

**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

**FINAL ORDER REGARDING  
APRIL 2025 FORECAST  
SUPPLY**

**(METHODOLOGY STEPS 1–3)**

**FINDINGS OF FACT**

1. On July 19, 2023, the Idaho Department of Water Resources (“Department”) issued its *Sixth 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”). This order applies steps 1, 2, and 3 of the *Methodology Order*.<sup>1</sup>

**A. Step 1**

2. By April 1 of each year, Step 1 requires members of the SWC to submit to the Department electronic shapefiles delineating the total anticipated irrigated acres for the upcoming year “or confirm in writing that the existing electronic shape file submitted by SWC has not varied by more than five percent.” *Methodology Order* ¶ 1, at 41.

3. On March 13, 2025, Minidoka Irrigation District (“Minidoka”) submitted its electronic shapefile delineating its total irrigated acres to the Department. The Department also received a letter from Milner Irrigation District (“Milner”) stating that its total number of irrigated acres has not varied by more than five percent.

4. On March 14, 2025, the Department received a letter from American Falls Reservoir District #2 (“AFRD2”), stating that its total number of irrigated acres has not varied by more than five percent.

5. On March 25, 2025, the Department received a letter from A&B Irrigation District (“A&B”), Burley Irrigation District (“BID”), North Side Canal Company (“NSCC”), and Twin Falls Canal Company (“TFCC”). In the letter, A&B, BID, and NSCC confirmed that their total

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<sup>1</sup> Shortly after the *Methodology Order* was issued, the Idaho Ground Water Appropriators, Inc. (“IGWA”) and certain Idaho cities filed petitions for judicial review in Ada County (Nos. CV01-23-13173 and CV01-23-13238). IGWA’s petition for judicial review is stayed until December 31, 2027. The cities’ petition for judicial review is pending before the Idaho Supreme Court. The filing of a petition for judicial review does not stay the effectiveness of an order. I.C. § 67-5274. No party to the judicial review proceedings has requested a stay of the *Methodology Order*. Accordingly, the Director will apply the *Methodology Order* in this order.

number of irrigated acres for 2025 will not vary by more than five percent from the electronic shapefiles submitted in prior years. With the letter, TFCC submitted an electronic shapefile delineating its total irrigated acres.

6. Based on the information submitted by the SWC, the Department will use the following total irrigated acres:

	Total Irrigated Acres <sup>2</sup>	Data Source
A&B	14,749 <sup>3</sup>	SRBA Partial Decree
AFRD2	62,361	SRBA Partial Decree
BID	46,035	2013 shapefile submitted by BID, reduced by the Department for overlapping acres and acres outside of service area.
Milner	13,264	2010 service area shapefile, reduced by the Department for overlapping acres and acres outside of service area.
Minidoka	74,759	2025 shapefile submitted by Minidoka, reduced by the Department for overlapping acres and acres outside of the service area.
NSSC	154,067	SRBA Partial Decree
TFCC	195,568	2025 shapefile submitted by TFCC, reduced by the Department for overlapping acres and acres outside of service area.

## B. Step 2

7. Step 2 states that, within fourteen days of the issuance of the joint forecast prepared by the United States Bureau of Reclamation (“USBR”) and the United States Army Corp of Engineers (“USACE”), the Director “will issue a final order predicting the April [Forecast Supply] for the water year for each SWC entity. The Director will compare the April [Forecast Supply] for each SWC entity to the [Baseline Demand] for each SWC entity to determine if an in-season demand shortfall (“IDS”) is anticipated for the upcoming irrigation season.” *Methodology Order* ¶ 3, at 42.

8. On April 2, 2025, the USBR and USACE issued their joint forecast (“Joint Forecast”), predicting an unregulated inflow of 3,380,000 acre-feet at the Snake River near Heise gage for the period of April through July. The forecasted flow volume equates to 102% percent of the average.<sup>4</sup> The Joint Forecast “is generally as accurate a forecast as is possible using current data gathering and forecasting techniques.” *Id.* ¶ 49, at 19 (citation omitted).

<sup>2</sup> “The number of irrigated acres used in this methodology order is the number of reported acres unless that number is larger than the decreed irrigated acres, and if so, then the decreed acres are used.” *Methodology Order* ¶ 22, at 11.

<sup>3</sup> The Department has modified the total A&B irrigated acreage count to 14,749 acres. Based on Judge Wildman’s district court decision, the new acreage count removes A&B’s enlargement acres. *Mem. Decision & Order*, at 8, *City of Idaho Falls v. Idaho Dep’t of Water Res.*, No. CV01-23-13238 (Ada Cnty. Dist. Ct. Idaho May 31, 2024).

<sup>4</sup> The average is based on the years 1991–2020. The Joint Forecast relies on a “30-Year Climate Normal” to calculate an average April through July runoff volume.

9. The April–July Heise natural flow data from the years 1990–2024 were data inputs for the development of regression equations for A&B and Milner to predict the natural flow supply.<sup>5</sup> Data greater or less than two standard deviations from average were excluded from the regression development.

