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STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

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

**Groundwater Users' First Set of
Request for Production to IDWR;
Or, Alternatively, Request
for Public Records**

To: Idaho Department of Water Resources

Idaho Ground Water Appropriators, Inc., Bingham Ground Water District, Bonneville-Jefferson Ground Water District, and the Cities of Idaho Falls, Pocatello, Jerome, Burley, Bliss, Carey, Declo, Dietrich, Gooding, Hazelton, Heyburn, Paul, Richfield, Rupert, Shoshone, and Wendell; and Bingham Ground Water District and Bonneville-Jefferson Ground Water District (collectively, the "Groundwater Users"), hereby require you to produce the following documents pursuant to rules 520 and 521 of the Rules of Procedure of the Idaho Department of Water Resources (IDWR), Rules 26 and 34 of the Idaho Rules of Civil Procedure, and the *Order Authorizing Discovery* issued April 21, 2023, in this matter.

If the Department determines that the information requested below is not discoverable, the Department is requested to produce such documents pursuant to the Public Records Act, Chapter 1, Title 74, Idaho Code. If documents are produced under the Public Records Act, the Groundwater Users will promptly pay statutorily authorized fees upon request.

Given the compressed nature of the hearing schedule in this matter, the Groundwater Users respectfully request that such documents be produced as expeditiously as possible.

INSTRUCTIONS

1. When answering these discovery requests, you are required to furnish all information and documents known or available upon reasonable inquiry to you.
2. These discovery requests are deemed continuing, and your answers are to be supplemented as additional information become available or known to you.
3. If any requested document was at one time in existence but is no longer in existence, please state: (a) the date it ceased to exist; (b) the circumstances under which it ceased to exist; (c) the identity of all persons having knowledge of the circumstances under which it ceased to exist; and (d) the identity of all persons having knowledge of its contents.
4. If any requested information is withheld due to a claim of privilege, please state: (a) the request to which it is responsive; (b) its title and general subject matter; (c) its date; (d) the names and titles of its authors or preparers; (e) the names and titles of the persons for whom it was prepared and all persons to whom it was sent or shown; (f) the privilege claimed; and (g) sufficient description to enable IGWA to assess the applicability of the privilege as required by I.R.C.P. 26(b)(5)(A).

DEFINITIONS

1. April 2023 As-Applied Order means the *Final Order Regarding April 2023 Forecast Supply (Methodology Steps 1-3)* issued April 21, 2023, in this matter.
2. Fifth Methodology Order means the *Fifth Amended Final Order Regarding Methodology for Determining Material Injury to Reasonable In-Season Demand and Reasonable Carryover* issued in this matter on April 21, 2023
3. Fourth Methodology Order means the *Fourth Amended Final Order Regarding Methodology for Determining Material Injury to Reasonable In-Season Demand and Reasonable Carryover* issued April 19, 2016, in this matter.
4. Department means the Idaho Department of Water Resources.
5. Document means any tangible or electronic record, including but not limited to letters, emails, agreements, memoranda, notes, reports, minutes, books, ledgers, invoices, receipts, surveys, photographs, maps, drawings, diagrams, recordings, computer files or other form of data compilation, including duplicates, copies, substitutes, facsimiles, and summaries thereof.
6. ESPA means the Eastern Snake Plain Aquifer.

7. Person means any person or legal entity and its agents or employees.
8. You and your means the Department and its employees, officers, and staff.

REQUESTS FOR PRODUCTION OF DOCUMENTS

The Groundwater Users request that the following documents be provided in electronic format via email, thumb drive, or other digital medium. Alternatively, the documents shall be produced for inspection and copying at the office of the Department, 322 Front Street, Boise, Idaho.

Request for Production 1: Produce true and correct copies of all documents indicating when the Department first began considering a review and/or revision of the Fourth Methodology Order.

Request for Production 2: Produce true and correct copies of all documents indicated when the Department decided to proceed with a review and/or revision of the Fourth Methodology Order.

Request for Production 3: Produce true and correct copies of all documents relating to the Department's consideration of, in connection with the Fifth Methodology Order, the futile call doctrine, the policy of full economic development of underground water resources, the policy of reasonable use of water, or the policy of optimum development of water resources.

