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Irrigation District*

**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  
CM-MP-2016-001

**SURFACE WATER COALITION'S  
PETITION FOR RECONSIDERATION  
& CLARIFICATION**

**REQUEST FOR ENFORCEMENT OF  
ORDERS APPROVING 2016  
STIPULATED PLAN**

COME NOW, 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 (“Surface Water Coalition” or “Coalition”), by and through counsel of  
record, and pursuant to I.C. § 67-5246(4) and IDAPA 37.01.01.740.02.a and 770, hereby submits  
this petition for reconsideration and clarification concerning the Director’s *Order Revising April*

*2023 Forecast Supply and Amending Curtailment Order* (“Step 5/6 Order”) and the *Notice that Questions Concerning the Sufficiency of IGWA’s Mitigation Notices are Moot* (“Notice”).

The Coalition further requests that the Director address IGWA’s 2022 breach of the 2016 mitigation plan and enforce the orders approving the same.

## **BACKGROUND**

On March 9, 2016, the Surface Water Coalition and the nine signatory ground water districts (hereinafter collectively “IGWA”) filed a *Stipulated Mitigation Plan and Request for Order* (“*Stipulated Plan*”) regarding mitigation in this delivery call. The Director approved the plan by final order on May 2, 2016. The history of that plan and order, and what is required under both, are set forth in the Director’s recent *Amended Final Order Regarding Compliance with Approved Mitigation Plan* (“*Compliance Order*”) issued on April 24, 2023.<sup>1</sup>

On April 1, 2023, IGWA submitted its 2022 performance report to the Coalition and the Steering Committee. The Committee met on April 12, 2023 and disagreed on whether or not IGWA breached the agreement and mitigation plan in 2022. The Coalition reported the impasse to the Director by letter. *See Ex. A (Travis L. Thompson Letter to Director Spackman, April 13, 2023)*. Pursuant to the terms of the *Stipulated Plan* and its amendments, following such notification, resolving the issue of whether a breach occurred and expediting resolution was turned over to the Director.

IDWR completed its review of IGWA’s annual performance report on June 29, 2023. According to IDWR, IGWA only completed 188,095 acre-feet of conservation actions in 2022, well short of the required 240,000 acre-feet. *See Ex. B (IDWR Verification Memo, June 29, 2023)*.

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<sup>1</sup> IGWA has appealed this order to district court, but the order remains in effect and has not been stayed by the agency or the court. *See generally, IGWA v. IDWR* (Ada County Dist. Ct., Fourth Jud. Dist., Case No. CV01-23-7893).

The Director indicated that he would not address curtailment or the 2022 breach issue until after the administrative hearing concerning the *Fifth Methodology Order* and *April As Applied Order* was completed. That hearing was held before the agency on June 6-9, 2023. The Director further initially addressed IGWA’s attempted “hybridization” of mitigation plans and indicated there were “serious questions about whether mixing of mitigation plans is allowable and whether there is compliance with a mitigation plan at all.” *See Order Denying Motion for Reconsideration of Denial of Continuance* (May 19, 2023). Since that time IGWA has assigned the following to the Surface Water Coalition through letters to Water District 01: 30,000 acre-feet for purposes of the 2022 Settlement regarding the 2021 breach (*see T.J. Budge July 10, 2023 Letter to Tony Olenichak*); and 50,000 acre-feet (*see Elisheva Patterson July 21, 2023 Letter to Tony Olenichak*). *See* Ex. C (copies of letters without leases).

On July 19, 2023 the Director issued the Step 5/6 Order and the Notice. The mid-season evaluation predicted no in-season demand shortfall to any Coalition member. Consequently, the Director stated “there is no need to establish a Time of Need as described in Step 6.” In addition, in the Notice the Director stated “[b]ecause there is no demand shortfall, ground water users are no longer required to mitigate.” Notice at 3. The Coalition requests reconsideration and clarification of these statements and requests the Director to address IGWA’s 2022 breach as required under the *Second Addendum* and the May 2017 Order approving the same.

