

**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

**ORDER APPROVING 2024
STIPULATION AS COMPLIANCE
WITH APPROVED MITIGATION
PLAN**

BACKGROUND

In 2015, the Surface Water Coalition (“SWC”)¹ and certain members of the Idaho Ground Water Appropriators, Inc. (“IGWA”)² entered into the *Settlement Agreement Entered into June 30, 2015 Between Participating Members of the Surface Water Coalition and Participating Members of the Idaho Ground Water Appropriators, Inc. (“2015 Settlement Agreement”)*.

The parties amended and clarified the *2015 Settlement Agreement* by executing the *Addendum to Settlement Agreement (“First Addendum”)*, the *Agreement* dated October 7, 2015 (“*A&B-IGWA Agreement*”), and the *Second Addendum to Settlement Agreement (“Second Addendum”)*. The SWC and IGWA submitted these documents to the Director of the Idaho Department of Water Resources (“Department”) as a stipulated mitigation plan in response to the SWC’s delivery call (Docket No. CM-DC-2010-001).

The Director approved the mitigation plan and its amendment in his *Final Order Approving Stipulated Mitigation Plan* dated May 2, 2016, and the *Final Order Approving Amendment to Stipulated Mitigation Plan* dated May 9, 2017.

Therefore, six documents are collectively referred to as the *2016 Mitigation Plan* (Docket No CM-MP-2016-001):

1. The *2015 Settlement Agreement*
2. The *First Addendum*
3. The *A&B-IGWA Agreement*
4. The *Second Addendum*
5. The *Order Approving Mitigation Plan*
6. The *Order Approving Amendment to Mitigation Plan*

¹ The SWC is comprised 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.

² For purposes of this order, references to IGWA include only the following eight ground water districts, which are the signatories to the *2016 Mitigation Plan*: American Falls-Aberdeen Ground Water District, Bingham Ground Water District, Bonneville-Jefferson Ground Water District, Carey Valley Ground Water District, Henry’s Fork Ground Water District Jefferson Clark Ground Water District, Madison Ground Water District, Magic Valley Ground Water District, and North Snake Ground Water District.

In the *2015 Settlement Agreement*, the SWC and IGWA agreed that “[t]otal ground water diversion shall be reduced by 240,000 ac-ft annually.” *2015 Settlement Agreement* § 3.a.i. This is commonly referred to as the “conservation obligation” or the “reduction obligation.” The SWC and IGWA also agreed that IGWA would annually deliver storage water to the SWC: “IGWA will provide 50,000 ac-ft of storage water through private lease(s) of water from the Upper Snake Reservoir system, delivered to SWC 21 days after the date of allocation, for use to the extent needed to meet irrigation requirements.” *Id.* § 3.b.i. Finally, the SWC and IGWA agreed “[n]o ground water user participating in this Agreement will be subject to a delivery call by the SWC members as long as the provisions of the Agreement are being implemented.” *Id.* § 5.

On July 19, 2023, the 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 SWC.

On April 18, 2024, the Director issued the *Final Order Regarding April 2024 Forecast Supply (Methodology Steps 1-3)* (“*As-Applied Order*”), which applied steps 1, 2, and 3 of the *Methodology Order*. The Director predicted an April in-season demand shortfall (“IDS”) of 74,100 acre-feet. *As-Applied Order*, at 3, No. CM-DC-2010-001. The Director ordered that, by May 2, 2024, ground water users with consumptive water rights “bearing priority dates junior to March 31, 1954, 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 74,100 acre-feet in accordance with an approved mitigation plan.” *Id.* at 6. The Director also ordered that, if such a junior ground water user cannot establish that they can mitigate for their proportionate share of the predicted IDS “in accordance with an approved mitigation plan, the Director will issue an order curtailing the junior-priority ground water user.” *Id.*

Historically, IGWA, acting on behalf of its member ground water districts, filed a notice of mitigation with the Department to establish that the ground water districts can mitigate for their proportionate share of the predicted IDS in accordance with an approved mitigation plan. However, this year, individual ground water districts submitted their own mitigation notices. Between May 2 and May 6, 2024, Bonneville-Jefferson, Jefferson-Clark, Magic Valley together with North Snake, Henry’s Fork together with Madison, Bingham, Carey Valley, and American Falls-Aberdeen ground water districts (collectively, the “Districts”) filed mitigation notices with the Department.

