

**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) Docket No. CM-DC-2010-001
 THE BENEFIT OF A&B IRRIGATION DISTRICT,)
 AMERICAN FALLS RESERVOIR DISTRICT #2,) **ORDER STAYING THE**
 BURLEY IRRIGATION DISTRICT, MILNER) **ORDER REVISING APRIL 2013**
 IRRIGATION DISTRICT, MINIDOKA IRRIGATION) **FORECAST SUPPLY**
 DISTRICT, NORTH SIDE CANAL COMPANY,)
 AND TWIN FALLS CANAL COMPANY) **(METHODOLOGY STEPS 6 – 8)**

FINDINGS OF FACT

1. On August 27, 2013, the Director of the Idaho Department of Water Resources (“Director” or “Department”) issued his *Order Revising April 2013 Forecast Supply (Methodology Steps 6 – 8)* (“Steps 6 – 8 Order”). The Steps 6 – 8 Order provides that American Falls Reservoir District # 2 (“AFRD2”) and Twin Falls Canal Company (“TFCC”) are expected to experience material injury, as shown in the following table:

	Natural Flow Diverted through 8/7	Predicted Natural Flow 8/8 to 10/31	Natural Flow Adjustment	Preliminary Storage Allocation	Minidoka Credit Adjustment	Total Supply	RISD	Shortfall
A&B	0	0	0	107,790		107,790	64,796	0
AFRD2	23,006	0		383,334	1,000	407,340	461,373	54,000
BID	75,811	4,008	(3,714)	213,604	5,130	294,839	291,737	0
Milner	7,356	0	(3,011)	78,597		82,941	54,089	0
Minidoka	106,340	5,621		306,026	8,370	426,357	419,324	0
NSCC	270,139	54,431		808,260	(7,750)	1,125,080	1,117,188	0
TFCC	563,521	309,078		239,546	(6,750)	1,105,394	1,156,605	51,200
							Total	105,200

Steps 6 – 8 Order at 6.

2. As stated in the Steps 6 – 8 Order:

At this time, the current, predicted shortfall to the SWC's RISD is 105,200 acre-feet. However, consistent with the Methodology Order, "junior ground water users are required to provide the lesser of the two volumes from Step 4 (May 1 secured water) [14,200 acre-feet] and the [DS] volume calculated at the Time of Need [105,200 acre-feet]." *Methodology Order* at 37.¹ IGWA has secured 14,200 acre-feet of storage water for mitigation. *Order Confirming IGWA's Notice of Secured Water*.

Based on current information, the Time of Need is predicted to occur on August 29, 2013. Because the Time of Need is reasonably certain, the Director will not implement Step 7 for this irrigation season. *Methodology Order* at 37. No later than August 29, 2013, the 14,200 acre-feet of mitigation water secured by IGWA must be provided to AFRD2 and TFCC, as explained in the following paragraph.

The current, predicted shortfall to the SWC is 105,200 acre-feet. AFRD2's portion of the shortfall is 54,000 acre-feet, or 51.4% of the current, predicted shortfall. TFCC's portion of the shortfall is 51,200 acre-feet, or 48.6% of the current, predicted shortfall. Using the above percentages to allocate the 14,200 acre-feet of mitigation water, 7,300 acre-feet shall be provided to AFRD2, and 6,900 acre-feet shall be provided to TFCC.

Id. at 7.

3. On June 24, 2013, prior to the issuance of the Steps 6 – 8 Order, the Idaho Ground Water Appropriators, Inc. ("IGWA") mailed a letter ("IGWA letter") to the Watermaster of Water District 01, informing the Water District of IGWA's intention to provide 14,200 acre-feet of storage water to TFCC. A copy of the IGWA letter is attached hereto. According to the IGWA letter, IGWA wished to "fully satisfy its mitigation obligation by assigning 14,200 AF of storage water to TFCC" To date, according to Water District 01, approximately 10,000 acre-feet of the 14,200 acre-feet identified in the IGWA letter have been assigned to TFCC.

4. The Steps 6 – 8 Order directed the Watermaster for Water District 01, no later than August 30, 2013, to assign 7,300 acre-feet to AFRD2, and 6,900 acre-feet to TFCC. The Watermaster has notified the Director of potential confusion between the Steps 6 – 8 Order and the IGWA letter.

CONCLUSIONS OF LAW

1. Rule 780 of the Department's Rules of Procedure states as follows:

¹ As stated previously in footnote 1, the Director has determined the reference in Methodology Order Step 8 to "RISD" is incorrect and should instead reference "DS." As such, the Director has removed RISD from the above quotation and replaced it with DS.