10. The April–July Heise natural flow data from the years 1990–2024 and Box Canyon November–March total discharge data for the period 1989–2024, were data inputs for the development of multiple linear regression equations to predict the natural flow supplies for AFRD2, BID, Minidoka, NSCC, and TFCC. *Methodology Order* ¶ 49, at 19. The U.S. Geological Survey measures and monitors the flow at the Box Canyon stream flow measurement gage. The Box Canyon November–March total discharge used by the Director in the regression models for 2025 totaled 93,344 acre-feet.

11. The storage allocations were predicted for each SWC member. As of April 6, 2025, Water District No. 1’s preliminary water right accounting indicates water rights for Jackson Lake 1906, Lake Walcott, Jackson Lake 1910, Jackson Lake 1913, Palisades Winter Water Savings, Island Park 1921, American Falls Winter Water Savings, and Henrys Lake 1965 are satisfied. The remaining reservoir rights are 445,474 acre-feet short of satisfaction. Based on a comparison of the current Heise natural flow forecast to the analogous year of 2020, the Director anticipates the remaining reservoir water rights will be satisfied, and the SWC will receive a full storage allocation. The storage allocations are based on the anticipated full allocation minus evaporation charges.

12. Based on the above, the Director projects the following shortfalls:

	Predicted Natural Flow Supply	Predicted Storage Allocation	Minidoka Credit Adjustment	Total Forecast Supply	Baseline Demand (BLY 2018)	In-Season Demand Shortfall
A&B	11,718	135,194		146,912	64,192	0
AFRD2	103,492	386,596	1,000	491,088	458,890	0
BID	106,140	222,485	5,130	333,755	262,211	0
Milner	15,143	87,870		103,013	58,417	0
Minidoka	150,989	360,077	8,370	519,436	354,851	0
NSCC	431,090	844,703	-7,750	1,268,043	1,026,661	0
TFCC	823,929	241,584	-6,750	1,058,763	1,121,717	63,000
Total Predicted April In-Season Demand Shortfall (AF)						63,000

<sup>5</sup> Attached hereto, as Attachment A, are the regression analyses for each SWC entity used to predict natural flow supply.

### C. Step 3

13. Step 3 requires the following:

Step 3: By May 1, or within fourteen (14) days from issuance of the final order predicting the April [Forecast Supply], whichever is later in time, junior ground water users with approved mitigation plans for delivery of water must secure, to the satisfaction of the Director, a volume of water equal to their proportionate share of the April IDS unless the April IDS is revised as explained below in paragraph 6. If junior ground water users secured water for a reasonable carryover shortfall to an individual SWC member in the previous year, the current-year mitigation obligation to the individual SWC member will be reduced by the quantity of water secured for the reasonable carryover shortfall. The secured water will not be required to be delivered to the injured members of the SWC until the Time of Need.

*Methodology Order* ¶ 4, at 42.

14. The predicted April IDS for TFCC is 63,000 acre-feet. Because the TFCC is the only SWC entity with a predicted shortfall, the total predicted April IDS is 63,000 acre-feet.

15. The Eastern Snake Plain Aquifer Model (“ESPAM”) is used to predict the junior priority water rights that must be curtailed to produce the volume of water equal to the predicted April IDS in the near Blackfoot to Minidoka reach. The ESPAM is updated periodically as new field measurements and advancements in modeling technology become available. ESPAM Version 2.2 (“ESPAM2.2”) is the latest model version.<sup>6</sup>

16. The Department ran ESPAM2.2 to predict the junior priority water rights within the area of common ground water supply<sup>7</sup> that must be curtailed to produce the volume of water equal to the predicted April IDS between May 1 and September 30 of this irrigation season pursuant to the *Methodology Order*. Ground water rights bearing priority dates junior to August 28, 1955, must be curtailed to produce the volume of water equal to the predicted April IDS in the near Blackfoot to Minidoka reach.

### CONCLUSIONS OF LAW

1. The Fifth Judicial District Court, in and for the County of Minidoka, held that the evidentiary standard of proof to apply in conjunctive administration of hydraulically connected water rights is clear and convincing. *See Mem. Decision & Order on Pets. for Jud. Rev., A&B*

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<sup>6</sup> The Department finalized ESPAM2.2 model documentation reports (including a model calibration report, a predictive uncertainty analysis, a superposition model scenario, and a curtailment scenario) on May 27, 2021. *See* Idaho Dep’t of Water Res., *ESPAM2.2 Reports* (2021), [https:// research.idwr.idaho.gov/files/projects/espam/browse/ESPAM22\\_Reports/](https://research.idwr.idaho.gov/files/projects/espam/browse/ESPAM22_Reports/).

<sup>7</sup> The current area of common ground water supply for the Eastern Snake Plain Aquifer is defined in Idaho Code § 42-233c as the aquifer underlying the Eastern Snake River Plain as described in the model calibration report for ESPAM2.2 dated May 2021.