On May 10, 2024, the Director issued an *Order Determining Deficiency in Notices of Secured Water* (“*Order Determining Deficiency*”). In the *Order Determining Deficiency*, the Director found that the mitigation notices filed by the Districts “are deficient and fail to demonstrate that they are operating in accordance with an approved mitigation plan.” *Order Determining Deficiency*, at 11, No. CM-DC-2010-001.

Accordingly, the Director gave the Districts until May 17, 2024, “to submit additional notice that demonstrates to the satisfaction of the [D]irector that they have secured storage water in compliance with either the *2009 Storage Water [Mitigation] Plan* or the *2016 Settlement Mitigation Plan*.” *Id.*

On May 17, 2024, IGWA submitted *IGWA’s Notice of Storage Water Leases* (“*IGWA’s Notice*”) for the purpose of demonstrating that adequate storage water leases were secured to mitigate material injury caused by ground water use within Bonneville-Jefferson, Jefferson-Clark, Magic Valley, North Snake, Henry’s Fork, Madison, Bingham, and Carey Valley ground water districts, in compliance with the *2009 Storage Water Mitigation Plan*.

The same day, American Falls-Aberdeen requested the Director reconsider the *Order Determining Deficiency* to remove any obligation on behalf of the ground water districts to provide proof that 50,000 acre-feet of storage water has been secured under the *2016 Mitigation Plan. Mot. for Recons. of Order Determining Deficiency in Notices of Secured Water*, at 5–7, No. CM-DC-2010-001.

The Director ultimately agreed with American Falls-Aberdeen that under the plain language of the *2016 Mitigation Plan* it was complying with the requirements of the plan. Consequently, on May 28, 2024, in the *Amended Order Determining Deficiency in Notices of Secured Water* (“*Amended Order Determining Deficiency*”) the Director concluded: “At this time, American Falls-Aberdeen is the only ground water district that has told the Director that it continues to uphold and seek protection under the *2016 Settlement Mitigation Plan* and has demonstrated that it continues to comply with all elements of the plan.” *Amended Order Determining Deficiency*, at 10–11, No. CM-DC-2010-001.

In contrast, when the Director evaluated *IGWA’s Notice*, the Director found it to be deficient “because it fail[ed] to demonstrate that Bonneville-Jefferson, Jefferson-Clark, Magic Valley, North Snake, Henry’s Fork, Madison, Bingham, and Carey Valley ground water districts are operating in accordance with an approved mitigation plan.” *Order Denying IGWA’s Second Pet. for Recons.; Order Determining Deficiency in IGWA’s May 17, 2024 Notice of Storage Water Leases*, at 8, No. CM-DC-2010-001. Therefore, the Director ordered:

Any ground water district that previously sought protection under the *2009 Storage Water Mitigation Plan* that now wishes to seek protection under the *2016 Settlement Mitigation Plan* has until Wednesday, May 29, 2024, at 5:00 p.m. (MT) to inform the Director of their intention to do so and to demonstrate they are in compliance with the *2016 Settlement Mitigation Plan*.

Id.

Only Henry’s Fork and Madison ground water districts filed satisfactory notice. Therefore, the Director concluded in the *Final Order Curtailing Ground Water Rights Junior to March 31, 1954* (“*Curtailment Order*”), issued May 30, 2024, that American Falls-Aberdeen, Henry’s Fork, and Madison ground water districts demonstrated that they were operating in accordance with the *2016 Mitigation Plan* so junior ground water users who were members of those districts would not be subject to curtailment during the 2024 irrigation season. *Curtailment Order*, at 7, No. CM-DC-2010-001.

