

**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 REQUESTS  
FOR HEARING**

**BACKGROUND**

On April 21, 2023, the Director of the Idaho Department of Water Resources (“Department”) issued his *Fifth Amended Final Order Regarding Methodology for Determining Material Injury to Reasonable In-Season Demand and Reasonable Carryover* (“Methodology Order”) as well as his *Final Order Regarding April 2023 Forecast Supply* (“As-Applied Order”). The Methodology Order revises the nine steps used to determine material injury to members of the Surface Water Coalition (“SWC”). The As-Applied Order predicts a shortfall for the 2023 irrigation season, which will result in mitigation requirements or curtailment for ground water rights with priority dates junior to December 30, 1953.

Anticipating that one or more parties would request a hearing in response to one or both of the orders, the Director also issued a *Notice of Hearing, Notice of Prehearing Conference, and Order Authorizing Discovery* (“Notice of Hearing”) on April 21, 2023. The Notice of Hearing set the hearing for the Methodology Order and As-Applied Order for June 6–10, 2023, at the Department’s State Office, located at 322 E. Front Street, 6<sup>th</sup> Floor, Conference Rooms 602A–D, Boise, Idaho.

On April 28, 2023, the Department received the following filings:

- *The Coalition of Cities’ Request for Hearing*; <sup>1</sup>
- *McCain Foods USA, Inc.’s Request for Hearing and Objection*;
- *The Coalition of Cities’ Amended Request for Hearing*; and
- *Pocatello’s Request for Hearing*.

On May 2, 2023, the Department received *IGWA’s Petition for Reconsideration and Request for Hearing*.<sup>2</sup>

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<sup>1</sup> For purposes of the request for hearing, the “Coalition of Cities” refers to the Idaho cities of Bliss, Burley, Carey, Declo, Dietrich, Gooding, Hazelton, Heyburn, Jerome, Paul, Richfield, Rupert, Shoshone, and Wendell.

<sup>2</sup> For purposes of the request for hearing, (“IGWA”) refers to the following ground water districts: North Snake Ground Water District, Magic Valley Ground Water District, Carey Valley Ground Water District, Aberdeen-

On May 4, 2023, the Department received the following filings:

- *Amalgamated Sugar Company's Request for Hearing, Objection, Identification of Issues and Notice of Mitigation;*
- *City of Idaho Falls Challenge and Request for Hearing;*
- *Bonneville-Jefferson Ground Water District's Request for Hearing;* and
- *Bingham Ground Water District's Request for Hearing.*

On May 5, 2023, the Department received the *Surface Water Coalition's Request for Hearing and Statement of Issues.*

### ANALYSIS AND CONCLUSIONS OF LAW

Idaho Code § 42-1701A(3) provides in relevant part:

Unless the right to a hearing before the director . . . is otherwise provided in by statute, any person aggrieved by any action of the director, including any decision, determination, order or other action . . . 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 parties have not previously been afforded an opportunity for hearing on the Methodology Order or the As-Applied Order and are entitled to a hearing pursuant to Idaho Code § 42-1701A(3). As described above, the Director has already set a hearing on the Methodology Order and the As-Applied Order for June 6–10, 2023. To resolve any question regarding the status of the pending requests for hearing, the Director will grant the requests and will hold the hearing as previously set in the Notice of Hearing.

### ORDER

IT IS HEREBY ORDERED that the parties' requests for hearing are GRANTED. The hearing will be held as previously noticed in the *Notice of Hearing, Notice of Prehearing Conference, and Order Authorizing Discovery*: June 6–10, 2023, at the Department's State Office, located at 322 E. Front Street, 6th Floor, Conference Rooms 602A–D, Boise, Idaho.

DATED this 23rd day of May 2023.



GARY SHACKMAN

Director

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American Falls Area Ground Water District, Jefferson-Clark Ground Water District, Madison Ground Water District, and Henry's Fork Ground Water District.

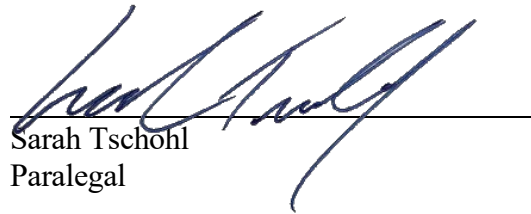
## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 23rd day of May 2023, the above and foregoing, was served by the method indicated below, and addressed to the following:

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