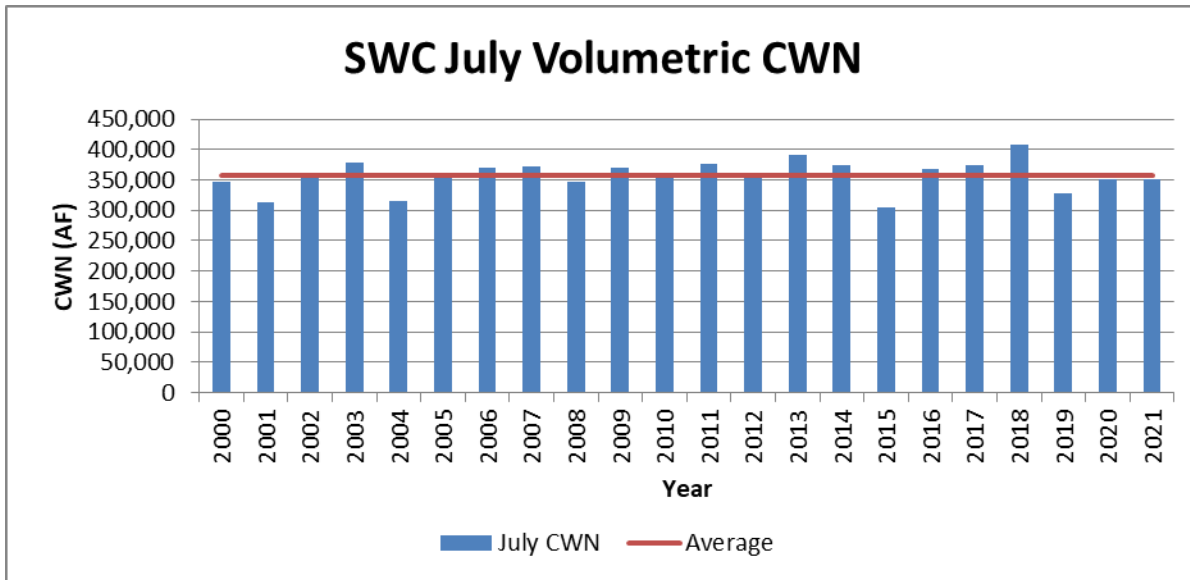


### SWC May Volumetric CWN



### SWC June Volumetric CWN





**ii. Extension of BLY**

13. The RISD for the future portion of the irrigation season is the August 16–October 31 demand for (2006/2008/2012) BLY. The numeric August 16–October 31 demand values are shown in the table in Finding of Fact 14 below.

**iii. Calculation of RISD**

14. As calculated from the beginning of the irrigation season (April 1), the SWC’s volumetric RISD for 2021 through August 15 is 2,660,577 acre-feet. This volume is 114% of

the April 1–August 15 ten-year average RISD (2011-2020) and 116% of the April 1–August 15 demand for the (2006/2008/2012) BLY. As calculated from April 1 to August 15, from the year 2000 until this year, 2021 has the fourth largest RISD volume of any irrigation season. The recalculated RISD on August 15 of the 2021 irrigation season by entity is summarized in column six of the following table:

	April 1- August 15 CWN (AF)	April 1-August 15 Project Efficiency	April 1- August 15 RISD (AF)	August 16- October 31 Demand for 06/08/12 BLY (AF)	Recalculated RISD (AF)
A&B	33,633	0.45-0.96	52,636	14,470	67,106
AFRD2	123,456	0.21-0.43	358,669	126,252	484,921
BID	93,909	0.31-0.54	210,654	57,979	268,633
Milner	25,972	0.35-0.90	47,905	11,567	59,472
Minidoka	169,713	0.36-0.66	322,744	85,183	407,927
NSCC	287,251	0.22-0.47	808,206	274,983	1,083,189
TFCC	379,879	0.29-0.58	859,764	324,646	1,184,410

#### D. Forecast Supply

15. When determined during the irrigation season, the forecast supply (FS) is the sum of the actual natural flow supply from April 1 through August 15, the predicted natural flow supply from August 16 through October 31, and the actual storage allocations. *Methodology Order* at 38. Actual natural flow diversions for the already expired portion of the irrigation season are extracted from the Department’s water rights accounting program. The natural flow diversions for the remainder of the irrigation season are based on the selection of analogous year(s) with similar Blackfoot to Milner reach gains. *Id.* at 18, 38. Storage allocations are established by the BOR and Water District 01 (WD1) on the day of allocation. *Id.* at 38.