As a result of their deficient notices, the Director concluded that Magic Valley, North Snake, Bingham, Bonneville-Jefferson, Jefferson Clark, and Carey Valley ground water districts were not operating in accordance with a Department approved mitigation plan and would be subject to curtailment during the 2024 irrigation season. *Curtailment Order*, at 7–8.

The *Curtailment Order* required ground water users within the Eastern Snake Plain Aquifer area of common ground water supply, whose rights have a priority date after March 31, 1954, and who have not already established to the satisfaction of the Director that they are operating in accordance with a Department-approved mitigation plan, to cease diverting ground water under those rights. *Curtailment Order*, at 9.

On June 6, 2024, the Director issued the *Order Amending Curtailment List* (“*Amended Curtailment Order*”), which removed all water rights of members of Magic Valley and North Snake from the curtailment list as they established to the satisfaction of the Director that they

were operating in accordance with a Department-approved mitigation plan. *Amended Curtailment Order*, at 1, No. CM-DC-2010-001.

On June 19, 2024, the SWC and IGWA submitted a *Joint Motion for Order Approving 2024 Stipulation*, requesting that the Director issue an order accepting the *2024 Stipulation*, attached as Exhibit A to the motion, as compliance with the *2016 Mitigation Plan* for the 2024 irrigation season. *Joint Motion for Order Approving 2024 Stipulation*, at 2.³

Concurrently, the Director received a letter from Jeff Raybould, Chairman of the Idaho Water Resource Board (“IWRB”), confirming IWRB’s commitment to provide 5,000 acre-feet of storage water pursuant to the terms of the *2024 Stipulation*.

ANALYSIS

In a delivery call under the Department’s Rules for Conjunctive Management of Surface and Ground Water Resources (“CM Rules”), out-of-priority diversion of water by junior priority ground water users is allowable only “pursuant to a mitigation plan that has been approved by the Director.” IDAPA 37.03.11.040.01.b. Junior-priority ground water users “covered by an approved and effectively operating mitigation plan” are protected from curtailment under CM Rule 42. IDAPA 37.03.11.042.02. In other words, only those junior ground water users complying with an approved mitigation plan are protected from a curtailment order.

The *2016 Mitigation Plan* obligates IGWA to reduce its total consumptive use volume or recharge the equivalent of 240,000 ac-ft every year and to deliver 50,000 ac-ft of storage water annually. Each IGWA member is annually responsible for their proportionate share of that total. But the Mitigation Plan is structured in such a way that the analysis of IGWA’s mitigation efforts from one year are delayed until the following year. These delays are inherent in the Steering Committee process the parties agreed to in the *Second Addendum*.

Because the parties stipulated to the *2016 Mitigation Plan*, the Director allowed significant latitude to the agreeing parties in accepting the provisions of the mitigation plan. Despite the parties’ stipulated agreement to the terms of the *2016 Mitigation Plan*, following the drought years of 2021 and 2022, much disagreement and litigation arose between the parties regarding the interpretation, implementation, and enforceability of the plan. *See 2024 Stipulation*, at 1.

In administrative proceedings conducted pursuant to the Steering Committee process, the Director concluded that certain IGWA members failed to satisfy their proportionate mitigation obligations in 2021 and 2022, respectively, and were therefore not operating in accordance with a Department-approved mitigation plan. *Amended Final Order Regarding Compliance with Approved Mitigation Plan (“2021 Compliance Order”)*, at 16-17, No. CM-MP-2016-001; *Final Order Regarding IGWA’s 2022 Mitigation Plan Compliance (“2022 Compliance Order”)*, at 8, No. CM-MP-2016-001. To resolve the deficiency in 2021, the SWC and IGWA entered into a *Remedy Agreement*, which the Director approved as an appropriate contingency for

³ The *2024 Stipulation* is entered into and executed by: Idaho Ground Water Appropriators, Inc., North Snake Ground Water District, Magic Valley Ground Water District, Carey Valley Ground Water District, Aberdeen-American Falls 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 (collectively, the “Groundwater Users”), and Twin Falls Canal Company, North Side Canal Company, American Falls Reservoir District No. 2, Milner Irrigation District, Burley Irrigation District, A&B Irrigation District, and Minidoka Irrigation District (collectively, the “SWC”). *2024 Stipulation*, at 1.

noncompliance. *2021 Compliance Order*, at 17-20. Administrative proceedings addressing the 2022 noncompliance are ongoing before an independent hearing officer.