Any party or person affected by an order may petition the agency to stay any order, whether interlocutory or final. Interlocutory or final orders may be stayed by the judiciary according to statute. *The agency may stay any interlocutory or final order on its own motion.*

IDAPA 37.01.01.780 (emphasis added).

2. In order to ensure that water is appropriately assigned between AFRD2 and TFCC, and in accordance with Rule 780, the Director stays implementation of the Steps 6 – 8 Order. The Director will issue a subsequent order lifting the stay.

ORDER

Based upon and consistent with the foregoing, IT IS HEREBY ORDERED as follows:

The *Order Revising April 2013 Forecast Supply (Methodology Steps 6 – 8)* is STAYED until further notice from the Director.

Dated this 30 day of August, 2013.



FOR

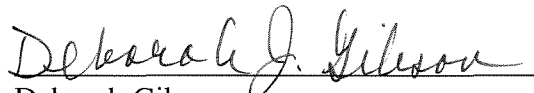
GARY SPACKMAN
Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 30th day of August, 2013, the above and foregoing, was served by the method indicated below, and addressed to the following:

<p>John K. Simpson Travis L. Thompson Paul L. Arrington BARKER ROSHOLT & SIMPSON, LLP 195 River Vista Place, Ste. 204 Twin Falls, ID 83301-3029 jks@idahowaters.com tlt@idahowaters.com pla@idahowaters.com</p>	<p><input checked="" type="checkbox"/> U.S. Mail, postage prepaid <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Facsimile <input checked="" type="checkbox"/> Email</p>
<p>W. Kent Fletcher FLETCHER LAW OFFICE P.O. Box 248 Burley, ID 83318 wkf@pmt.org</p>	<p><input checked="" type="checkbox"/> U.S. Mail, postage prepaid <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Facsimile <input checked="" type="checkbox"/> Email</p>
<p>Randall C. Budge Thomas J. Budge RACINE OLSON P.O. Box 1391 Pocatello, ID 83204-1391 rcb@racinelaw.net tjb@racinelaw.net</p>	<p><input checked="" type="checkbox"/> U.S. Mail, postage prepaid <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Facsimile <input checked="" type="checkbox"/> Email</p>
<p>Kathleen M. Carr US Dept. Interior 960 Broadway Ste 400 Boise, ID 83706 kathleenmarion.carr@sol.doi.gov</p>	<p><input checked="" type="checkbox"/> U.S. Mail, postage prepaid <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Facsimile <input checked="" type="checkbox"/> Email</p>
<p>David W. Gehlert Natural Resources Section Environment and Natural Resources Division U.S. Department of Justice 999 18th Street South Terrace, Suite 370 Denver, CO 80202 david.gehlert@usdoj.gov</p>	<p><input checked="" type="checkbox"/> U.S. Mail, postage prepaid <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Facsimile <input checked="" type="checkbox"/> Email</p>
<p>Matt Howard US Bureau of Reclamation 1150 N Curtis Road Boise, ID 83706-1234 mhoward@usbr.gov</p>	<p><input type="checkbox"/> U.S. Mail, postage prepaid <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Facsimile <input checked="" type="checkbox"/> Email</p>

<p>Sarah A. Klahn Mitra Pemberton WHITE JANKOWSKI 511 16th St., Ste. 500 Denver, CO 80202 sarahk@white-jankowski.com mitrap@white-jankowski.com</p>	<p><input checked="" type="checkbox"/> U.S. Mail, postage prepaid <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Facsimile <input checked="" type="checkbox"/> Email</p>
<p>Dean A. Tranmer City of Pocatello P.O. Box 4169 Pocatello, ID 83205 dtranmer@pocatello.us</p>	<p><input checked="" type="checkbox"/> U.S. Mail, postage prepaid <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Facsimile <input checked="" type="checkbox"/> Email</p>
<p>William A. Parsons Parsons, Smith & Stone, LLP P.O. Box 910 Burley, ID 83318 wparsons@pmt.org</p>	<p><input checked="" type="checkbox"/> U.S. Mail, postage prepaid <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Facsimile <input checked="" type="checkbox"/> Email</p>
<p>Michael C. Creamer Jeffrey C. Fereday GIVENS PURSLEY LLP P.O. Box 2720 Boise, ID 83701-2720 mcc@givenspursley.com jcf@givenspursley.com</p>	<p><input checked="" type="checkbox"/> U.S. Mail, postage prepaid <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Facsimile <input checked="" type="checkbox"/> Email</p>
<p>Lyle Swank IDWR—Eastern Region 900 N. Skyline Drive, Ste. A Idaho Falls, ID 83402 lyle.swank@idwr.idaho.gov</p>	<p><input type="checkbox"/> U.S. Mail, postage prepaid <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Facsimile <input checked="" type="checkbox"/> Email</p>
<p>Allen Merritt Cindy Yenter IDWR—Southern Region 1341 Fillmore St., Ste. 200 Twin Falls, ID 83301-3033 allen.merritt@idwr.idaho.gov cindy.yenter@idwr.idaho.gov</p>	<p><input type="checkbox"/> U.S. Mail, postage prepaid <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Facsimile <input checked="" type="checkbox"/> Email</p>