##### i. Sum of Actual Natural Flow Diverted

16. Actual natural flow diverted for the period April 1 through August 15 for each SWC member are summarized in the table contained within the Summary of Forecast Supply section in Finding of Fact 21.

##### ii. Selection of an Analogous Year to Predict Remaining Natural Flow

17. Natural flow diversions for the remainder of the irrigation season were predicted by choosing an analogous year. The Department used a residual analysis<sup>3</sup> carried out on a daily time step to compare the reach gains from July 16 to August 15 for the current water year to historical reach gains for the same period for the 1991–2020 water years. From this residual analysis, four candidate years were selected: 2016, 2010, 2004, and 2003. These years represent

<sup>3</sup> The daily residual is expressed as a percentage and defined as the difference between the current water year reach gain (CY) and the historical reach gain (HY) divided by the current water year reach gain:  $R = (CY - HY)/CY$ .

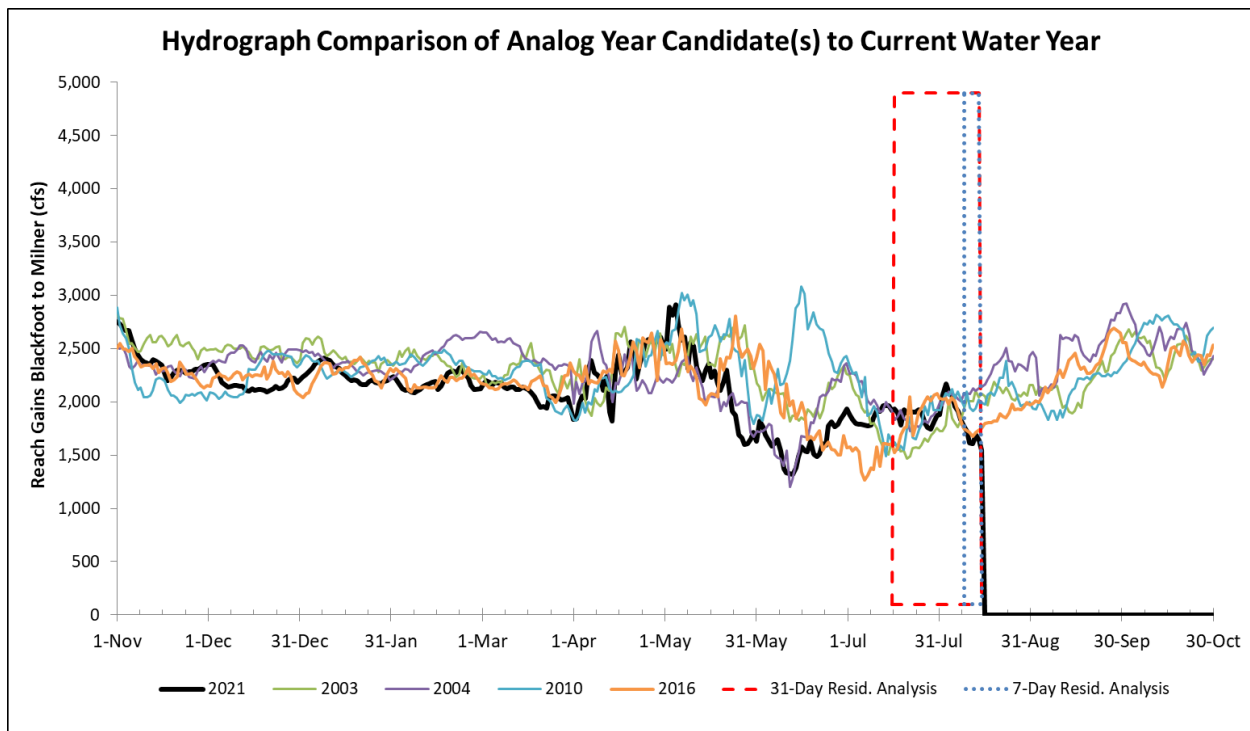


the four years with the most similar reach gains over the analysis period and the residuals are summarized in the following table:

**Summary of Residual Analysis of Candidate Years**

Time Period	2016	2010	2004	2003
7-Day (8/09–8/15)	-4.3%	-19.6%	-27.5%	-22.7%
31-Day (7/16–8/15)	-0.2%	-2.2%	4.5%	-5.8%

18. The following hydrograph compares the current water year to the four candidate years with the most similar reach gains as determined by the residual analysis. The Department examined natural flow diversions for each of the candidate years and selected 2016 as the analog year used to predict natural flow diversions for the remainder of the irrigation season. The Department chose 2016 because the residual analysis demonstrated 2016 was most similar to 2021 conditions when considering the reach gains for the most recent 7-day and 31-day period.



**iii. Storage Allocations**

19. Preliminary storage allocation values for each member of the SWC were established by the BOR and WD1 and published in WD1’s Initial Storage Report on June 29,

2021.<sup>4</sup> Storage allocation values for each SWC member are summarized in the table in Finding of Fact 21 below.

**iv. Adjustments to Total Supply**

20. The natural flow and storage water supplies were both adjusted as shown in the table in Finding of Fact 21 below. Adjustments to natural flow include wheeled water to Southwest Irrigation District through BID and Milner, 3,700 acre-feet and 3,000 acre-feet, respectively. The only adjustments made to the stored water supply were for the Minidoka Credit. The Department did not adjust SWC water supplies for wheeled storage water published in WD1’s weekly reports because wheeled water does not increase the amount of water available for use by the SWC. The Department did not adjust SWC water supplies to account for water supplied to or from the rental pool because these transaction artificially increase or decrease the shortfall obligation.

**vi. Summary of Forecast Supply**

21. The table below contains the individual components of the FS for each of the SWC members.

	April 1- August 15 Natural Flow Diverted (AF)	August 16- October 31 Predicted Natural Diversions Flow (AF)	Natural Flow Adjustment (AF)	Preliminary Storage Allocation (AF)	Minidoka Credit Adjustment (AF)	Forecast Supply (AF)
A&B	2,872	0	0	132,913		135,784
AFRD2	57,269	0	0	382,492	1,000	400,761
BID	121,447	9,775	(3,700)	220,123	5,130	352,776
Milner	11,127	0	(3,000)	83,050		91,177
Minidoka	101,257	13,171	0	314,318	8,370	437,116
NSCC	300,104	59,293	0	834,679	(7,750)	1,186,326
TFCC	612,186	242,558	0	237,962	(6,750)	1,085,956

**E. Revised Shortfall Prediction**

22. Demand Shortfall is calculated as the difference between RISD and the FS.

23. Based on the methods described above, and as summarized in the following table, the Director predicts, at this time, that TFCC and American Falls Reservoir District No. 2 (AFRD2) are materially injured by junior ground water pumping.

<sup>4</sup> The *Initial Storage Report* may be viewed at: <http://www.waterdistrict1.com/WD01%20Storage%20Report.pdf>.

	Forecast Supply (AF)	RISD (AF)	Shortfall (AF)
A&B	135,784	67,106	0
AFRD2	440,761	484,921	44,200
BID	352,776	268,633	0
Milner	91,177	59,472	0
Minidoka	437,116	407,926	0
NSCC	1,186,326	1,083,189	0
TFCC	1,085,956	1,841,409	98,500
		Total	142,700

24. The current, predicted shortfall to the SWC’s RISD is 142,700 acre-feet.

#### **F. Time of Need**

25. The Department established the Time of Need by predicting when the remaining storage balance for TFCC was equal to their reasonable carryover volume of 25,200 acre-feet and the remaining storage balance for AFRD2 was equal to their reasonable carryover volume of 11,500 acre-feet. As described above, the Department selected 2016 as the analogous year it used to predict the storage use for TFCC and AFRD2 for the remainder of this season. Anticipating that TFCC’s and AFRD2’s storage use for the remainder of the 2021 season will be similar to their storage use in 2016, TFCC’s Time of Need actually occurred on August 16, 2021<sup>5</sup>, and AFRD2’s Time of Need will occur September 14, 2021.

