

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

IN THE MATTER OF THE DISTRIBUTION OF  
WATER TO VARIOUS WATER RIGHTS HELD  
BY AND 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

**ORDER ON MOTIONS RE:  
THIRD METHODOLOGY ORDER**

**BACKGROUND**

On April 17, 2015, the Director ("Director") of the Idaho Department of Water Resources ("Department") issued the *Third Amended Order Regarding Methodology for Determining Material Injury to Reasonable In-Season Demand and Reasonable Carryover* ("Third Methodology Order") in the above-captioned matter.

On April 30, 2015, the City of Pocatello ("Pocatello") filed the *City of Pocatello's Request for Hearing, Motion to Authorize Discovery and Request for Stay* requesting the Director hold a status conference to schedule a hearing on the Third Methodology Order, issue an order authorizing discovery, and stay the hearing for six months.

On April 30, 2015, Idaho Ground Water Appropriator's, Inc., ("IGWA") filed a *Petition for Reconsideration and Clarification of the Third Methodology Order; Motion to Vacate or Stay; and Request for Hearing*. IGWA requested the Director vacate or stay the Third Methodology Order and grant a hearing on the issues raised in the petition.

On May 8, 2015, the Surface Water Coalition ("SWC") and IGWA filed the *Surface Water Coalition and IGWA Stipulation and Joint Motion Regarding April As Applied Order and Third Methodology Order* requesting the Director withdraw the Third Methodology Order. On May 8, 2015, the Director issued the *Order Approving Stipulation and Granting Joint Motion* withdrawing the Third Methodology Order.

On March 9, 2016, the SWC and IGWA filed the *Surface Water Coalition's and IGWA's Stipulated Motion to Reinstate the Third Amended Order Regarding Methodology for Determining Material Injury to Reasonable In-Season Demand and Reasonable Carryover* ("Stipulated Motion"). The SWC and IGWA request the Director: 1) reinstate the Third Methodology Order, 2) "[p]roceed with conjunctive administration for 2016 under the SWC delivery call," 3) grant IGWA's request for hearing on the Third Methodology Order, and 4) stay all proceedings on the hearing until "requested by the SWC and/or IGWA to proceed." *Stipulated Motion* at 3.

On March 18, 2016, Pocatello filed the *City of Pocatello's Response to SWC's and IGWA's Stipulated Motion to Reinstate the Third Methodology Order, and Motion* ("Response"). Pocatello "does not object to reinstating for the 2016 irrigation season" the Third Methodology Order, requests the Director grant a hearing on the Third Methodology Order, but asks the Director to stay any action on the hearing until Pocatello requests the stay be lifted. *Response* at 2. Pocatello states it "is authorized to state that the [SWC] does not oppose the request herein." *Id.*

The Department has not received any opposition to the Stipulated Motion. The Director has reviewed the Third Methodology Order and determined certain changes are necessary. The Director will reissue the Third Methodology order as the *Fourth Amended Final Order Regarding Methodology for Determining Material Injury to Reasonable In-Season Demand and Reasonable Carryover* ("Fourth Methodology Order").

The Director has reviewed the Stipulated Motion and Response and orders as follows:

### **ORDER**

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

1. The request to reinstate the Third Methodology Order is GRANTED, but the Director will issue it as the Fourth Methodology Order. The Fourth Methodology Order will be issued as a separate order.
2. The requests of the SWC & IGWA and Pocatello for hearing are GRANTED, but the hearings requested by the SWC & IGWA and Pocatello are STAYED.

DATED this 19<sup>th</sup> day of April 2016.

  
\_\_\_\_\_  
Gary Spackman  
Director

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 19<sup>th</sup> day of April 2016, the above and foregoing was served on the following by the method(s) indicated below:

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](mailto:jks@idahowaters.com)  
[tlt@idahowaters.com](mailto:tlt@idahowaters.com)  
[pla@idahowaters.com](mailto:pla@idahowaters.com)

- ☒ U.S. Mail, postage prepaid
- ☐ Hand Delivery
- ☐ Overnight Mail
- ☐ Facsimile
- ☒ Email

W. Kent Fletcher  
FLETCHER LAW OFFICE  
P.O. Box 248  
Burley, ID 83318  
[wkf@pmt.org](mailto:wkf@pmt.org)

- ☒ U.S. Mail, postage prepaid
- ☐ Hand Delivery
- ☐ Overnight Mail
- ☐ Facsimile
- ☒ Email

