

**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

**ORDER GRANTING PETITIONS TO
INTERVENE**

BACKGROUND

On April 19, 2016, the 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 established nine steps for determining material injury to members of the Surface Water Coalition (“SWC”).¹

On April 11, 2019, the Director issued the *Final Order Regarding April 2019 Forecast Supply (Methodology Steps 1-3)* (“As-Applied Order”), which applied steps 1, 2, and 3 of the Methodology Order. The Director predicted an in-season demand shortfall (“DS”) of 20,900 acre-feet. *As-Applied Order* at 3-4. The Director ordered that, by May 1, 2019, ground water users with consumptive water rights “junior to August 25, 1991, 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 20,900 acre-feet in accordance with an approved mitigation plan.” *Id.* at 6. The Director indicated that A&B Irrigation District (“A&B”) has an approved mitigation plan in place for its ground water rights (filed in Docket No. CM-MP-2015-003) and determined that A&B’s “proportionate share of the predicted DS of 20,900 acre-feet is 2,121 acre-feet.” *Id.* at 5, n.4.

On April 23, 2019, A&B filed with the Department *A&B Irrigation District's Petition for Reconsideration and Request for Hearing Re: April 2019 As Applied Order* (“Petition”) and combined *Notice of Non-use*. A&B asserts the Director’s determination of its proportionate share of the demand shortfall in the As-Applied Order is flawed and requested a hearing to address that issue. *Petition* at 3.

¹ The SWC is comprised of A&B District, American Falls Reservoir District #2, Burley Irrigation District, Milner Irrigation District, Minidoka Irrigation District, North Side Canal Company, and Twin Falls Canal Company.

On May 14, 2019, the Director issued an *Order Granting Request for Hearing* in response to the Petition. No schedule was set. Instead, the Director stated that counsel for A&B should contact counsel for the Department to coordinate informal discussions.

On May 14, 2019, Sun Valley Company (“Sun Valley”) timely filed *Sun Valley Company’s Petition to Intervene*. On May 15, 2019, the City of Bellevue (“Bellevue”) timely filed its *Petition to Intervene*. No opposition to the petitions was filed.

ANALYSIS

The Department’s Rule of Procedure 353 states:

If a timely-filed petition to intervene shows direct and substantial interest in any part of the subject matter of a proceeding and does not unduly broaden the issues, the presiding officer will grant intervention, subject to reasonable conditions, unless the applicant’s interest is adequately represented by existing parties. If it appears that an intervenor has no direct or substantial interest in the proceeding, the presiding officer may dismiss the intervenor from the proceeding.

IDAPA 37.01.01.353.

Based on the petitions to intervene, the Director concludes that Sun Valley and Bellevue have a direct and substantial interest in this matter and will not unduly broaden the issues. The Director further concludes that the interests of Sun Valley and Bellevue are not adequately represented by existing parties and, therefore, will grant the petitions to intervene.

ORDER

Based upon and consistent with the foregoing, IT IS HEREBY ORDERED that the petitions to intervene filed by Sun Valley and Bellevue are GRANTED.

The granting of these petitions to intervene does not stay the effectiveness of the Methodology Order or As-Applied Order, as described above.

Counsel for Sun Valley and the Bellevue should contact counsel for A&B and the Department to coordinate participation in informal discussions.

DATED this 3rd day of June 2019.


GARY SPACKMAN
Director


CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 4th day of June 2019, the above and foregoing, was served by the method indicated below, and addressed to the following:

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