## **ARGUMENT**

### **I. IGWA Has a Continuing Obligation to Annually Mitigate Under the 2016 Stipulated Plan and Orders Approving the Same.**

The Director’s implementation of the methodology order and mid-season review under Steps 5/6 does not obviate IGWA’s obligation to mitigate under the *Stipulated Plan* and the Director’s orders approving the same. Although IGWA recently assigned 50,000 acre-feet as

required, there are serious questions as to whether the individual groundwater districts are complying with the remaining long-term obligations as agreed to and ordered by the Director.

Notably, only five districts provided notice of their intent to comply with the 240,000 acre-feet groundwater conservation requirement in 2023. *See Notice of Ground Water District Mitigation* at 2 (May 5, 2023). Members of the Bingham, Bonneville-Jefferson, and Jefferson-Clark Ground Water Districts are presumably not complying with that requirement but yet are continuing to pump their junior priority ground water rights in 2023 without the required reductions, as they apparently did in 2022. IGWA has not formally provided the Director and the Coalition with any information that would indicate otherwise. Whereas the mitigation requirements in the *Stipulated Plan* are not dependent upon an injury finding in the implementation of the methodology order, the Director should reconsider the statement and review of IGWA’s mitigation notices. In sum, there is no verification that IGWA is complying with its stipulated mitigation plan and the Director’s orders as set forth in the *Compliance Order*.

As such, the Director should reconsider or clarify the statement that “ground water users are no longer required to mitigate,” particularly to the extent that statement may be interpreted to obviate any requirements under the *Stipulated Plan* and orders.

## **II. Implementation of Step 7 May Result in an In-Season Demand Shortfall.**

The *Sixth Methodology Order* requires the Director to analyze and adjust the reasonable in-season demand and available water supply at the “time of need.” *See* Sixth Order at 44. Further, the order states that “The Director will then issue revised RISD and IDS values.” *Id.* The Step 5/6 Order states “there is no need to establish a Time of Need.” *See* Step 5/6 Order at 9. When that statement is read together with the above (i.e. “ground water users are no longer required to mitigate”), it is unclear what the Director intends for the rest of the irrigation season.

At a minimum, the Director should reconsider or clarify this statement to provide the parties with notice that this statement is not definitive for the rest of the 2023 irrigation season, and that additional adjustments may be made depending upon climatic conditions and available water supplies. Given the state of Snake River reach gains in July, the available supply for natural flow for the rest of the year is likely to be far less than what was identified in the forecast supply in the Step 5/6 Order. In other words, the Coalition presumes that a “time of need” will be established at some point and that Step 7 will be implemented as required by the Sixth Order. Moreover, such clarification would be necessary and consistent with mitigation being provided “in-time, in-place, and in-kind.”

### **III. Request for Enforcement of Orders Approving 2016 Stipulated Plan.**

Given the April impasse of the Steering Committee, and IDWR’s recent verification of IGWA’s failure to perform as required in 2022, the Coalition requests the Director to enforce the orders approving the *Stipulated Plan* and its amendments.

Since the parties did not agree on whether or not a breach occurred in 2022, and the Director has been notified of such impasse, the Director should evaluate all available information and determine if a breach occurred, and issue an order specifying what actions that must be taken to cure the breach. *See Final Order Approving Amendment to Stipulated Mitigation Plan* at 5, ¶ b (identifying approval does not limit Director’s enforcement discretion). The Districts’ failure to perform in 2022, and at least the apparent uncertainty of whether the three districts are performing at all in 2023, is contributing to declining Near Blackfoot to Milner Snake River reach gains (which dropped to their lowest ever recorded levels in July). Given certain ground water districts’ failure to perform in 2022, their members with junior priority ground water rights are not operating in conformance with their stipulated plan. Consequently, the Director has an

obligation to evaluate this information and take action as referenced in the September 2022

*Compliance Order:*

In this case, certain holders of junior-priority water rights failed to satisfy their mitigation obligations in 2021. Out-of-priority diversions by the IGWA members in Table 3 above were not “pursuant to a mitigation plan that has been approved by the Director.” IDAPA 37.03.11.040.01.b. The approved Mitigation Plan was not “effectively operating” with respect to those IGWA members in 2021. IDAPA 37.03.11.042.02. Consequently, the holders of senior water rights have been and are being materially injured by the failure of the juniors to fully mitigate during the 2021 irrigation season.