Rather than continue to litigate their disagreements, the SWC and IGWA have entered into the *2024 Stipulation*, which “prescribe[es] the mutually agreeable terms by which the Groundwater Users will comply with the 2016 [Mitigation] Plan for the 2024 irrigation season.” *Joint Motion for Order Approving 2024 Stipulation*, at 3.

By submitting the *2024 Stipulation* to the Department, the parties request the Director “issue an order accepting the *2024 Stipulation* as compliance with the 2016 [Mitigation] Plan for the 2024 irrigation season, and issue an order amending the curtailment list to protect all patrons of the Groundwater Users from curtailment during the 2024 irrigation season under the terms provided in the stipulation.” *Id.*

For the ground water districts to be protected from curtailment by operating under the *2016 Mitigation Plan*, they must demonstrate that they continue to comply with all elements of the plan. The two main elements of the plan are the conservation obligation (including curing the 2022 deficiency and fulfilling the 2024 obligation), and the storage water delivery obligation.

A. The 2024 Conservation Obligation

As stated above, the *2016 Mitigation Plan* requires IGWA members to reduce their proportionate share of total diversions or recharge the equivalent of 240,000 ac-ft every year. To demonstrate their continued commitment to this element of the plan for the 2024 irrigation season, the ground water districts agree in the *2024 Stipulation* that:

[T]he ground water districts will collectively conserve 240,000 acre-feet of groundwater as compared to their average annual diversions during the time period 2010-2014. A 205,000 acre-feet portion is allocated among the ground water districts as it has been historically set forth in Appendix A attached hereto. The remaining 35,000 acre-feet portion is allocated based on steady-state impacts to the Near Blackfoot to Neely reach of the Snake River as set forth in Appendix A. Each district shall be independently responsible to satisfy its respective groundwater conservation obligations as set forth in Appendix A.

2024 Stipulation, at 2 ¶ 5.

Although the *2016 Mitigation Plan* requires 240,000 acre-feet of annual conservation, when the ground water districts failed to achieve the 2023 sentinel well benchmark the SWC requested that the Director specify the additional actions the ground water districts must take as part of ongoing adaptive management requirements. In response, the Director issued the *Final Order Specifying Additional Actions* (“*Additional Actions Order*”) on May 3, 2024. In the *Additional Actions Order*, the Director concluded that:

[I]t is appropriate that the Districts increase their proportionate share of the total annual ground water use reduction of 240,000 acre-feet by an additional 5% (12,000 acre-feet) during the 2024 irrigation season and then increase their proportionate share of the total annual ground water reduction of 240,000 acre-feet by an additional 12,000 acre-feet each year thereafter until the 2023 benchmark is achieved or the Steering Committee fulfills its obligations set forth in § 2.c.ii of the *Second Addendum* and recommends alternative actions.

Additional Actions Order, at 5. Subsequently, IGWA filed a petition for reconsideration and requested a hearing on the *Additional Actions Order*. In the *2024 Stipulation*, the parties express an intent to stay all litigation between them until October 1, 2024 “to enable the parties to focus their attention on cooperative negotiations.” *2024 Stipulation*, at 2–3 ¶ 9. The stipulated stay includes Docket No. CM-MP-2016-001, which contains the *Additional Actions Order*.

To further the parties’ goals to “work cooperatively and collaboratively to determine groundwater management and mitigation measures for 2025 and future years that resolve past disagreements and are mutually beneficial to the parties” and to encourage the parties to negotiate their own alternative additional actions, the Director hereby stays the *Additional Actions Order* until October 1, 2024, pursuant to Department Rule of Procedure 780. *2024 Stipulation*, at 1 ¶ F; IDAPA 37.01.01.780.

