

Candice M. McHugh, ISB # 5908
Chris M. Bromley, ISB # 6530
MCHUGH BROMLEY, PLLC
380 S. 4th St., Ste. 103
Boise, ID 83702
(208) 287-0991
(208) 287-0864 (facsimile)
cbromley@mchughbromley.com
cmchugh@mchughbromley.com

*Attorneys for the Cities of Bliss, Burley,
Carey, Declo, Dietrich, Gooding, Hazelton,
Heyburn, Jerome, Paul, Richfield, Rupert,
Shoshone, and Wendell*

**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

**COALITION OF CITIES' AMENDED
REQUEST FOR HEARING**

COME NOW, the Cities of Bliss, Burley, Carey, Declo, Dietrich, Gooding, Hazelton, Heyburn, Jerome, Paul, Richfield, Rupert, Shoshone, and Wendell (“Coalition of Cities”), by and through their attorneys of record, McHugh Bromley, PLLC and files this Request for Hearing in the above captioned matter.

REQUEST FOR HEARING

Pursuant to Idaho Code § 42-1701(A)(3), the Coalition of Cities requests a hearing on the Department's *Fifth Amended Methodology Order Regarding Methodology For Determining Material Injury to Reasonable In-Season Demand And Reasonable Carryover*, and *Final Order Regarding April 2023 Forecast Supply* ("2023 As-Applied Order") both issued April 21, 2023. Among the issues the Coalition of Cities has identified for hearing:

- a) IDWR's new reliance on transient modeling;
- b) IDWR's failure to properly identify the Surface Water Coalition's ("SWC") irrigated acreage used in the determination of reasonable in-season demand;
- c) IDWR's failure to consider the Twin Falls Canal Company's increase in diversions over the last twenty years;
- d) IDWR's failure to consider changes in the efficiency of the SWC's operations;
- e) IDWR's failure to consider all sources of supply available to the SWC;
- f) IDWR's use of 2018 as the new baseline year;
- g) IDWR's failure to apply Conjunctive Management Rule 20.03 and principles of reasonableness generally; and
- h) IDWR's violation of due process rights of all interested water users by:
 - i) by engaging in an apparently sham public process related to the Department's convening of the "Technical Work Group" to discuss modifications to the Fourth Methodology Order and then largely ignoring that group's recommendations; and
 - ii) by a continued abuse of process, authority and power in setting the hearing without regard to the time required for discovery and without consideration of the existing

obligations of the parties, their legal representatives and consultants and reflecting bias against junior water right uses.

Submitted this 28th day of April, 2023

MCHUGH BROMLEY, PLLC

/s/ Candice M. McHugh
Candice M. McHugh
Attorney for Coalition of Cities

/s/ Chris M. Bromley
Chris M. Bromley
Attorney for Coalition of Cities

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 28th day of April, 2023, the above and foregoing, was served by the method indicated below, and addressed to the following:

Idaho Dept. of Water Res.

file@idwr.idaho.gov

Kathleen Marion Carr

US Dept. Interior 960 Broadway Ste 400
Boise, ID 83706

kathleenmarion.carr@sol.doi.gov

John K. Simpson

MARTEN LAW LLP

P.O. Box 2139 Boise, ID 83701-2139

jsimpson@martenlaw.com

David W. Gehlert

Natural Resources Section Environment and
Natural Resources Division U.S.

Department of Justice

999 18th St., South Terrace, Suite 370

Denver, CO 80202

david.gehlert@usdoj.gov

Travis L. Thompson

MARTEN LAW LLP P.O. Box 63

Twin Falls, ID 83303-0063

tthompson@martenlaw.com

jnielsen@martenlaw.com

Matt Howard

US Bureau of Reclamation

1150 N Curtis Road Boise, ID 83706-1234

mhoward@usbr.gov

W. Kent Fletcher

FLETCHER LAW OFFICE

P.O. Box 248 Burley, ID 83318

wkf@pmt.org

Sarah A Klahn

Somach Simmons & Dunn

1155 Canyon Blvd, Ste. 110 Boulder, CO

80302 sklahn@somachlaw.com

dthompson@somachlaw.com

Thomas J. Budge

Elisheva M. Patterson

RACINE OLSON

P.O. Box 1391 Pocatello, ID 83204-1391

tj@racineolson.com

elisheva@racineolson.com

Rich Diehl

City of Pocatello

P.O. Box 4169 Pocatello, ID 83205

rdiehl@pocatello.us

Candice McHugh

Chris Bromley

MCHUGH BROMLEY, PLLC

380 South 4th Street, Suite 103 Boise, ID

83702 cbromley@mchughbromley.com

cmchugh@mchughbromley.com

Robert L. Harris

HOLDEN, KIDWELL, HAHN & CRAPO,
PLLC

P.O. Box 50130 Idaho Falls, ID 83405

rharris@holdenlegal.com

Robert E. Williams
WILLIAMS, MESERVY, &
LOTHSPEICH, LLP P.O. Box 168 Jerome,
ID 83338 rewilliams@wmlattys.com

Skyler C. Johns
Nathan M. Olsen Steven L. Taggart
OLSEN TAGGART PLLC P.O. Box 3005
Idaho Falls, ID 83403
sjohns@olsentaggart.com
nolsen@olsentaggart.com
staggart@olsentaggart.com

Randall D. Fife City
Attorney, City of Idaho Falls
P.O. Box 50220 Idaho Falls, ID 83405
rfife@idahofallsidaho.gov

Corey Skinner
IDWR—Southern Region
1341 Fillmore St., Ste. 200 Twin Falls, ID
83301-3033
corey.skinner@idwr.idaho.gov

Tony Olenichak IDWR—Eastern Region
900 N. Skyline Drive, Ste. A Idaho Falls, ID
83402
Tony.Olenichak@idwr.idaho.gov

William A. Parsons
PARSONS SMITH & STONE
P.O. Box 910 Burley, ID 83318
wparsons@pmt.org

/s/ Candice M. McHugh
Candice M. McHugh