*Compliance Order at 15.*

Whereas the Coalition previously agreed to limit the quantity of direct storage mitigation to 50,000 acre-feet per year in exchange for the additional reduction actions (240,000 af), it is clear now that IGWA is not complying with its mitigation plan but yet its members are still enjoying the benefits of safe harbor from curtailment. Further, when viewed in the context of IGWA not meeting the spring 2023 sentinel well benchmark, the continued disparity in the receipt of benefits of the *Stipulated Plan* is even more apparent. Reach gains continue to decline year after year yet ground water users continue to pump their junior rights without shortage. If the Director does not enforce the ordered conservation obligations, then the Surface Water Coalition’s stipulation to 2016 mitigation plan was all for naught, and it effectively turns the prior orders into a “storage only” mitigation requirement to the detriment of the Coalition and its water supply.

Stated another way, IGWA should not be permitted to “mix and match” mitigation plans, and choose to comply with a prior “storage only” plan in years when there is no predicted demand shortfall. Yet that is what IGWA has proposed to do in 2023, and the issue of whether or not that is allowed is not “moot.” Finally, where IGWA’s members have received safe harbor

in 2022 and 2023, yet they are not in compliance with the *Stipulated Plan*, the Director should evaluate the available information and enforce the orders as previously indicated.

**CONCLUSION**

The Coalition requests reconsideration/clarification of the Step 5/6 Order and Notice as requested above. The Coalition further requests enforcement of the Director’s prior orders approving the *Stipulated Plan* and its amendments.

DATED this 31<sup>st</sup> day of July, 2023.

**MARTEN LAW LLP**



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Travis L. Thompson

*Attorneys for A&B Irrigation District,  
Burley Irrigation District, Milner Irrigation  
District, North Side Canal Company, and  
Twin Falls Canal Company*

**FLETCHER LAW OFFICE**



for

\_\_\_\_\_  
W. Kent Fletcher

*Attorneys for American Falls  
Reservoir District #2 and Minidoka  
Irrigation District*

## CERTIFICATE OF SERVICE

I hereby certify that on this 31<sup>st</sup> day of July, 2023, I served a true and correct copy of the foregoing on the following by the method indicated:

<p>Director Gary Spackman Garrick Baxter Sarah Tschohl State of Idaho Dept. of Water Resources 322 E Front St. Boise, ID 83720-0098 *** service by electronic mail</p> <p><a href="mailto:gary.spackman@idwr.idaho.gov">gary.spackman@idwr.idaho.gov</a> <a href="mailto:garrick.baxter@idwr.idaho.gov">garrick.baxter@idwr.idaho.gov</a> <a href="mailto:sarah.tschohl@idwr.idaho.gov">sarah.tschohl@idwr.idaho.gov</a> <a href="mailto:file@idwr.idaho.gov">file@idwr.idaho.gov</a></p>	<p>Matt Howard U.S. Bureau of Reclamation 1150 N. Curtis Rd. Boise, ID 83706-1234 *** service by electronic mail only</p> <p><a href="mailto:mhoward@usbr.gov">mhoward@usbr.gov</a></p>	<p>Tony Olenichak IDWR – Eastern Region 900 N. Skyline Dr., Ste. A Idaho Falls, ID 83402-1718 *** service by electronic mail only</p> <p><a href="mailto:tony.olenichak@idwr.idaho.gov">tony.olenichak@idwr.idaho.gov</a></p>
<p>T.J. Budge Elisheva Patterson Racine Olson P.O. Box 1391 Pocatello, ID 83204-1391 *** service by electronic mail only</p> <p><a href="mailto:tj@racineolson.com">tj@racineolson.com</a> <a href="mailto:elisheva@racineolson.com">elisheva@racineolson.com</a></p>	<p>Sarah A. Klahn Max C. Bricker Diane Thompson Somach Simmons &amp; Dunn 2033 11<sup>th</sup> St., Ste. 5 Boulder, CO 80302 *** service by electronic mail only</p> <p><a href="mailto:sklahn@somachlaw.com">sklahn@somachlaw.com</a> <a href="mailto:mbricker@somachlaw.com">mbricker@somachlaw.com</a> <a href="mailto:dthompson@somachlaw.com">dthompson@somachlaw.com</a></p>	<p>David Gehlert ENRD – DOJ 999 18<sup>th</sup> St. South Terrace, Ste. 370 Denver, CO 80202 *** service by electronic mail only</p> <p><a href="mailto:david.gehlert@usdoj.gov">david.gehlert@usdoj.gov</a></p>
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<p>W. Kent Fletcher Fletcher Law Offices P.O. Box 248 Burley, ID 83318 *** service by electronic mail only</p> <p><a href="mailto:wkf@pmt.org">wkf@pmt.org</a></p>	<p>Kathleen Carr U.S. Dept. Interior, Office of Solicitor Pacific Northwest Region, Boise 960 Broadway, Ste. 400 Boise, ID 83706 *** service by electronic mail only</p> <p><a href="mailto:kathleenmarion.carr@sol.doi.gov">kathleenmarion.carr@sol.doi.gov</a></p>	<p>Candice McHugh Chris M. Bromley McHugh Bromley, PLLC 380 South 4<sup>th</sup> Street, Ste. 103 Boise, ID 83702 *** service by electronic mail only</p> <p><a href="mailto:cbromley@mchughbromley.com">cbromley@mchughbromley.com</a> <a href="mailto:cmchugh@mchughbromley.com">cmchugh@mchughbromley.com</a></p>



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Jessica Nielsen  
*Assistant for Travis L. Thompson*

Exhibit

A



**MARTEN LAW**

April 13, 2023

Via U.S. Mail & Email

Director Gary Spackman  
Idaho Dept. of Water Resources  
322 E. Front St.  
P.O. Box 83720  
Boise, Idaho 83720-0098

**RE: Ground Water Districts' 2022 Performance Report / Steering Committee Meeting**

Dear Director Spackman:

I am writing on behalf of our Surface Water Coalition clients (A&B et al.) and am joined by Kent Fletcher on behalf of his Coalition clients (AFRD#2 & MID) and T.J Budge on behalf of his ground water district clients (Districts). This letter pertains to the Coalition's delivery call and the Districts' stipulated mitigation plan (including addendums) that was approved by you by final orders in 2016 and 2017.

For your information, the Districts submitted their 2022 implementation report to the Coalition on April 1, 2023, a copy of which is enclosed as Exhibit A. The Coalition met and reviewed the report, and, based on the conservation obligations set by the Director in the *Final Order Regarding Compliance with Approved Mitigation Plan* issued Sept. 8, 2022 ("Compliance Order"), I submitted a letter on behalf of the Coalition to the Districts' counsel on April 6, 2023, identifying certain Districts that did not meet their 2022 obligations. See Exhibit B.

The Coalition met with the Districts via Zoom on April 12, 2023 pursuant to the Steering Committee procedures identified in the *Second Addendum* and the Director's order approving the same. The Coalition submits that the four Districts identified in my April 6<sup>th</sup> letter breached the mitigation plan and the Director's order in irrigation season 2022. Pursuant to the *Second Addendum* paragraph 2(c), the Coalition asked the Districts if they agree that a breach occurred.

The Districts are of the position that they can neither agree nor disagree that a breach occurred in 2022, or to the magnitude of the alleged breach, until the Director issues a final decision on their challenge to the *Compliance Order* based on the evidence submitted at the hearing held February 8, 2023. It is the Districts' position that the Director's final decision will in any case affect the manner in which compliance is measured, as explained in the Districts' performance report.



