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 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

FINAL ORDER

ESTABLISHING 2018 REASONABLE CARRYOVER (METHODOLOGY STEP 9)

FINDINGS OF FACT

1. On April 19, 2016, the Director ("Director") of the Idaho Department of Water Resources ("Department") 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 establishes nine steps for determining material injury to members of the Surface Water Coalition ("SWC"). This order applies step nine, the final step of the Methodology Order, for the 2018 water year.

2. The Methodology Order describes step 9 as follows:

Step 9: Following the end of the irrigation season (on or before November 30), the Department will determine the total actual volumetric demand and total actual [crop water need] for the entire irrigation season. This information will be used for the analysis of reasonable carryover shortfall, selection of future BLY, and for the refinement and continuing improvement of the method for future use.

On or before November 30, the Department will issue estimates of actual carryover and reasonable carryover shortfall volumes for all members of SWC. These estimates will be based on, but not limited to, the consideration of the best available water diversion and storage data from Water District 01, return flow monitoring, comparative years, and [reasonable in-season demand]. These estimates will establish the obligation of junior ground water users in providing water to the SWC for reasonable carryover shortfall. Fourteen (14) days following the issuance by the Department of reasonable carryover shortfall obligations, junior ground water users will be required to establish, to the satisfaction of the Director, their ability to supply a volume of storage water or to conduct other approved mitigation activities.
that will provide water to the injured members of the SWC equal to the reasonable carryover shortfall for all injured members of the SWC. If junior ground water users cannot provide this information, the Director will issue an order curtailing junior ground water rights.

Methodology Order at 38-39.

3. The following table summarizes the 2018 irrigation season diversions, crop water need, and reasonable in-season demand ("RISD") volumes for each SWC entity. RISD is calculated for each SWC entity using demand, crop water need, and project efficiency Methodology Order at 16. All values are reported in acre-feet ("AF").

<table>
<thead>
<tr>
<th>Entity</th>
<th>Demand</th>
<th>Crop Water Need</th>
<th>RISD</th>
</tr>
</thead>
<tbody>
<tr>
<td>A&amp;B</td>
<td>64,192</td>
<td>38,220</td>
<td>62,661</td>
</tr>
<tr>
<td>AFRD2</td>
<td>456,319</td>
<td>156,633</td>
<td>439,226</td>
</tr>
<tr>
<td>BID</td>
<td>256,034</td>
<td>111,821</td>
<td>261,340</td>
</tr>
<tr>
<td>Milner</td>
<td>68,429</td>
<td>31,156</td>
<td>54,637</td>
</tr>
<tr>
<td>Minidoka</td>
<td>370,890</td>
<td>200,689</td>
<td>430,338</td>
</tr>
<tr>
<td>NSCC</td>
<td>1,037,970</td>
<td>367,342</td>
<td>1,023,441</td>
</tr>
<tr>
<td>TFCC</td>
<td>1,127,305</td>
<td>462,889</td>
<td>1,174,249</td>
</tr>
</tbody>
</table>

4. The following table summarizes the final calculated 2018 in-season demand shortfall values in AF, if any, for each member of the SWC. The values in this table are different from those in the Final Order Regarding April 2018 Forecast Supply (Methodology Steps 1-3) (April 17, 2018) ("April Forecast Supply Order") and Order Revising April 2018 Forecast Supply (Methodology Step 5 & 6) (July 23, 2018) ("July Order"). The differences are due to changes in total supply and RISD that reflect diversion and ET data not available at the time the April Forecast Supply Order and July Order were issued. In the April Forecast Supply Order, the Director predicted no demand shortfall to members of the SWC. April Forecast Supply Order at 3. In the July Order, the Director continued to predict no demand shortfall. July Order at 8. The second column of the summary table contains the total natural flow diversions from April 1 to October 31 for each SWC member. The third column summarizes the natural flow adjustments, which include natural flow delivered for recharge and natural flow delivered to SWID. The fourth column contains the preliminary storage allocations reported from the July 11, 2018,

1 The "Demand" for each SWC entity is equal to each entity's 2018 April – October diversions.

2 The natural flow diverted was calculated from the preliminary daily water right accounting records located here: http://www.idwr.idaho.gov/water-data/water-rights-accounting/research.html.

3 Natural flow recharge values represent accomplished recharge through the Idaho Water Resource Board’s recharge water rights as of October 31, 2018.

4 See column titled "Natural Flow Adjustment" in "Attachment A" for further information regarding these adjustments.

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Water District 01 storage report. The fifth column summarizes storage adjustments due to application of the Minidoka Credit. The sixth column contains the total supply available to each SWC member and is calculated by summing columns two through five. The seventh column contains the calculated RJSO. The demand shortfall in the last column is calculated by subtracting the RJSO from the total supply. The demand shortfall is zero when the total supply is greater than the RJSO. No members of the SWC have a demand shortfall for 2018.