#### **G. Priority and Curtailment**

26. In the July Forecast Supply Order, the Director predicted a demand shortfall to the SWC of 170,000 acre-feet. The Step 7 revised prediction is smaller than the shortfall predicted in the July Forecast Supply Order, therefore the Department must adjust downward the curtailment date previously established in the Second Curtailment Order.

27. To determine the adjusted curtailment date, the Department ran the Eastern Snake Plain Aquifer Model (ESPAM) version 2.1 to establish the junior priority water rights that must remain curtailed to produce the volume of water equal to the predicted August DS. The

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<sup>5</sup> Step 6 of the Methodology Order required the Director to estimate the Time of Need approximately halfway through the irrigation season. *Methodology Order* at 37. The Director’s July Forecast Supply Order estimated the Time of Need would “occur on August 20, 2021, for TFCC and September 25, 2021 for AFRD2.” *July Forecast Supply Order* at 8.

Step 7 of the Methodology Order requires the Director, at a time “shortly before” the previously estimated Time(s) of Need, to actually establish the Time of Need, alongside issuance of new RISD, FS, and DS values. *Methodology Order* at 38. The Director began the Step 7 process shortly before the estimated Time of Need for TFCC. However, based on the additional actual data related to storage balances, the previously predicted Time of Need had to be adjusted, leading to establishment of the Time(s) of Need described in paragraph 27 above.

Department determined that ground water rights junior to January 21, 1979, must be curtailed to produce the volume of water equal to the predicted August DS.

### CONCLUSIONS OF LAW

26. Based on Findings of Fact 8 through 25 above, it is reasonably certain TFCC and AFRD2 continue to be materially injured. The updated predicted DS is 142,700 acre-feet. The predicted shortfall to TFCC is 98,500 acre-feet. The predicted shortfall to AFRD2 is 44,200 acre-feet.

27. Based on current information, it is reasonably certain the Time of Need occurred on August 16, 2021, for TFCC, and will occur on September 14, 2021, for AFRD2.

28. Pursuant to Step 8, at the Time of Need, junior ground water users are required to deliver to each injured member of the SWC a volume of water equal to the Step 7 revised DS calculated at the Time of Need. In the alternative, any additional mitigation obligation calculated in Step 6 and Step 7 can be satisfied from each SWC member's reasonable carryover if "(a) the reasonable carryover exceeds the additional mitigation obligation, and (b) the junior ground water users secure sufficient water to replace the reasonable carryover pursuant to an approved mitigation plan." *Methodology Order* at 38.

29. The Director concludes junior-priority ground water users that have not mitigated for their proportionate share of the revised DS in accordance with an approved mitigation plan should continue to be curtailed pursuant to the Second Curtailment Order, except as modified by this order.

30. Because the Step 7 revised DS prediction is smaller than the previous July Forecast Supply Order DS, the Department must adjust the curtailment priority date. The new curtailment date is January 21, 1979. Because January 21, 1979, is junior to the July Forecast Supply Order curtailment date of June 24, 1977, a number of ground water right holders previously curtailed, but senior to January 21, 1979, are no longer subject to curtailment. Attachment A to this order sets forth the ground water right holders *no longer* subject to curtailment.

31. All other junior ground water users are subject to the Second Curtailment Order, which remains in full force and effect.

### ORDER

Based upon and consistent with the foregoing, IT IS HEREBY ORDERED the Director's revised prediction is an in-season DS of 142,700 acre-feet.