## MARTEN LAW

At the April 12<sup>th</sup> Steering Committee meeting, the Districts requested that the breach issue be tabled until the Director issues a final decision on the *Compliance Order*. However, the Coalition is not willing to table the matter for an indefinite period. Therefore, the Coalition submits that a breach occurred in 2022 and the Districts' disagree.

Pursuant to the Second Addendum paragraph 2(c)(iv) attached to the *Final Order Approving Amendment to Stipulated Mitigation Plan* dated May 9, 2017, when the parties do not agree that a breach has occurred, the Steering Committee will report the same to the Director and request that the Director evaluate all available information, determine if a breach has occurred, and issue an order specifying actions that must be taken by the breaching party to cure the breach or be subject to curtailment.

Thank you for your attention to this matter.

Sincerely,

Travis Thompson  
Partner

Direct: (208) 735-2227  
Email: [tthompson@martenlaw.com](mailto:tthompson@martenlaw.com)

cc: W. Kent Fletcher  
John K. Simpson  
T.J. Budge  
Surface Water Coalition

# Exhibit B



## State of Idaho

# DEPARTMENT OF WATER RESOURCES

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BRAD LITTLE  
Governor

GARY SPACKMAN  
Director

June 29, 2023

**To: SWC-IGWA Steering Committee**  
**From: Idaho Department of Water Resources**  
**Re: Verification of IGWA's 2022 Diversion and Recharge Data**

This document is submitted by the Idaho Department of Water Resources ("Department") to the Surface Water Coalition ("SWC") and Idaho Ground Water Appropriators ("IGWA") Settlement Agreement Steering Committee to satisfy Covenant 2.b.iii of the Second Addendum to the Settlement Agreement ("Agreement") dated December 14, 2016 which states:

*"The Parties will request the Department to verify each District's annual diversion volume, and other reduction data (recharge, CREP, conversions, end-gun removals, etc.) to confirm the accuracy of the data. The Department's analysis shall be provided to the Steering Committee no later than July 1 for the previous irrigation season."*

On April 1, 2023, IGWA submitted their 2022 Settlement Agreement Performance Report ("Performance Report") to the Steering Committee. The Department has reviewed the Performance Report including electronic Excel spreadsheets, data tables and supplemental scanned documents. Data for each ground water district in the Performance Report included the five-year average baseline usage from 2010 through 2014, the total 2022 diversion volume, and the resultant difference between the five-year average baseline and 2022 diversion volume. These values are reported in column 2 of Tables 1, 2 and 3 in this memo. The five-year average baseline and 2022 diversion volume data came from the Department's Water Management Information System ("WMIS") database. IGWA adjusted the five-year average baseline and 2022 diversion volume for some WMIS records and explained the adjustments in their Excel spreadsheet.

Department staff independently queried the five-year average baseline and 2022 diversion volumes from the WMIS database for each WMIS record reported by IGWA to compare against the five-year average baseline and 2022 diversion volume amounts contained in the Performance Report. This was done to capture revisions to historic data in WMIS and account for membership changes within the ground water districts. Data resulting from these queries are reported by ground water district and shown in column 3 of Tables 1 and 2. The 2022 diversion volume reduction from the five-year baseline average is shown in column 3 of Table 3.

Some wells in Henry's Fork Ground Water District ("HFGWD") and Fremont Madison Irrigation District ("FMID") do not have a WMIS record assigned to them because they are exchange wells measured and reported by Water District 01 ("WD01"). Regarding HFGWD, IGWA and Department staff retrieved FMID data and Teton River exchange well data from the WD01 Water Rights Accounting database available on the Department's website. WD31 data, which are included in the reported volumes for Jefferson-Clark Ground Water District, were obtained from the 2022 WD31 Watermaster Annual Report.

The Department also attempted to verify IGWA’s reported private lease-rental recharge amounts for the 2022 calendar year. Confirmation of actual recharge volumes is difficult due to the complexity of tracking surface water deliveries, transactions and return flow amounts to the Snake River. Therefore, the Department’s review is limited to confirming the existence and delivery volumes of private lease-rental contracts within WD01, Temporary Water Permits, Natural Flow Permits and Water Supply Bank Rentals.