<table>
<thead>
<tr>
<th>Entity</th>
<th>Natural Flow Diverted through 10/31</th>
<th>Natural Flow Adjustment</th>
<th>Preliminary Storage Allocation</th>
<th>In-Season Storage Adjustment</th>
<th>Total Supply</th>
<th>RJSO</th>
<th>Demand Shortfall</th>
</tr>
</thead>
<tbody>
<tr>
<td>A&amp;B</td>
<td>25,064</td>
<td>-</td>
<td>134,983</td>
<td>-</td>
<td>160,047</td>
<td>62,661</td>
<td>0</td>
</tr>
<tr>
<td>AFRD2</td>
<td>257,879</td>
<td>(66,910)</td>
<td>387,120</td>
<td>0</td>
<td>579,089</td>
<td>439,226</td>
<td>0</td>
</tr>
<tr>
<td>BID</td>
<td>139,908</td>
<td>(3,714)</td>
<td>222,616</td>
<td>5,130</td>
<td>363,940</td>
<td>261,340</td>
<td>0</td>
</tr>
<tr>
<td>Milner</td>
<td>24,489</td>
<td>(3,011)</td>
<td>87,796</td>
<td>-</td>
<td>109,274</td>
<td>54,637</td>
<td>0</td>
</tr>
<tr>
<td>Minidoka</td>
<td>197,623</td>
<td>-</td>
<td>359,982</td>
<td>8,370</td>
<td>565,975</td>
<td>430,338</td>
<td>0</td>
</tr>
<tr>
<td>NSCC</td>
<td>555,645</td>
<td>-</td>
<td>844,619</td>
<td>(7,750)</td>
<td>1,392,514</td>
<td>1,023,441</td>
<td>0</td>
</tr>
<tr>
<td>TFCC</td>
<td>946,206</td>
<td>(923)</td>
<td>241,687</td>
<td>(6,750)</td>
<td>1,180,220</td>
<td>1,174,249</td>
<td>0</td>
</tr>
</tbody>
</table>

5. The following table summarizes the end of season reasonable carryover shortfall calculation for 2018. All values are reported in AF. The second column of the table contains the preliminary storage allocations reported from the July 11, 2018, Water District 01 storage report. The third column summarizes adjustments for storage water due to application of the Minidoka Credit. The fourth column summarizes adjustments for water delivered through the SWC member’s canals for use by non-SWC members. The fifth column contains the total storage water use reported from the October 31, 2018, Water District 01 water right accounting report. The sixth column contains the actual carryover volumes as defined by the Methodology Order (Methodology Order at 28) and is calculated by subtracting the sum of columns four and five from the sum of columns two and three. The seventh column contains the reasonable carryover volumes established in the Methodology Order. Methodology Order at 28. The reasonable carryover shortfall in the last column is zero when the actual carryover is greater than the reasonable carryover, otherwise it is calculated as the difference between reasonable carryover and the actual carryover volume for each member of the SWC. No members of the SWC have a reasonable carryover shortfall for 2018.

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5 *The preliminary storage allocations can be found on Water District 01’s website located here: [http://www.waterdistrict1.com/WD01%20Storage%20Report.pdf](http://www.waterdistrict1.com/WD01%20Storage%20Report.pdf).*

6 *See column titled “In-Season Storage Adjustment” in “Attachment A.” The Minidoka Credit is a long existing exchange of stored water among AFRD2, BID, MID, NSCC, and TFCC that has been incorporated into an agreement of those entities and accepted by the SRBA district court.*

7 *See column titled “Storage Use Adjustment” in “Attachment A” for further information regarding these adjustments.*

8 *This water right accounting report was published to the Water District 01 webpage on November 6, 2018: [http://www.waterdistrict1.com/SNKWRA.htm](http://www.waterdistrict1.com/SNKWRA.htm).*