IT IS FURTHER ORDERED the August 4, 2021, *Final Order Curtailing Ground Water Rights Junior to June 14, 1977*, remains in full force and effect, except as hereby modified, until the order is otherwise amended or rescinded. The new curtailment priority date is January 21, 1979.

IT IS FURTHER ORDERED that all ground water users holding water rights listed in Attachment A to this order are no longer curtailed from the diversion and use of ground water pursuant to those water rights.

Dated this 23 day of August, 2021.

A handwritten signature in blue ink, appearing to be "G. Spackman", written over a horizontal line. To the right of the signature, the word "FOR" is written in blue ink.


GARY SPACKMAN  
Director

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 23rd day of August 2021, a true and correct copy of the foregoing was served by the method indicated below, and addressed to the following:

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<p>Randall D. Fife  City Attorney, City of Idaho Falls  P.O. Box 50220  Idaho Falls, ID 83405  <a href="mailto:rfife@idahofallsidaho.gov">rfife@idahofallsidaho.gov</a></p>	<input checked="" type="checkbox"/> U.S. Mail, postage prepaid <input checked="" type="checkbox"/> Email
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Sarah Tschohl  
Legal Assistant

I HEREBY CERTIFY that on this 23rd day of August 2021, a true and correct copy of the foregoing was served by the method indicated below, and addressed to the following:

UDO BENNETT  
1761 W SYPHON RD  
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CITY OF TETON  
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TETON, ID 83451

EAST RIVER COMMONS HOME OWNER  
ASSN  
C/O ARTHUR BROWN PRESIDENT  
201 COMMONS RD  
IDAHO FALLS, ID 83401

FARMERS MERCHANT INC  
PO BOX 967  
BLACKFOOT, ID 83221

KAREN C FIELDS  
VIRGIL FIELDS  
660 N 350 E  
SHOSHONE, ID 83352

ROBERT JAHN  
RT 4 BOX 107 A  
IDAHO FALLS, ID 83401

KERLEY AG PRODUCTS INC  
1667 SOD FARM RD  
POCATELLO, ID 83204

JERRY LEFFLER  
PATRICIA LEFFLER  
1820 GOVERNMENT RD  
POCATELLO, ID 83204-7453

MARIA NAPOLI  
PETER ULIAN  
4712 TIERRA VERDE ST  
LAS VEGAS, NV 89122-6131

PANORAMA HILLS WATER CO  
PO BOX 252  
IONA, ID 83427

KIMBERLY ANN PETERSEN  
RYAN CLAIR PETERSEN  
291 N 2ND W  
RIGBY, ID 83442-1364

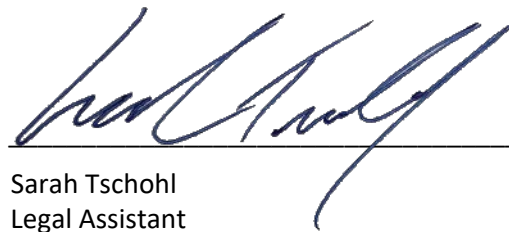
ELAINE ROKER  
JIM ROKER  
513 N 4200 E  
RIGBY, ID 83442

SHOSHONE BANNOCK TRIBES  
PO BOX 306  
FORT HALL, ID 83203-0306

UNION PACIFIC RAILROAD CO  
REAL ESTATE DEPT  
1800 FARNAM ST  
OMAHA, NE 68102

UNITED STATES OF AMERICA ACTING  
THROUGH  
USDI FISH & WILDLIFE SERVICE  
DIVISION OF ENGINEERING  
911 N E 11TH AVE  
PORTLAND, OR 97232-4181

UNITED STATES OF AMERICA ACTING  
THROUGH  
USDI BUREAU OF LAND MANAGEMENT  
IDAHO STATE OFFICE  
1387 S VINNELL WAY  
BOISE, ID 83709-1657



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Sarah Tschohl  
Legal Assistant



**Attachment A**

List of Ground Water Rights Removed from IDWR Curtailment Order Dated August 4, 2021  
Sorted by Owner