Randall C. Budge  
Thomas J. Budge  
RACINE OLSON NYE BUDGE &  
BAILEY, CHTD.  
201 East Center Street  
P.O. Box 1391  
Pocatello, ID 83207-1391  
Telephone: (208) 395-0011  
Facsimile: (208) 232-6109  
[rcb@racinelaw.net](mailto:rcb@racinelaw.net)  
[tjb@racinelaw.net](mailto:tjb@racinelaw.net)

- ☒ U.S. Mail, postage prepaid
- ☐ Hand Delivery
- ☐ Overnight Mail
- ☐ Facsimile
- ☒ Email

William A. Parson  
PARSONS SMITH & STONE  
P.O. Box 910  
Burley, ID 83318  
[wparson@pmt.org](mailto:wparson@pmt.org)

- ☒ U.S. Mail, postage prepaid
- ☐ Hand Delivery
- ☐ Overnight Mail
- ☐ Facsimile
- ☒ Email

Matt Howard  
BUREAU OF RECLAMATION  
1150 N. Curtis Rd.  
Boise, ID 83706  
[mhoward@pn.usbr.gov](mailto:mhoward@pn.usbr.gov)  
[emcgarry@pn.usbr.gov](mailto:emcgarry@pn.usbr.gov)

- ☒ U.S. Mail, postage prepaid
- ☐ Hand Delivery
- ☐ Overnight Mail
- ☐ Facsimile
- ☒ Email

Kathleen Marion Carr  
US DEPT OF INTERIOR  
Office of Solicitor, PNW Region  
960 Broadway, Ste 400  
Boise, ID 83706  
[Kathleenmarion.carr@sol.doi.gov](mailto:Kathleenmarion.carr@sol.doi.gov)

- ☒ U.S. Mail, postage prepaid
- ☐ Hand Delivery
- ☐ Overnight Mail
- ☐ Facsimile
- ☒ Email

David W. Gehlert  
Natural Resources Section  
US DEPT OF JUSTICE  
999 18<sup>TH</sup> Street  
South Terrace, Ste 370  
Denver, CO 80202  
[David.gehlert@usdoj.gov](mailto:David.gehlert@usdoj.gov)

- ☒ U.S. Mail, postage prepaid
- ☐ Hand Delivery
- ☐ Overnight Mail
- ☐ Facsimile
- ☒ Email

A. Dean Tranmer  
City Attorney  
CITY OF POCA TELLO  
P.O. Box 4169  
Pocatello, ID 83205  
[dtranmer@pocatello.us](mailto:dtranmer@pocatello.us)

- ☒ U.S. Mail, postage prepaid
- ☐ Hand Delivery
- ☐ Overnight Mail
- ☐ Facsimile
- ☒ Email

Sarah Klahn  
Mitra Pemberton  
WHITE JANKOWSKI  
511 16<sup>th</sup> Street, Ste 500  
Denver, CO 80202  
[sarahk@white-jankowski.com](mailto:sarahk@white-jankowski.com)  
[mitrap@white-jankowski.com](mailto:mitrap@white-jankowski.com)

- ☒ U.S. Mail, postage prepaid
- ☐ Hand Delivery
- ☐ Overnight Mail
- ☐ Facsimile
- ☒ Email

IDWR-Eastern Region  
900 N. Skyline Dr., Ste A  
Idaho Falls, ID 83402-1718  
[lyle.swank@idwr.idaho.gov](mailto:lyle.swank@idwr.idaho.gov)

- ☐ U.S. Mail, postage prepaid
- ☐ Hand Delivery
- ☐ Overnight Mail
- ☐ Facsimile
- ☒ Email

IDWR-Southern Region  
1341 Fillmore St., Ste 200  
Twin Falls, ID 83301-3380  
[allen.merritt@idwr.idaho.gov](mailto:allen.merritt@idwr.idaho.gov)  
[cindy.yenter@idwr.idaho.gov](mailto:cindy.yenter@idwr.idaho.gov)

- ☐ U.S. Mail, postage prepaid
- ☐ Hand Delivery
- ☐ Overnight Mail
- ☐ Facsimile
- ☒ Email



Deborah Gibson  
Admin. Assistant for the Director