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<table>
<thead>
<tr>
<th></th>
<th>Preliminary Storage Allocation</th>
<th>In-Season Storage Allocation Adjustment</th>
<th>Storage Use Adjustment</th>
<th>Storage Use</th>
<th>Actual Carryover</th>
<th>Reasonable Carryover</th>
<th>Reasonable Carryover Shortfall</th>
</tr>
</thead>
<tbody>
<tr>
<td>A&amp;B</td>
<td>134,983</td>
<td>0</td>
<td>0</td>
<td>39,128</td>
<td>95,855</td>
<td>18,500</td>
<td>0</td>
</tr>
<tr>
<td>AFRD2</td>
<td>387,120</td>
<td>1,000</td>
<td>(14,500)</td>
<td>284,850</td>
<td>117,770</td>
<td>11,500</td>
<td>0</td>
</tr>
<tr>
<td>BID</td>
<td>222,616</td>
<td>5,130</td>
<td>(6,680)</td>
<td>122,807</td>
<td>111,619</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Milner</td>
<td>87,796</td>
<td>0</td>
<td>(1,312)</td>
<td>45,252</td>
<td>43,856</td>
<td>4,800</td>
<td>0</td>
</tr>
<tr>
<td>Minidoka</td>
<td>359,982</td>
<td>8,370</td>
<td>(200)</td>
<td>173,467</td>
<td>195,084</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>NSCC</td>
<td>844,619</td>
<td>(7,750)</td>
<td>(9,100)</td>
<td>491,424</td>
<td>354,545</td>
<td>65,500</td>
<td>0</td>
</tr>
<tr>
<td>TFCC</td>
<td>241,687</td>
<td>(6,750)</td>
<td>(1,637)</td>
<td>183,659</td>
<td>52,915</td>
<td>25,200</td>
<td>0</td>
</tr>
</tbody>
</table>

6. The above determinations are based on water diversion and storage data from Water District 01. Although these preliminary numbers are subject to revision by Water District 01 during final accounting for 2018, revisions will not become available until after issuance of this order. For this reason, these estimates establish the final obligation of junior ground water users in supplying water to the SWC for reasonable carryover shortfall. The above determination of reasonable carryover shortfall is carried forward from the Methodology Order and takes into account the best available water diversion and storage data, comparative water years, and RISD. Methodology Order at 38-39.

**CONCLUSIONS OF LAW**

1. The Methodology Order states that, on or before November 30, the Director will estimate the SWC's reasonable carryover shortfall, if any, for 2018. Methodology Order at 38-39. If a reasonable carryover shortfall is established, junior-priority ground water users shall have fourteen days to demonstrate, to the satisfaction of the Director, "their ability to provide a volume of storage water or to conduct other approved mitigation activities that will provide water to the injured members of the SWC equal to the reasonable carryover shortfall for all injured members of the SWC." Id. at 39.


4. Consistent with Finding of Fact 5, the Director concludes by clear and convincing evidence that no members of the SWC have a reasonable carryover shortfall for 2018.

5. Because no members of the SWC have a reasonable carryover shortfall for 2018, junior ground water users do not need to establish "their ability to supply a volume of storage water or to conduct other approved mitigation activities that will provide water to the injured members of the SWC equal to the reasonable carryover shortfall for all injured members of the SWC." Methodology Order at 39. The Director will not "issue an order curtailing junior ground water rights." Id.

ORDER

Based upon the foregoing, IT IS HEREBY ORDERED that no member of the SWC is owed reasonable carryover storage in 2018 for use in 2019.

IT IS FURTHER ORDERED that this final order concludes application of the Methodology Order to the climatic, hydrologic, and agronomic facts of the 2018 irrigation season.

DATED this 30th day of November 2018.

GARY SPACKMAN
Director
Attachment A  
2018 SWC Adjustments

<table>
<thead>
<tr>
<th>Adjustments</th>
<th>Description</th>
<th>Natural Flow Adjustment</th>
<th>In-Season Storage Adjustment</th>
<th>Storage Use Adjustment</th>
</tr>
</thead>
<tbody>
<tr>
<td>A&amp;B</td>
<td>None</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>AFRD2</td>
<td>Idaho Irrigation (IGWA)</td>
<td>0,000</td>
<td>New Sweden</td>
<td>5,000</td>
</tr>
<tr>
<td>BID</td>
<td>Minidoka Credit</td>
<td>5,130</td>
<td>SWID Natural Flow</td>
<td>Yes</td>
</tr>
<tr>
<td>Milner</td>
<td>Artesian</td>
<td>1,112</td>
<td>Idaho Power</td>
<td>1,301</td>
</tr>
<tr>
<td>MID</td>
<td>Wicke Farms</td>
<td>200</td>
<td>Idaho Power</td>
<td>10,000</td>
</tr>
<tr>
<td>NSCC</td>
<td>Arther Henry Farms</td>
<td>100</td>
<td>Minidoka Credit</td>
<td>1,300</td>
</tr>
<tr>
<td>TFCC</td>
<td>Arostan</td>
<td>1,637</td>
<td>Minidoka Credit</td>
<td>6,750</td>
</tr>
</tbody>
</table>
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 30th day of November 2018, the above and foregoing, was served by the method indicated below, and addressed to the following:

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Travis L. Thompson
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☐ Overnight Mail
☐ Facsimile
☒ Email
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.

Revised July 1, 2010