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*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’
STATEMENT OF ISSUES**

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, Candice M. McHugh and Chris M. Bromley, and pursuant to the Director’s May 2, 2023, *Scheduling Order and Order Authorizing Remote Appearance at Hearing*, files this Statement of Issues in the above captioned matter.

Based on what is known now, and without the benefit of discovery, including the ability to conduct depositions, the Coalition of Cities identify the following issues for the hearing:

1. IDWR's new reliance on transient modeling;
2. IDWR's failure to properly identify the Surface Water Coalition's ("SWC") actual irrigated acreage used in the determination of reasonable in-season demand;
3. IDWR's failure to properly consider the SWC's changes in diversions over the last twenty years;
4. IDWR's failure to consider changes and reasonableness of the project efficiencies of the SWC's operations;
5. IDWR's failure to consider all sources of supply available to the SWC;
6. IDWR's use of 2018 as the new baseline year;
7. IDWR's failure to fully evaluate potential changes to the methodology used to determine the crop water needs of the SWC members;
8. IDWR's failure to fully evaluate potential changes to the methodology for forecasting the irrigation supplies of the SWC members;
9. IDWR's failure to fully evaluate changes to the methodology for determining reasonable carryover for the SWC members;
10. IDWR's failure to fully evaluate changes to the timing and procedures for updating the forecast shortages to the SWC members after the initial determination in April;

11. IDWR's failure to investigate whether the SWC members are using the water they divert efficiently and without waste, and in compliance with the terms of their decreed water rights;
12. IDWR's failure to standardize and make transparent the procedures for updating the SWC Methodology;
13. IDWR's failure to consider the comments received from members of the SWC Technical Working Group;
14. IDWR's failure to apply all factors in the Department's Rules for Conjunctive Management of Surface and Ground Water Resources, IDAPA 37.03.11, including but not limited to CM Rule 20.03 and principles of reasonableness generally; and
15. IDWR's violation of due process rights of all interested water users by:
 - a. 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
 - b. 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.

The Coalition of Cities reserves the right to supplement this list of issues as information is learned through the discovery process.

Submitted this 5th day of May, 2023.

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/s/ Candice M. McHugh
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 5th day of May, 2023, the above and foregoing, was served by electronic filing, and addressed to the following:

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