*Irr. Dist., Inc. v. Idaho Dep't of Water Res.*, No. CV-2009-647 (Minidoka Cnty. Dist. Ct. Idaho May 4, 2010); *Mem. Decision & Order on Pets. for Reh'g, A&B Irr. Dist., Inc. v. Idaho Dep't of Water Res.*, No. CV-2009-647 (Minidoka Cnty. Dist. Ct. Idaho Nov. 2, 2010).

2. “Clear and convincing evidence refers to a degree of proof greater than a mere preponderance.” *Idaho State Bar v. Topp*, 129 Idaho 414, 416, 925 P.2d 1113, 1115 (1996) (internal quotations omitted). “Clear and convincing evidence is generally understood to be ‘[e]vidence indicating that the thing to be proved is highly probable or reasonably certain.’” *State v. Kimball*, 145 Idaho 542, 546, 181 P.3d 468, 472 (2008) (citing *In re Adoption of Doe*, 143 Idaho 188, 191, 141 P.3d 1057, 1060 (2006)); see also *Idaho Dep't of Health & Welfare v. Doe*, 150 Idaho 36, 41, 244 P.3d 180, 185 (2010).

3. The Director must utilize the best available technology for determining the impact of junior ground water diversions. See *Clear Springs Foods, Inc. v. Spackman*, 150 Idaho 790, 814, 252 P.3d 71, 95 (2011). ESPAM 1.1 and 2.1 are the model versions utilized previously in the SWC delivery call proceedings. Previously, the Director determined that ESPAM 2.1 was the best available scientific tool for predicting the effects of ground water pumping. See *Idaho Ground Water Assoc. v. Idaho Dep't of Water Res.*, 160 Idaho 119, 124, 369 P.3d 897, 902 (2016). ESPAM 2.2 is the latest version of the ESPAM model. The improvements incorporated into ESPAM 2.2, as discussed in Finding of Fact 15, make it the best available scientific tool for predicting the effects of ground water pumping in this proceeding.

4. In 2025, the Director will have sufficient information to quantify the irrigated areas for each of the SWC members as required by Step 1.

5. The USBR-USACE April Joint Forecast predicts an unregulated inflow of 3,380,000 acre-feet at the Snake River near Heise gage from April to July. The forecasted volume equates to 102% of the average.

6. The predicted April IDS is 63,000 acre-feet. Junior ground water users holding consumptive water rights bearing priority dates junior to August 28, 1955, within the Eastern Snake Plain Aquifer area of common ground water supply must mitigate for their proportionate share of the predicted April IDS in accordance with an approved mitigation plan.<sup>8</sup> Junior ground water users mitigating for their proportionate share of the predicted April IDS with a secured volume of water pursuant to an approved mitigation plan must, to the satisfaction of the Director, secure their proportionate share for delivery to the injured members of the SWC on or before May 1, 2025. There was a reasonable carryover shortfall of 44,900 acre-feet in the fall of 2024.

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<sup>8</sup> There are five approved mitigation plans responding to the SWC delivery call, each is stipulated to by the SWC: (1) No. CM-MP-2015-003 for the benefit of A&B; (2) No. CM-MP-2010-001 for the benefit of Southwest Irrigation District and Goose Creek Irrigation District (collectively, “SWID”); (3) No. CM-MP-2024-003 for the benefit of the Ground Water Districts; (4) No. CM-MP-2019-001 for the benefit of the Coalition of Cities; and (5) No. CM-MP-2007-001 for the benefit of the Water Mitigation Coalition. Given the nature of certain plans, the Department must calculate the proportionate share of the predicted IDS. With regard to A&B’s mitigation plan, A&B’s proportionate share of the predicted April IDS of 63,000 acre-feet is 384 acre-feet. Due to the nature of the mitigation plans for SWID, the Ground Water Districts, the Coalition of Cities, and the Water Mitigation Coalition, these entities do not need to establish that they can mitigate for their proportionate share of the predicted IDS.

However, because junior ground water users did not secure any mitigation water for a carryover shortfall, there is no adjustment to the mitigation obligation.

7. If, on or before May 1, 2025, ground water users holding consumptive water rights bearing priority dates junior to August 28, 1955, within the Eastern Snake Plain Aquifer area of common ground water supply<sup>9</sup> fail to establish, to the satisfaction of the Director, that they can mitigate for their proportionate share of the predicted April IDS of 63,000 acre-feet in accordance with an approved mitigation plan, the Director will issue an order curtailing the junior-priority ground water user. Junior ground water users who are mitigating with a secured volume of water are not required to assign the secured volume of water until after the Director issues a subsequent order requiring the assignment of the water.

8. If, at any time prior to the Director's final determination of the April Forecast Supply, the Director can determine with certainty that any member of the SWC has diverted more natural flow than predicted, or has accrued more storage than predicted, the Director will revise his initial, predicted IDS determination.