The following tables summarize the five-year average baseline, 2022 diversion volume, resultant reductions, and recharge contract volumes as determined by IGWA and the Department. The verification results are presented objectively with no assumption as to which dataset is correct or incorrect. Notes are provided under each table explaining additional details specific to that particular table or dataset. Possible explanations are offered regarding differences between IGWA and Department datasets.

The Department did not review or include data for A&B Irrigation District or the Southwest Irrigation District. The Department will consider reporting data for these districts to the Steering Committee upon request.

## Table 1: Five-Year Baseline Comparison

2010 through 2014

1	2	3	4
Ground Water District	IGWA Reported 5-Yr Baseline (AF)	IDWR Database 5-Yr Baseline (AF)	IDWR % Difference Compared to IGWA (negative = IDWR < IGWA)
American Falls -Aberdeen GWD	283,815	282,200	-0.6
Bingham GWD	277,011	277,359	0.1
Bonneville - Jefferson GWD	158,133	155,292	-1.8
Carey Valley GWD	5,671	5,484	-3.3
Henry's Fork GWD	73,901	73,340	-0.8
Jefferson - Clark GWD	445,393	445,144	-0.1
Madison GWD (estimated data)	78,095	79,134	1.3
Magic Valley GWD	256,188	256,561	0.1
North Snake GWD	208,795	203,541	-2.5
<b>Total</b>	<b>1,787,002</b>	<b>1,778,055</b>	<b>-0.5</b>

Table 1 Notes:

- Madison GWD: Baseline data determined by IGWA and IDWR via the method described on the “Madison GWD” tab of the IGWA submittal Excel spreadsheet. The average usage for each diversion from 2019 and 2020 was estimated to be 92% of the baseline volume. The average use in 2019/2020 for each well was increased by a factor of 1.0869565 to get to a 100% baseline volume. IGWA estimated the 92% value by comparing usage in the adjoining Henry’s Fork GWD area.
- Henry’s Fork GWD: IGWA’s revised the baseline volume in their April 1 report from 69,979 acre-feet to 73,901 acre-feet.
- Both the IGWA and IDWR baseline volume for North Snake included a volume of 21,305 acre-feet of conversions

## Table 2: 2022 Usage Volume Comparison

1	2	3	4
Ground Water District	IGWA Reported Usage (AF)	IDWR Database Usage (AF)	IDWR % Difference Compared to IGWA (negative = IDWR < IGWA)
American Falls -Aberdeen GWD	269,322	269,197	0.0
Bingham GWD	269,088	268,126	-0.4
Bonneville - Jefferson GWD	151,245	150,996	-0.2
Carey Valley GWD	1,889	1,447	-23.4
Henry's Fork GWD	65,177	66,780	2.5
Jefferson - Clark GWD	408,112	408,308	0.0
Madison GWD	76,919	75,939	-1.3
Magic Valley GWD	218,759	218,721	0.0
North Snake GWD	174,838	174,710	-0.1
<b>Total:</b>	<b>1,635,349</b>	<b>1,634,224</b>	<b>-0.1</b>

Table 2 Notes:

- Carey Valley GWD: Data used by IGWA and IDWR for three WMIS records account for this 442 acre-feet difference.

## Table 3: 2022 Reduction Comparison

1	2	3	4
Ground Water District	IGWA Reported Reduction (AF)	IDWR Database Reduction (AF)	IDWR % Difference Compared to IGWA (negative = IDWR < IGWA)
American Falls -Aberdeen GWD	14,493	13,003	-10.3
Bingham GWD	7,923	9,233	16.5
Bonneville - Jefferson GWD	6,888	4,296	-37.6
Carey Valley GWD	3,782	4,037	6.7
Henry's Fork GWD	8,724	6,560	-24.8
Jefferson - Clark GWD	37,281	36,836	-1.2
Madison GWD	1,176	3,195	171.7
Magic Valley GWD	37,429	37,840	1.1
North Snake GWD	33,957	28,831	-15.1
<b>Total:</b>	<b>151,653</b>	<b>143,831</b>	<b>-5.2</b>

Table 3 Notes:

- Data in this table are generated by subtracting the 2022 usage volume for each district in table 2 from the 5-year average baseline for each district in table 1.