Accordingly, the Director concludes that the ground water districts’ commitment to conserving 240,000 acre-feet made in the *2024 Stipulation* is consistent with the conservation obligation required in the *2016 Mitigation Plan*. As compliance with this requirement is measured after the irrigation season is complete, at this time the Director is satisfied that the ground water districts’ commitment to the 240,000 acre-foot obligation demonstrates their compliance with this element of the plan for 2024.

B. The 2022 Breach of the Conservation Obligation

In August of 2023, the Director found that certain ground water districts did not satisfy their proportionate share of IGWA’s conservation obligation in 2022 and were therefore not in compliance with the *2016 Mitigation Plan* in 2022. See *2022 Compliance Order*. Administrative proceedings followed and were ongoing prior to the Department’s receipt of the *2024 Stipulation*. In the *2024 Stipulation*, the parties resolve the deficient performance in 2022 as follows:

In consideration of reaching an agreement for 2024 mitigation and accommodating continued negotiations, and recognizing conservation actions taken in 2023, SWC forgives any remaining obligations for the outstanding 2022 breach previously found by IDWR for Bingham Ground Water District, Bonneville-Jefferson Ground Water District, and Jefferson-Clark Ground Water District. This provision resolves issue 4 identified in the *Notice of Hearing* issued December 29, 2023, in IDWR Docket No. CM-MP-2016-001....

2024 Stipulation, at 2 ¶ 7. Because the SWC and IGWA agree to forgiveness of the 2022 deficiency in exchange for reaching an agreement in 2024, accommodating continuing negotiations, and recognizing conservation performed in 2023 well in excess of the 240,000-acre-foot requirement, the Director accepts the stipulated forgiveness as compliance with the *2016 Mitigation Plan* for the 2024 season. As a result, the Director concludes that Bingham Ground Water District, Bonneville-Jefferson Ground Water District, and Jefferson-Clark Ground Water District are no longer in breach of the *2016 Mitigation Plan* for the 2024 season and will be removed from the curtailment list.

While the Director accepts that the stipulated forgiveness is sufficient to consider the ground water districts in compliance with the *2016 Mitigation Plan* for the 2024 season such that they can be removed from the curtailment list, Hearing Officer Roger S. Burdick is currently presiding over a proceeding that involves issues related to the 2022 breach. The outstanding issues in that proceeding are as follows:

- 1) Did the Director error by not issuing an order specifying the actions needed to cure the 2022 breach of the 2016 Mitigation Plan by certain ground water districts?
- 2) Did the Director error by not immediately issuing an order curtailing ground water districts that breached the 2016 Mitigation Plan in 2022?
- 3) Can the 2009 mitigation plan be used to cure the ground water districts' 2022 breach of the 2016 Mitigation Plan?
- 4) What action must be taken by the ground water districts to cure their 2022 breach of the 2016 Mitigation Plan?

Order Authorizing Discovery; Scheduling Order; Order Suspending IDAPA 37.01.01.354; Notice of Prehearing Conference and Hearing, at 4, No. CM-MP-2016-001. These four legal issues are still before Hearing Officer Burdick and answers to those will come from Hearing Officer Burdick. In the *2024 Stipulation*, the parties stipulate to stay Docket No. CM-MP-2016-001, which includes Hearing Officer Burdick's case. Should Hearing Officer Burdick issue a recommended order before the parties "jointly file stipulate[d] motions to stay litigation until October 1, 2024," the Director will stay review of the recommended order until October 1, 2024. *2024 Stipulation*, at 3 ¶ 9.

C. Storage Water Delivery in 2024

In addition to the conservation obligation, the *2016 Mitigation Plan* also obligates IGWA to deliver 50,000 ac-ft of storage water annually. As explained in the *Amended Order Determining Deficiency*:

[T]he 50,000 acre-foot obligation does not come due until 21 days after the day of allocation. Furthermore, the *2016 Settlement Mitigation Plan* does not require documentation of securing the water.... In addition, the *2016 Settlement Mitigation Plan* specifically spells out a dispute resolution process if the Districts breach the 50,000 acre-foot obligation. Only if that dispute resolution process fails does the Director get involved.