## ORDER

Based upon and consistent with the foregoing, IT IS HEREBY ORDERED as follows:

The Director predicts an April IDS of 63,000 acre-feet. On or before May 1, 2025, ground water users holding consumptive water rights bearing priority dates junior to August 28, 1955, 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 April IDS of 63,000 acre-feet in accordance with an approved mitigation plan. If a junior ground water user cannot establish, to the satisfaction of the Director, that they can mitigate for their proportionate share of the predicted April IDS in accordance with an approved mitigation plan, the Director will issue an order curtailing the junior-priority ground water user.

Dated this 16th day of April 2025.



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MATHEW WEAVER  
Director

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<sup>9</sup> On June 28, 2024, the Director issued an order declaring that ground water rights that were to be newly included in the Eastern Snake Plain Aquifer area of common ground water starting July 1, 2024, due to the passage of Senate Bill 1341, would not be subject to administration until November 1, 2025. *Order Re. Mid-Season Change to Area of Common Ground Water Supply for E. Snake Plain Aquifer; 3d Order Am. Curtailment List*, at 4; see S.B. 1341, 67th Leg., 2d Reg. Sess. (Idaho 2024) (enacted as I.C. § 42-233c). Accordingly, ground water users holding consumptive water rights bearing priority dates junior to August 28, 1955, that were newly included in the Eastern Snake Plain Aquifer area of common ground water supply per the Director's June 28, 2024 order, are not subject to administration at this time and are not required to establish that they can mitigate for their proportionate share of the predicted April IDS.

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 16th day of April 2025, the above and foregoing, was served by the method indicated below, and addressed to the following:

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**COURTESY COPIES TO:**

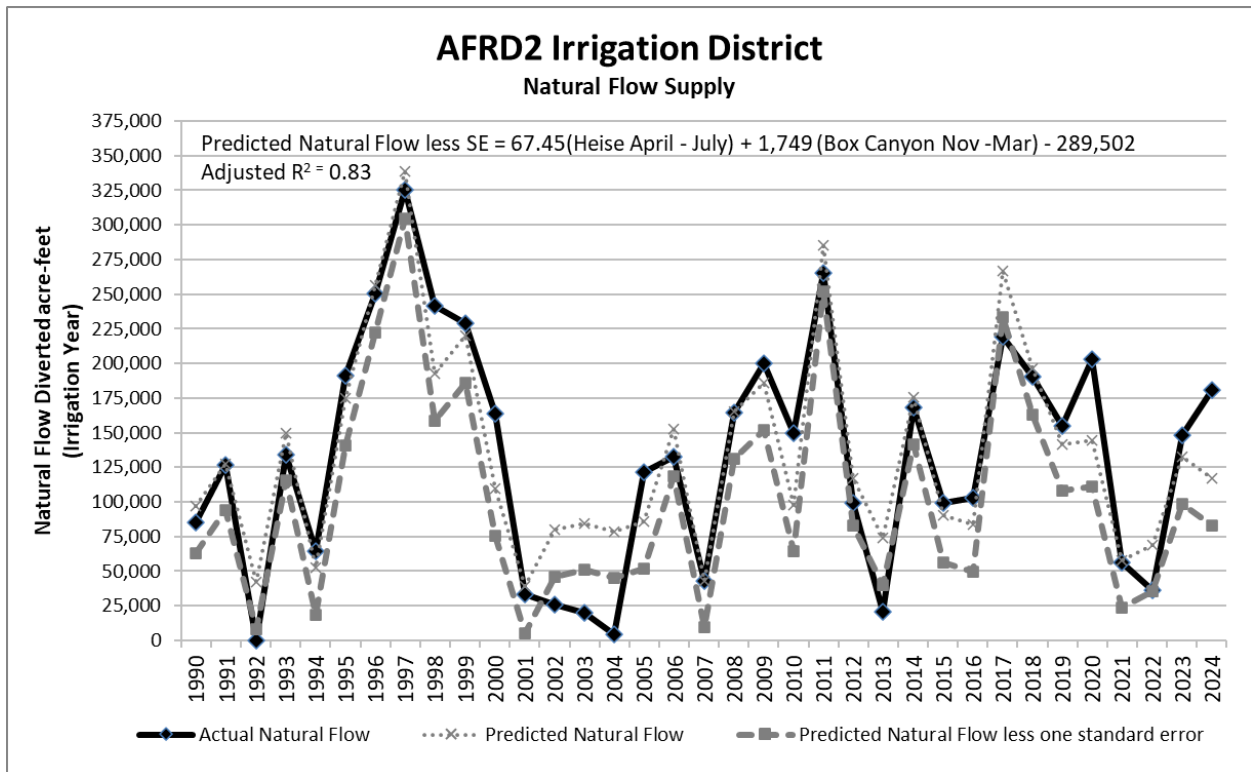
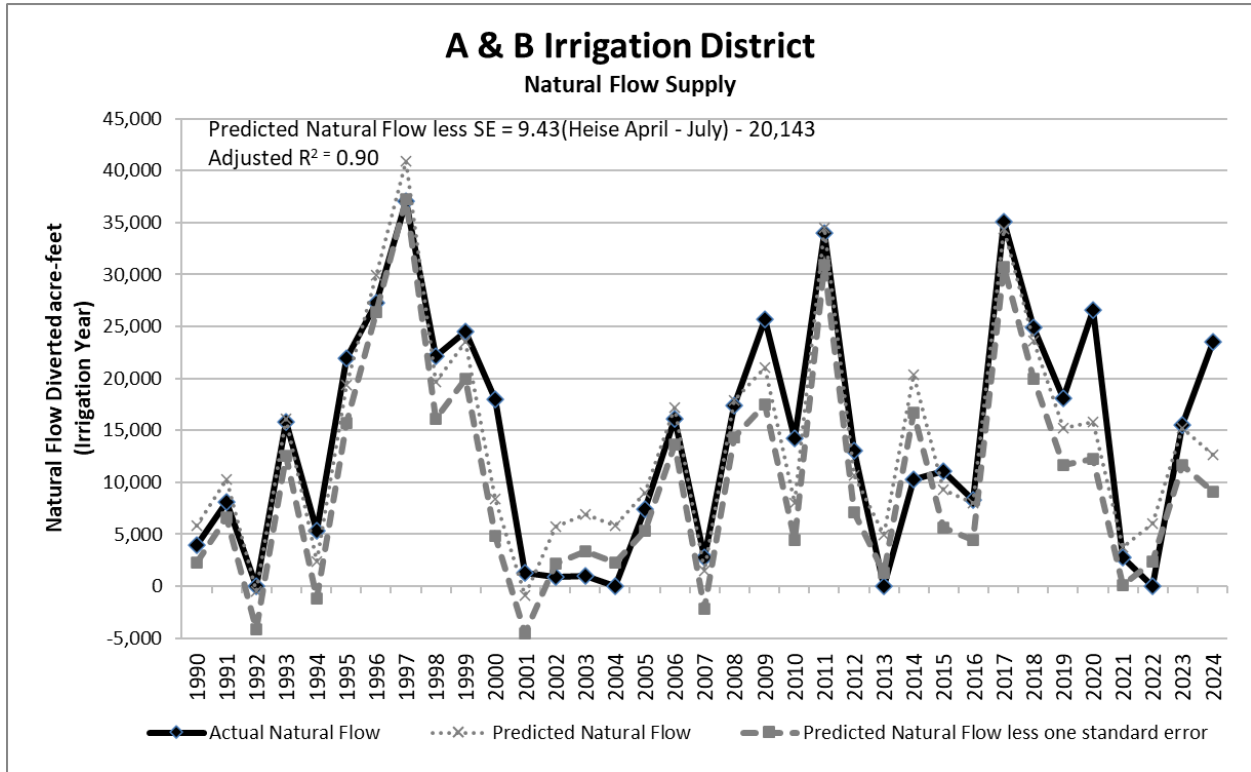
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<p>Corey Skinner IDWR—Southern Region <a href="mailto:corey.skinner@idwr.idaho.gov">corey.skinner@idwr.idaho.gov</a></p>	<p><input checked="" type="checkbox"/> Email</p>

