

**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO**

IN THE MATTER OF THE PETITION
REGARDING STORAGE RESET IN
WATER DISTRICT 01 FILED BY MILNER
IRRIGATION DISTRICT

Docket No. P-WRA-2017-002

**ORDER REQUESTING STAFF
MEMORANDUM; ORDER
ADOPTING DEADLINES; NOTICE
OF STATUS CONFERENCE; NOTICE
OF HEARING**

BACKGROUND

On August 18, 2017, Milner Irrigation District (“Milner”) submitted a letter to the Director (“Director”) of the Idaho Department of Water Resources (“Department”) asserting the “fall storage ‘reset’ for purposes of water right administration” in Water District 01 “is not authorized in the current storage water right partial decrees, including the Lake Walcott storage right (1-219)” and “has in effect curtailed Milner’s natural flow water right 1-17 (November 14, 1916 priority date) in recent years.” Milner requests “the Water District and Director ensure Milner receives the appropriate natural flow as required by Idaho law.”

On October 5, 2017, the Director issued a *Notice of Prehearing Conference; Order Setting Deadline for Petitions to Intervene* explaining that Milner’s letter is a petition as defined by the Department’s Rule of Procedure 230 (*see* IDAPA 37.01.01.230); scheduling a prehearing conference for November 13, 2017; and ordering petitions to intervene be filed by November 12, 2017.

Petitions to intervene were timely filed by the Shoshone-Bannock Tribes; the Coalition of Cities (i.e. Bliss, Buhl, Burley, Carey, Declo, Dietrich, Gooding, Hazelton, Heyburn, Jerome, Paul, Richfield, Rupert, and Wendell); the Upper Valley Storage Holders (i.e. Fremont Madison Irrigation District, North Fork Reservoir Company, Idaho Irrigation District, and New Sweden Irrigation District); the City of Pocatello; the Surface Water Coalition (i.e. A&B Irrigation District, American Falls Reservoir District #2, Burley Irrigation District, Minidoka Irrigation District, North Side Canal Company, and Twin Falls Canal Company); Idaho Power Company; Aberdeen-Springfield Canal Company; the City of Idaho Falls; Palisades Water Users, Inc.; and the U.S. Bureau of Indian Affairs.

**ORDER REQUESTING STAFF MEMORANDUM; ORDER ADOPTING DEADLINES;
NOTICE OF STATUS CONFERENCE; NOTICE OF HEARING - Page 1**

On November 13, 2017, the Director held the prehearing conference. Milner and all those seeking to intervene were represented either in person or by telephone. Based upon and consistent with discussions at the prehearing conference, the Director will request a staff memorandum, adopt deadlines, and notify the parties of a status conference and hearing as set forth below.

ORDER

IT IS HEREBY ORDERED that Department staff in Water District 01 shall prepare a staff memorandum (*see* IDAPA 37.01.01.602). The staff memorandum must describe Water District 01's procedures for resetting the reservoir accrual volumes for the federal onstream reservoirs. The memorandum should include a discussion of the history behind Water District 01's procedures, the basis for choosing those procedures, and the implications of using procedures other than the ones historically used.

IT IS FURTHER ORDERED that the following deadlines are ADOPTED:

- December 1, 2017** Deadline for Department staff in Water District 01 to submit to the Director the staff memorandum described above. The Director will post the staff memorandum to the Department's website for this matter at <https://idwr.idaho.gov/legal-actions/administrative-actions/milner-petition.html>.
- December 8, 2017** Deadline for any party to submit to the Director a statement of issues the party believes the Director should address in this contested case. The statement of issues should include argument and authority in support of the party's position that the Director should consider such issues. Submission of a statement of issues is not mandatory.
- December 15, 2017** Deadline for any party to submit to the Director a response to statements of issues submitted December 8, 2017.
- January 5, 2018** Deadline for the Director to issue an order regarding the parties' statements of issues and responses.

NOTICE OF STATUS CONFERENCE

The Director hereby gives notice that a status conference will be held in this matter on **January 12, 2018, at 10:00 a.m. (MDT)**, at the Department's State Office, located at 322 E. Front Street, 6th Floor, Director's Conference Room, Boise, Idaho 83702.

All parties must be present at the status conference in person or by telephone. If participating by telephone, **please dial 1-720-279-0026 and enter the following guest code when prompted: 544840#.**

The status conference will be held in accordance with provisions of Chapters 2 and 17, Title 42 and Chapter 52, Title 67, Idaho Code, and the adopted Rules of Procedure of the Department, IDAPA 37.01.01. A copy of the Rules of Procedure may be obtained from the Department or at <https://adminrules.idaho.gov/rules/current/37/0101.pdf>.

The status conference will be conducted in a facility which meets the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in or understand the conference, please contact Kimi White at (208) 287-4815, no later than five (5) days prior to the conference.


NOTICE OF HEARING

The Director hereby gives notice that a hearing will be held in this matter beginning at **8:30 a.m. on April 17, 2018, and continuing through April 20, 2018**, as necessary, at the Department's State Office, located at 322 E. Front Street, 6th Floor Conference Rooms, Boise, Idaho 83702.

The hearing will be conducted in accordance with the accessibility requirements of the Americans with Disabilities Act. If you required special accommodations in order to attend, participate in, or understand the hearing, please inform the Department no later than five (5) days prior to the hearing. Inquiries for special accommodations should be directed to Kimi White, Idaho Department of Water Resources, P.O. Box 83720, Boise, Idaho 83720-0098, telephone: (208) 287-4815.

The hearing will be held in accordance with the provisions of Chapters 2 and 17, Title 42 and Chapter 52, Title 67, Idaho Code, and the Department's Rules of Procedure. IDAPA 37.01.01. A copy of the Rules of Procedure may be obtained from the Department upon request or at <https://adminrules.idaho.gov/rules/current/37/0101.pdf>.

DATED this 20th day of November 2017.



GARY SPACKMAN
Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 20th day of November 2017, I served a true and correct copy of the foregoing document by the method(s) indicated to the following:

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