## Table 4: 2022 Recharge Contract Confirmation

Ground Water District	IGWA Volume (AF)	IDWR Volume (AF)
American Falls-Aberdeen	23,550	16,866
Bingham	516	516
Bonneville - Jefferson	9,285	9,285
Carey Valley	5	5
Hen. Fork & Madison	3,000	3,000
Jefferson Clark	7,647	7,647
Magic Valley	3,378	3,378
North Snake	3,568	3,567
Grand Total	50,948	44,264

**Table 4 Notes:**

- The difference of 6,684 acre-feet for American Falls-Aberdeen is specific to recharge activities under the City of Gooding permit number 37-23059. IDWR has requested additional information on this line item and is awaiting the response.
- The timeframe within which recharge activities are counted is the calendar year 2022.
- Recognizing the challenges and difficulties due to the current data gaps in regard to accurately knowing and measuring where, when and how much water was actually recharged, the Department limited its review to confirmation of private lease/rental contracts, temporary water permits, natural flow permits, water supply bank rentals and the contract volume amounts.

Respectfully,



Brian W. Ragan, PG  
Water Compliance Bureau

# Exhibit C

July 10, 2023

Tony Olenichak, Water Master  
Water District 1  
900 N. Skyline Drive, Suite A  
Idaho Falls, Idaho 83402  
Email: [Tony.Olenichak@idwr.idaho.gov](mailto:Tony.Olenichak@idwr.idaho.gov)

***Re: Assignment of 30,000 acre-feet to the Surface Water Coalition***

Dear Tony:

By this letter, IGWA hereby assigns to the SWC 30,000 acre-feet of storage under the following lease contracts, copies of which are enclosed:

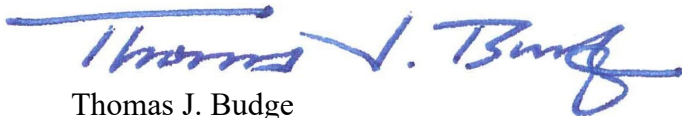
- 5,988 acre-feet under the Multi-Year Tribal Water Lease Agreement between IGWA and the Shoshone-Bannock Tribes.
- 4,000 acre-feet under the Storage Water Lease between Bonneville-Jefferson Ground Water District and Enterprize Canal Company.
- 4,000 acre-feet under the Storage Water Lease between Bonneville-Jefferson Ground Water District and Snake River Valley Irrigation District.
- 3,826 acre-feet under the Storage Water Lease between Bonneville-Jefferson Ground Water District and Idaho Irrigation District.
- 3,500 acre-feet under the Water District #1 Rental Pool – Private Lease Agreement between Bingham Ground Water District and Aberdeen-Springfield Canal Company.
- 5,009 acre-feet under the Water District #1 Rental Pool – Private Lease Agreement between Bingham Ground Water District and Snake River Valley Irrigation District.
- 400 acre-feet under the Water District #1 Rental Pool – Private Lease Agreement between Bingham Ground Water District and United Canal Company.
- 334 acre-feet under the Water District #1 Rental Pool – Private Lease Agreement between Bingham Ground Water District and Sunnydell Irrigation Company.
- 50 acre-feet under the Water District #1 Rental Pool – Private Lease Agreement between Bingham Ground Water District and Watson Canal Company.
- 150 acre-feet under the Water District #1 Rental Pool – Private Lease Agreement between Bingham Ground Water District and Wearyrick Ditch Company.
- 500 acre-feet under the Water District #1 Rental Pool – Private Lease Agreement between Bingham Ground Water District and Blackfoot Irrigation Company.
- 750 acre-feet under the Water District #1 Rental Pool – Private Lease Agreement between Bingham Ground Water District and Corbett Slough Ditch Company.