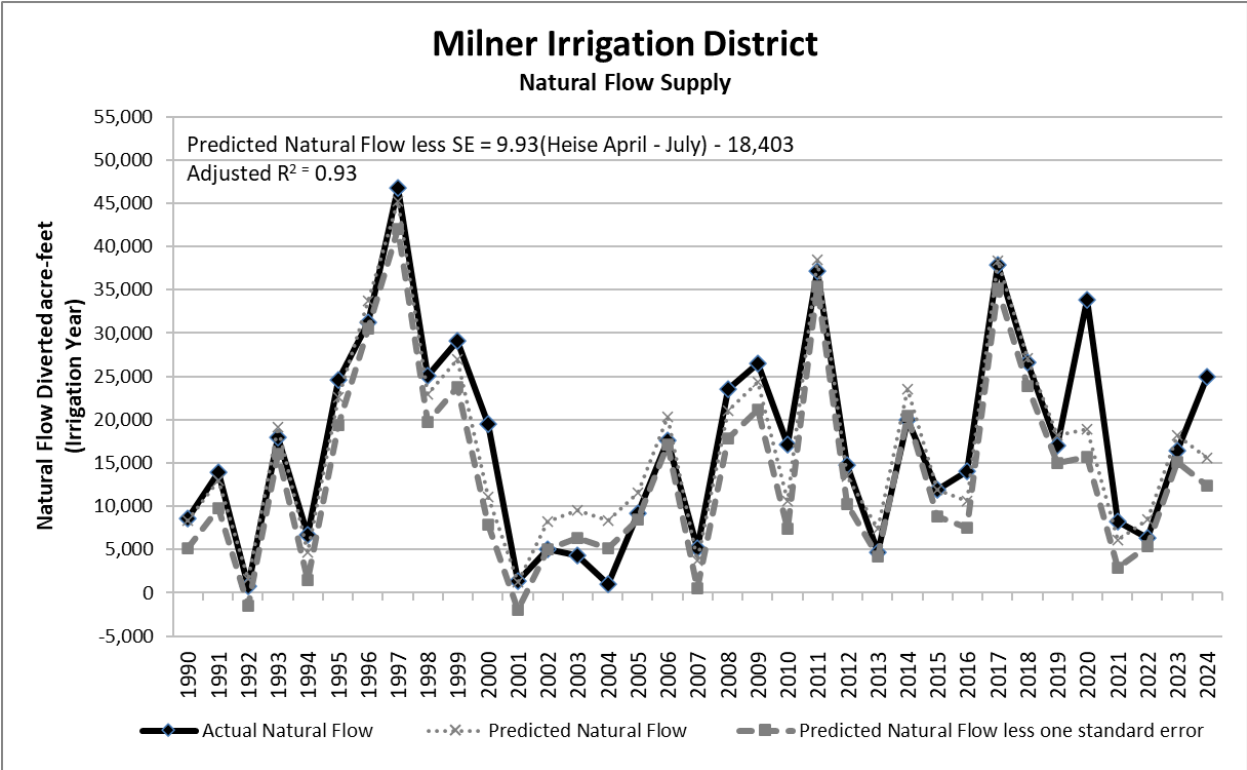
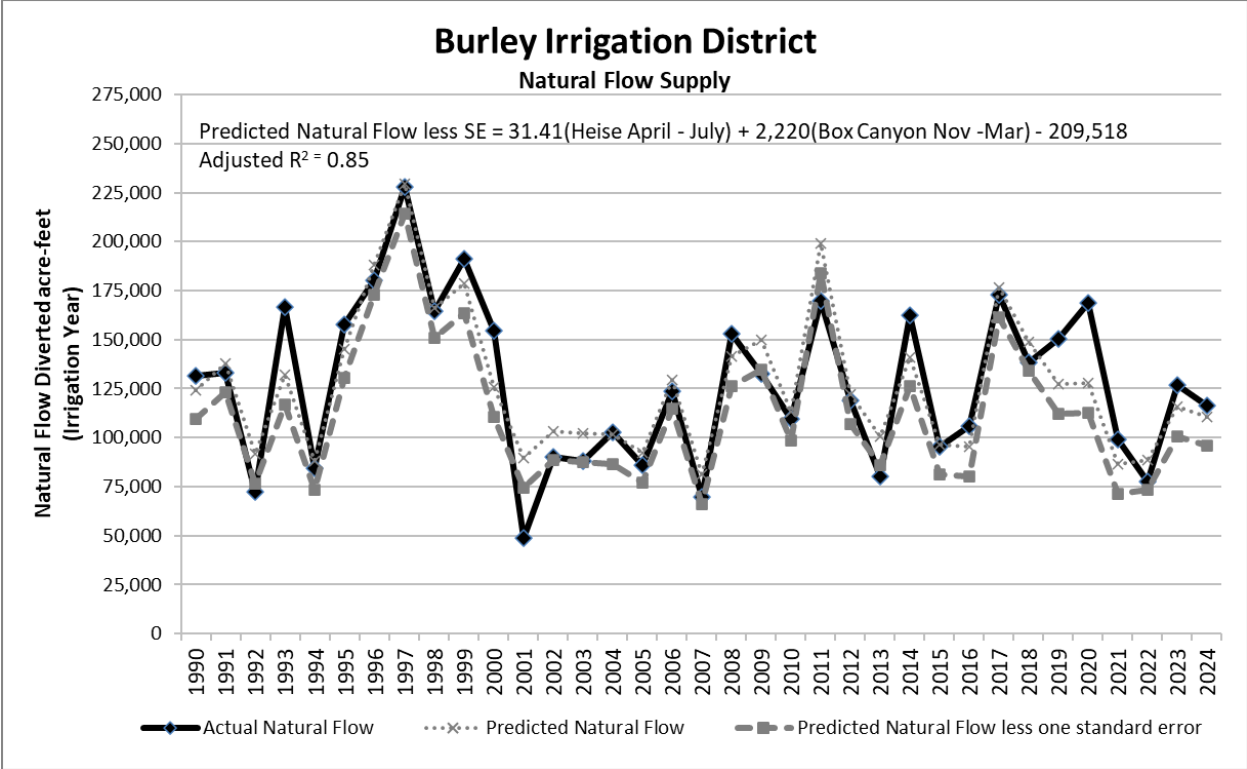