Amended Order Determining Deficiency, at 9 (internal citations omitted).

In the *2024 Stipulation*, the parties agree that "[f]or the 2024 irrigation season, the Groundwater Users will deliver 65,000 acre-feet of storage water to the SWC as set forth in Appendix B. 50,000 acre-feet will be delivered in accordance with the 2016 Plan, and 15,000 acre-feet will be delivered in accordance with the 2021 Remedy Agreement." *2024 Stipulation*, at 2 ¶ 6.

The 50,000-acre-foot storage water delivery term is IGWA's obligation, however, Appendix B identifies that the Idaho Water Resource Board will provide 5,000 of the 50,000 acre-feet. Nevertheless, in consideration of the parties' agreement, supported by the Raybould Letter confirming IWRB's commitment to providing the 5,000 acre-feet, and in light of the *2016 Mitigation Plan*'s dispute resolution process, the Director is satisfied that the Districts are in compliance with the storage water delivery element of the *2016 Mitigation Plan* for 2024. The Director's acceptance of the IWRB delivering 5,000 acre-feet of the 50,000 storage water delivery obligation in 2024 should not be interpreted as an amendment to the requirements of the *2016 Mitigation Plan* or agreement to allowing the IWRB to carry a share of the obligation in future years.

CONCLUSION

Pursuant to section 3 of the *2024 Stipulation*, the Director approves the *2024 Stipulation* as evidence of compliance with the *2016 Mitigation Plan* for the 2024 irrigation season. Put differently, the parties' *2024 Stipulation* establishes to the satisfaction of the Director that the ground water districts are operating in accordance with a Department-approved mitigation plan for 2024. A *Seconded Order Amending Curtailment* list removing Bingham Ground Water District, Bonneville-Jefferson Ground Water District, Jefferson-Clark Ground Water District, and Carey Valley Ground Water District from the curtailment list will be issued concurrently with this Order.

ORDER

Based upon and consistent with the foregoing, IT IS HEREBY ORDERED that the SWC and IGWA's *Joint Motion for Order Approving 2024 Stipulation* is GRANTED. The Director's May 3, 2024 *Final Order Specifying Additional Actions* is STAYED until October 1, 2024.

Dated this 20th day of June 2024.



MATHEW WEAVER
Director

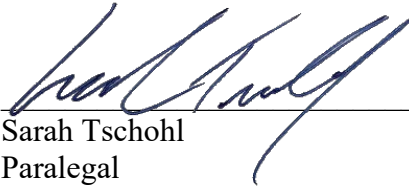
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 20th day of June 2024, the above and foregoing, was served by the method indicated below, and addressed to the following:

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Sarah Tschohl
Paralegal

EXPLANATORY INFORMATION TO ACCOMPANY A FINAL ORDER

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

(Required by Rule of Procedure 740.02)

The accompanying order is a "Final Order" issued by the department pursuant to section 67-5246, Idaho Code.

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a 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 department 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. See section 67-5246(4), Idaho Code.

REQUEST FOR HEARING

Unless the right to a hearing before the director or the water resource board is otherwise provided by statute, any person 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 person shall file with the director, within fifteen (15) days after receipt of written notice of the action issued by the director, or receipt of actual notice, a written petition stating the grounds for contesting the action by the director and requesting a hearing. See section 42-1701A(3), Idaho Code. **Note: The request must be received by the Department within this fifteen (15) day period.**

APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, any party aggrieved by a final order or orders previously issued in a matter before the department may appeal the final order and all previously issued orders in the matter to district court by filing a petition in the district court of the county in which:

- i. A hearing was held,
- ii. The final agency action was taken,
- iii. The party seeking review of the order resides, or
- iv. The real property or personal property that was the subject of the agency action is located.

The appeal must be filed within twenty-eight (28) days of: a) the service date of the final order, b) the service date of an order denying petition for reconsideration, or c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration, whichever is later. See section 67-5273, Idaho Code. The filing of an appeal to district court does not in itself stay the effectiveness or enforcement of the order under appeal.