Owner	Water Right No.	Basis	Priority Date	Diversion Rate (cfs)	Usage	Total Acres	Enlargement
BENNETT, UDO	29-13940	Decreed	10/03/1977	0.13	IRRIGATION	7.5	
CITY OF TETON	22-7251	Decreed	08/01/1977	1.11	MUNICIPAL		
DIXON, ANNIE; JAHN, ROBERT	35-7823	License	11/22/1978	0.05	DOMESTIC, STOCKWATER		
EAST RIVER COMMONS HOME OWNER ASSN	25-7143	Decreed	03/12/1978	0.16	DOMESTIC		
FARMERS MERCHANT INC	35-7723	Decreed	07/04/1977	0.04	DOMESTIC, INDUSTRIAL		
FIELDS, KAREN C; FIELDS, VIRGIL	37-7699	Decreed	02/23/1978	0.20	DOMESTIC, STOCKWATER		
KERLEY AG PRODUCTS INC	29-7423	Decreed	11/20/1977	0.89	DOMESTIC, INDUSTRIAL		
LEFFLER, JERRY; LEFFLER, PATRICIA	29-7460	Decreed	09/06/1978	0.20	DOMESTIC, IRRIGATION	9	
NAPOLI, MARIA; ULIAN, PETER	34-7211	Decreed	01/06/1978	0.10	DOMESTIC, IRRIGATION		
PANORAMA HILLS WATER CO	25-7100	Decreed	12/16/1977	1.39	DOMESTIC, IRRIGATION	38.2	
PETERSEN, KIMBERLY ANN; PETERSEN, RYAN CLAIR	34-7219	Decreed	07/04/1978	0.92	COMMERCIAL, HEATING, IRRIGATION,		
ROKER, ELAINE; ROKER, JIM	25-7132	Decreed	08/25/1977	1.22	IRRIGATION	61	
SHOSHONE BANNOCK TRIBES	29-13941	Decreed	10/03/1977	0.18	IRRIGATION	10.5	
UNION PACIFIC RAILROAD CO	29-7467	Decreed	12/05/1978	0.06	COMMERCIAL, DOMESTIC		
UNITED STATES OF AMERICA ACTING THROUGH	35-7750	Decreed	10/20/1977	1.32	IRRIGATION	66	
UNITED STATES OF AMERICA ACTING THROUGH	31-7301	Decreed	06/02/1978	8.78	WILDLIFE		

## **EXPLANATORY INFORMATION TO ACCOMPANY A FINAL ORDER**

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

(Required by Rule of Procedure 740.02)

The accompanying order is a "Final Order" issued by the department pursuant to section 67-5246, Idaho Code.

### **PETITION FOR RECONSIDERATION**

Any party may file a petition for reconsideration of a 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 department 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. See section 67-5246(4), Idaho Code.

### **REQUEST FOR HEARING**

Unless the right to a hearing before the director or the water resource board is otherwise provided by statute, any person who is aggrieved by the action of the director, and who has not previously been afforded an opportunity for a hearing on the matter shall be entitled to a hearing before the director to contest the action. The person shall file with the director, within fifteen (15) days after receipt of written notice of the action issued by the director, or receipt of actual notice, a written petition stating the grounds for contesting the action by the director and requesting a hearing. See section 42-1701A(3), Idaho Code. **Note: The request must be received by the Department within this fifteen (15) day period.**

### **APPEAL OF FINAL ORDER TO DISTRICT COURT**

Pursuant to sections 67-5270 and 67-5272, Idaho Code, any party aggrieved by a final order or orders previously issued in a matter before the department may appeal the final order and all previously issued orders in the matter to district court by filing a petition in the district court of the county in which:

- i. A hearing was held,
- ii. The final agency action was taken,
- iii. The party seeking review of the order resides, or
- iv. The real property or personal property that was the subject of the agency action is located.

The appeal must be filed within twenty-eight (28) days of: a) the service date of the final order, b) the service date of an order denying petition for reconsideration, or c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration, whichever is later. See section 67-5273, Idaho Code. The filing of an appeal to district court does not in itself stay the effectiveness or enforcement of the order under appeal.