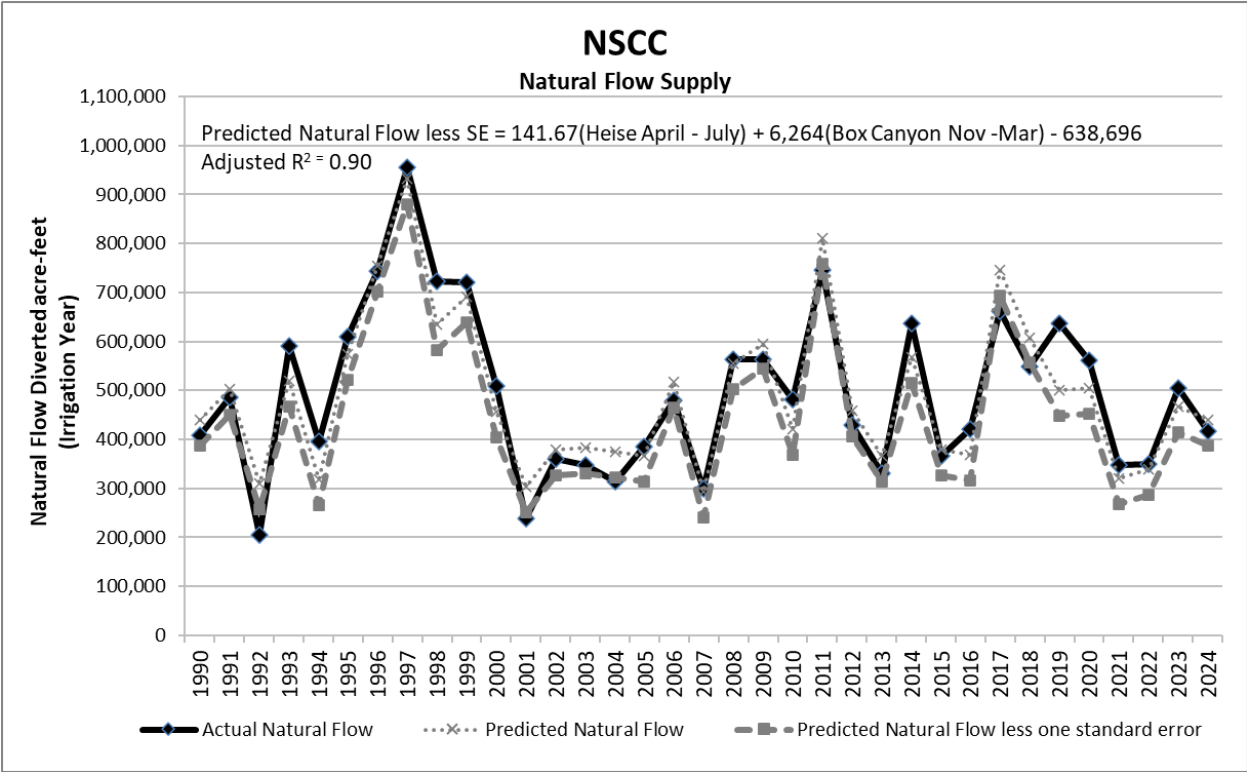
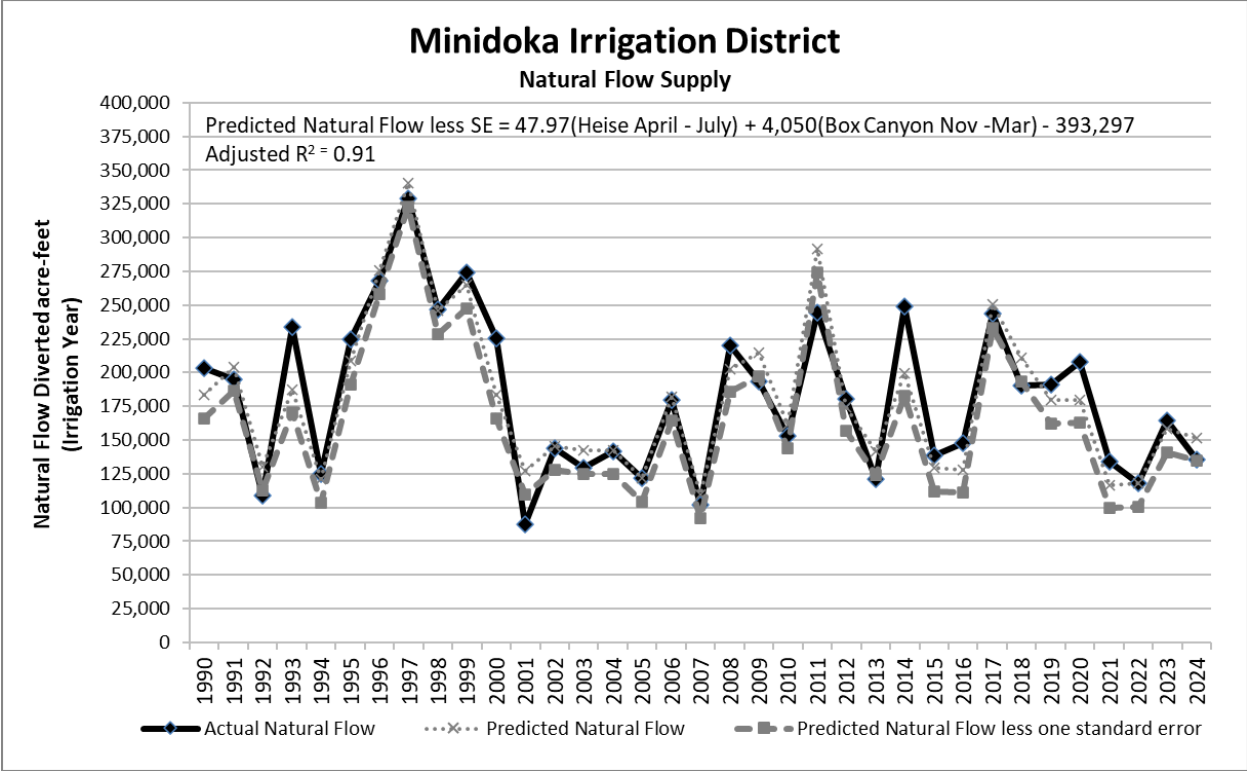
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\_\_\_\_\_  
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## ATTACHMENT A

