As you are aware, the Second Amended Final Order Regarding Methodology for Determining Material Injury to Reasonable In-Season Demand and Reasonable Carryover (Methodology Order), which was issued in response to the Surface Water Coalition (SWC) delivery call, provides a process for determining material injury to your respective surface water entities.

The Methodology Order states that junior ground water users will be required to provide mitigation, or face curtailment, in the event of shortfalls to the water supply. The Methodology Order established 10 steps for determining material injury. Step 1 states as follows:

By April 1, members of the SWC will provide electronic shape files to the Department delineating the total irrigated acres within their water delivery boundary or confirm in writing that the existing electronic shape file from the previous year has not varied by more than 5%; provided that the total acreage count does not exceed the number of acres to be irrigated within the decreed place of use. Because the SWC members can best determine the irrigated acres within their service area, the SWC should be responsible for submitting the information to the Department. If this information is not timely provided, the Department will determine the total irrigated acres based upon past year cropping patterns and current satellite and/or aerial imagery. If an SWC member fails or refuses to identify the number of irrigated acres within its service area by April 1, the
Department will be cautious about recognizing acres as being irrigated if there is uncertainty about whether the acres are or will be irrigated during the upcoming irrigation season. The Department will publish electronic shape files for each member of the SWC for the current water year for review by the parties. In determining the total irrigated acreage, the Department will account for supplemental ground water use.

Methodology Order at 34.

In light of the above, please provide the Department with your electronic shape files as soon as possible.

Sincerely,

[Signature]
Gary Sparkman
Interim Director

cc: Randall C. Budge – Racine, Olson, Nye, Budge & Bailey, Chartered
    Candice McHugh – Racine, Olson, Nye, Budge & Bailey, Chartered
    C. Tom Arkoosh – Capitol Law Group, PLLC
    John K. Simpson – Barker Rosholt & Simpson, LLP
    Travis L. Thompson – Barker Rosholt & Simpson, LLP
    W. Kent Fletcher – Fletcher Law Office
    Sarah A. Klahn – White & Jankowski, LLP
    Dean A. Tranmer – City of Pocatello