- 1,343 acre-feet under the Water District #1 Rental Pool – Private Lease Agreement between Bingham Ground Water District and Enterprize Canal Company.
- 100 acre-feet under the Water District #1 Rental Pool – Private Lease Agreement between Bingham Ground Water District and Parsons Ditch Company.
- 50 acre-feet under the Water District #1 Rental Pool – Private Lease Agreement between Bingham Ground Water District and Riverside Canal Company.

The Water District 1 fees associated with these leases have already been paid. Kent Fletcher, Travis Thompson, or another representative of the SWC will direct you as to which SWC storage accounts this water should be credited.

Thank you for your assistance. If you have any questions, please contact me.

Sincerely,



Thomas J. Budge

c: IGWA Board of Directors  
Bob Turner, IGWA Executive Director  
Kent Fletcher  
Travis Thompson

July 21, 2023

Tony Olenichak, Water Master  
Water District 1  
900 N. Skyline Drive, Suite A  
Idaho Falls, Idaho 83402  
Email: [Tony.Olenichak@idwr.idaho.gov](mailto:Tony.Olenichak@idwr.idaho.gov)

***Re: Assignment of 50,000 acre-feet to the Surface Water Coalition***

Dear Tony:

By this letter, IGWA hereby assigns to the SWC 50,000 acre-feet of storage under the following lease contracts, copies of which are enclosed:

- 19,000 acre-feet under the Multi-Year Tribal Water Lease Agreement between IGWA and the Shoshone-Bannock Tribes.
- 2,500 acre-feet under the One-Year Tribal Water Lease Agreement between IGWA and the Shoshone-Bannock Tribes.
- 2,514 acre-feet under the Water District #1 Rental Pool – Private Lease Agreement between Bingham Ground Water District and Peoples Canal & Irrigation Company.
- 327 acre-feet under the Water District #1 Rental Pool – Private Lease Agreement between Bingham Ground Water District and Enterprize Canal Company.
- 6,678 acre-feet under the Water District #1 Rental Pool – Private Lease Agreement between Bingham Ground Water District and Idaho Irrigation District.
- 5,009 acre-feet under the Water District #1 Rental Pool – Private Lease Agreement between Bingham Ground Water District and New Sweden Irrigation District.
- 1,000 acre-feet under the Storage Water Lease between American Falls-Aberdeen Ground Water District and Falls Irrigation District.
- 2,674 acre-feet under the Storage Water Lease between Bonneville-Jefferson Ground Water District and Idaho Irrigation District.<sup>1</sup>
- 5,000 acre-feet under the Water District #1 Rental Pool – Private Lease Agreement between Bingham Ground Water District and Harrison Canal and Irrigation Company.
- 2,270 acre-feet under the Water District #1 Rental Pool – Private Lease Agreement between Bingham Ground Water District and Peoples Canal & Irrigation Company.
- 500 acre-feet under the Water District #1 Rental Pool – Private Lease Agreement between Bingham Ground Water District and Blackfoot Irrigation Company.
- 50 acre-feet under the Water District #1 Rental Pool – Private Lease Agreement between Bingham Ground Water District and Wearyrick Ditch Company.

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<sup>1</sup> 174 acre-feet under one Storage Water Lease between Bonneville-Jefferson Ground Water District and Idaho Irrigation District, dated April 21, 2023; 2,500 acre-feet under a second Storage Water Lease between the same, dated May 9, 2023.

- 1,500 acre-feet under the Water District #1 Rental Pool – Private Lease Agreement between Bingham Ground Water District and Corbett Slough Canal.
- 192 acre-feet under the Water District #1 Rental Pool – Private Lease Agreement between Bingham Ground Water District and Palisades Water Users, Inc.

The Water District 1 fees associated with these leases have already been paid. Kent Fletcher, Travis Thompson, or another representative of the SWC will direct you as to which SWC storage accounts this water should be credited.

Thank you for your assistance. If you have any questions, please contact me.

Sincerely,



Elisheva M. Patterson

c: IGWA Board of Directors  
Bob Turner, IGWA Executive Director  
Kent Fletcher  
Travis Thompson