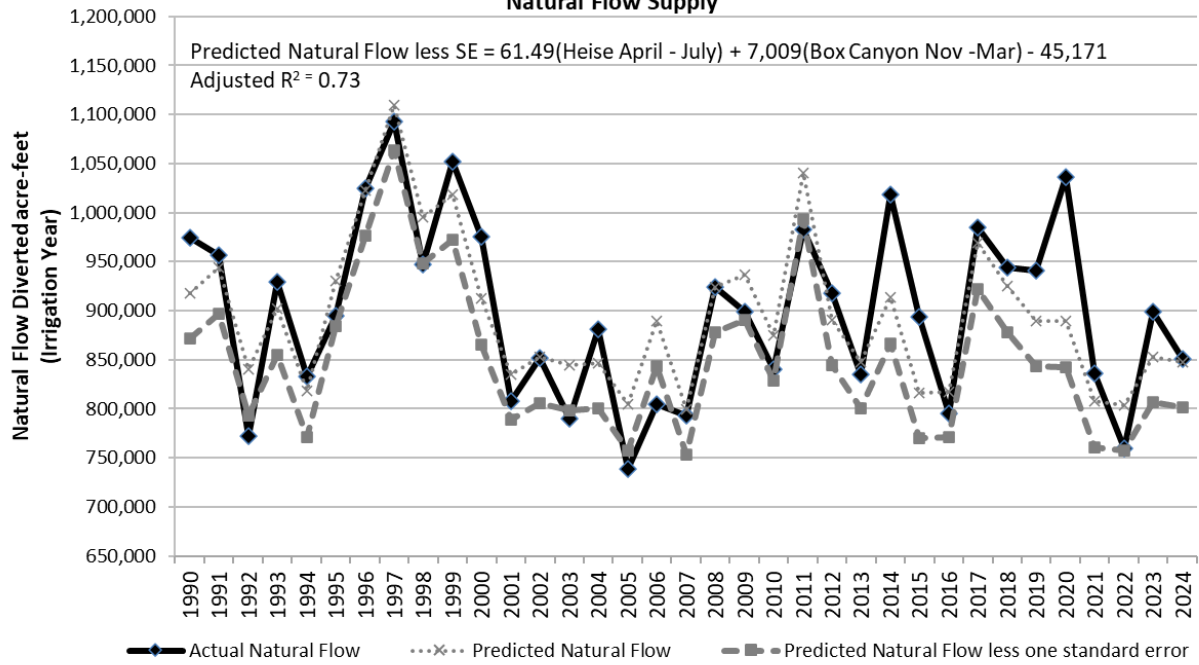






# TFCC

## Natural Flow Supply



**EXPLANATORY INFORMATION TO ACCOMPANY A  
FINAL ORDER**

(To be used in connection with actions when a hearing was **not** held)

The accompanying document is a "Final Order" issued by the Idaho Department of Water Resources ("Department") pursuant to Idaho Code § 67-5246.

**PETITION FOR RECONSIDERATION**

(See Idaho Code § 67-5246(4))

Any party may file a petition for reconsideration of this final order within fourteen (14) days of the service date of this order as shown on the certificate of service. **Note: the petition must be received by the Department within this fourteen (14) day period.** The presiding officer will act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law.

**REQUEST FOR HEARING**

(See Idaho Code § 42-1701A(3))

Unless the right to a hearing before the Department or the Water Resource Board is otherwise provided by statute, any person aggrieved by any final decision, determination, order or action of the Director, and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to Idaho Code § 42-1701A(3). A written petition to the Director contesting this final order and requesting a hearing must be filed with the Department by any aggrieved person **within fifteen (15) days after service of this final order.**

**CERTIFICATE OF SERVICE**

(See IDAPA 37.01.01.053, 37.01.01.202)

All documents filed with the Department in connection with a petition for reconsideration or a request for hearing of this final order shall be served on all other parties to the proceedings in accordance with Rules of Procedure 53 and 202.