Deborah Gibson
Administrative Assistant, IDWR

RECEIVED

JUN 26 2013

DEPARTMENT OF
WATER RESOURCES

LAW OFFICES OF

**RACINE OLSON NYE BUDGE & BAILEY
CHARTERED**

W. MARCUS W. NYE
RANDALL C. BUDGE
JOHN A. BAILEY, JR.
JOHN R. GOODELL
JOHN B. INGELSTROM
DANIEL C. GREEN
BRENT O. ROCHE
KIRK B. HADLEY
FRED J. LEWIS
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CONRAD J. AIKEN
RICHARD A. HEARN, M.D.
LANE V. ERICKSON
FREDERICK J. HAHN, III
PATRICK N. GEORGE
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DAVID E. ALEXANDER
CAROL TIPPI VOLYN
JONATHAN M. VOLYN
THOMAS J. BUDGE
BRENT L. WHITING
DAVE BAGLEY
JASON E. FLAIG
AARON A. CRARY
JOHN J. BULGER
BRETT R. CAHOON
NOLAN E. WITTRICK
RACHEL A. MILLER

201 EAST CENTER STREET
POST OFFICE BOX 1391
POCATELLO, IDAHO 83204-1391

TELEPHONE (208) 232-6101
FACSIMILE (208) 232-6109

www.racinelaw.net

SENDER'S E-MAIL ADDRESS: rcb@racinelaw.net

BOISE OFFICE
101 SOUTH CAPITOL
BOULEVARD, SUITE 300
BOISE, IDAHO 83702
TELEPHONE: (208) 395-0011
FACSIMILE: (208) 433-0167

IDAHO FALLS OFFICE
477 SHOUP AVENUE
SUITE 107
POST OFFICE BOX 50698
IDAHO FALLS, ID 83405
TELEPHONE: (208) 528-6101
FACSIMILE: (208) 528-6109

ALL OFFICES TOLL FREE
(877) 232-6101

LOUIS F. RACINE (1917-2005)
WILLIAM D. OLSON, OF COUNSEL
JONATHAN S. BYINGTON, OF COUNSEL

June 24, 2013

Lyle Swank, Water Master
Water District 1
900 N. Skyline Drive, Suite A
Idaho Falls, Idaho 83402
Email: lyle.swank@idwr.idaho.gov

Re: 2013 Storage Water Assignment to Twin Falls Canal Company

Dear Lyle:

Pursuant to the Director's *Final Order Regarding April 2013 Forecast Supply* dated April 17, 2013 ("2013 Order"), IGWA has a predicted in-season demand shortfall of 14,200 AF to Twin Falls Canal Company ("TFCC"). IGWA now desires to fully satisfy this mitigation obligation by assigning 14,200 AF of storage water to TFCC from its 2012 carryover storage released pursuant to the Director's *Order Releasing IGWA from 2012 Reasonable Carryover Shortfall Obligation* dated June 17, 2013, as follows:

LESSOR:	VOLUME:
Enterprise Canal Company	3750 AF
Peoples Canal Company	3750 AF
Aberdeen-Springfield Canal Company	6700 AF (leaving 2239 unassigned balance)
TOTAL:	14,200 AF

June 24, 2013
Page 2

By copy of this letter I am advising the Director, TFCC, and the Lessors of the foregoing. Should any of you have any questions, please don't hesitate to contact me. Thank you for your assistance.

Sincerely,



RANDALL C. BUDGE

RCB:rr

cc: Gary Spackman, Director/IDWR
Twin Falls Canal Company:
 Brian Olmstead, Manager
 Travis Thompson, Attorney
IGWA Board
Aberdeen-Springfield Canal Company:
 Steve Howser, Manager
Enterprise Canal Company
 Darrell Kerr, President
Peoples Canal Company
 Steven H. Murdock, Secretary