Request for Production 4: Produce true and correct copies of all documents relating to the Department's consideration of, in connection with the Fifth Methodology Order, the extent to which the water needs of the Surface Water Coalition or its members could be met with their existing facilities and water supplies by employing reasonable diversion and conveyance efficiency and conservation practices.

Request for Production 5: Produce true and correct copies of all documents generated, prepared, considered, discussed, utilized, reviewed, evaluated, analyzed, or relied upon by the Department in connection with development of the Fifth Methodology Order and/or the April 2023 As-Applied Order.

Request for Production 6: Produce true and correct copies of all letters, emails, text messages and other written correspondence sent by Department personnel to any person not employed by the Department, or received by Department personnel from any person not employed by the Department, prior to 6:45 p.m. mountain daylight time, April 21, 2023, concerning the Fifth Methodology Order, the April 2023 As-Applied Order, or the development, formulation, drafting, implication, application or effect of such orders.

Request for Production 7: Produce true and correct copies of all documents showing the actual or estimated total number of water rights that would be curtailed under the April 2023 As-Applied Order in the absence of approved mitigation plans.

Request for Production 8: Produce true and correct copies of all documents showing the number of water rights by beneficial use (irrigation, municipal, commercial, etc.) that would be curtailed under the April 2023 As-Applied Order in the absence of approved mitigation plans.

Request for Production 9: Produce true and correct copies of all documents showing the actual or estimated total number of acres authorized for irrigation that would be curtailed under the April 2023 As-Applied Order in the absence of approved mitigation plans.

Request for Production 10: Produce true and correct copies of all documents showing the actual or estimated total diversion rate (cubic feet per second) authorized for diversion under water rights that would be curtailed under the April 2023 As-Applied Order in the absence of approved mitigation plans.

Request for Production 11: Produce true and correct copies of all documents showing the actual or estimated total volume of water (acre-feet) authorized for diversion under water rights that would be curtailed under the April 2023 As-Applied Order in the absence of approved mitigation plans.

Request for Production 12: Produce true and correct copies of all documents relating to the extent, degree, or magnitude of beneficial use of water that would be curtailed under the April 2023 As-Applied Order in the absence of approved mitigation plans.

Request for Production 13: Produce true and correct copies of all documents relating to projected, estimated, or potential crop loss or any other impairment of beneficial use of water within Twin Falls Canal Company as a result of the 75,200 acre-feet Demand Shortfall predicted by the April 2023 As-Applied Order.

Request for Production 14: Produce true and correct copies of all documents comparing the adverse effects of curtailment under the Fifth Methodology Order and/or April 2023 As-Applied Order, in the absence of approved mitigation plan, on beneficial use of the ESPA versus the benefits of curtailment to Twin Falls Canal Company.

Request for Production 15: Produce true and correct copies of all documents that reference or reflect the Department's review or consideration, in connection with the Fifth Methodology Order and/or the As-Applied Order, of any alleged non-compliance with, or breach of, the so-called IGWA-Surface Water Coalition Settlement Agreement approved as a mitigation plan in IDWR Docket No. CM-MP-2016-001.

Request for Production 16: Produce true and correct copies of all documents showing the proportionate shares of the projected demand shortfall of 75,200 acre-feet set forth in the April 2023 As-Applied Order attributable to, respectively, North Snake Ground Water District, Magic Valley Ground Water District, Carey Valley Ground Water District, Aberdeen-American Falls Area Ground Water District, Bingham Ground Water District, Bonneville-Jefferson Ground Water District, Jefferson-Clark Ground Water District, Madison Ground Water District, and Henry's Fork Ground Water District, and all documents showing the calculation of their proportionate shares.

DATED this 8th day of May, 2023.

RACINE OLSON, PLLP

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*Attorneys for Bonneville-Jefferson
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CERTIFICATE OF SERVICE

I hereby certify that on this 8th day of May, 2023, I served the foregoing document on the persons below via email as indicated:



Thomas J. Budge

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<p><i>COURTESY COPY TO:</i> William A. Parsons PARSONS SMITH & STONE P.O. Box 910 Burley, ID 83318</p>	<p>wparsons@pmt.org</p>