

**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)
)
(Water District Nos. 34, 110, 120, and 130))
_____)

**SEVENTH SUPPLEMENTAL
ORDER AMENDING
REPLACEMENT WATER
REQUIREMENTS**

Background

On May 23, 2007, the Director of the Department of Water Resources (“Director” or “Department”) issued his *Fifth Supplemental Order Amending Replacement Water Requirements Final 2006 & Estimated 2007* (“Fifth Supplemental Order”), which, for the 2007 irrigation season, was based on forecast predictions prepared by the United States Bureau of Reclamation (“USBR”) and the United States Army Corps of Engineers (“USACE”). In the Fifth Supplemental Order, the Director stated that he would “continue to monitor water supply and climatic conditions through the 2007 irrigation season and issue additional orders regarding replacement water needs” *Id.* at 17, ¶ 8.

On July 11, 2007, the Director issued his *Sixth Supplemental Order Amending Replacement Water Requirements and Order Approving IGWA’s 2007 Replacement Water Plan* (“Sixth Supplemental Order”). It was stated in the Sixth Supplemental Order, “that the Director will make a final determination of the amounts of mitigation required and actually provided after the final accounting for surface water diversions from the Snake River for 2007 is complete” *Sixth Supplemental Order* at 9. While final accounting will not be complete until early 2008, the purpose of this Order is to provide the parties with the most up-to-date water right accounting and obligations owed by the Idaho Ground Water Appropriators, Inc. (“IGWA”) to members of the Surface Water Coalition (“Coalition”).

FINDINGS OF FACT

1. Findings of Fact set forth in the May 2, 2005 Amended Order (“May 2005 Order”), supplemental orders to the May 2005 Order, as well as all other related orders, as applicable, are incorporated into this order by reference.

Predicted Material Injury for 2007

2. The Director's material injury assessment for members of the Coalition in the Sixth Supplemental Order was based upon Water District 01 draft storage allocations for canal companies, actual natural flow diversions through July 8, 2007, and forecast predictions of natural flow use for the remainder of the irrigation season determined from a historic similar irrigation year of 1992. The total shortage "predicted" for 2007 for members of the Coalition in the Sixth Supplemental Order was 46,929 acre-feet. When combined with the "Reasonable Carryover" storage determined in the May 2005 Order, the total predicted 2007 material injury for members of the Coalition was 114,720 acre-feet.

3. Using the Department's water rights accounting program, Water District 01 has determined the following preliminary diversions of surface water from the Snake River by members of the Coalition as of the end of the 2007 irrigation season (October 31, 2007). The preliminary diversions do not include adjustments for storage transfers, leases, wheeled water, mitigation, or any other adjustments that occurred during the irrigation season. The unadjusted, preliminary surface water diversions are listed below in acre-feet:

| | Preliminary 2007 Natural Flow – Unadjusted | Preliminary 2007 Storage – Unadjusted | Preliminary Total 2007 Diversions - Unadjusted |
|------------------------------------|--|---|--|
| A&B Irrig. Dist. | 2,805 | 57,728 | 60,533 |
| Am. Falls Res. Dist. #2 | 44,208 | 389,206 | 433,414 |
| Burley Irrig. Dist. ¹ | 66,362 | 192,681 | 259,043 |
| Milner Irrig. Dist. | 7,563 | 51,966 | 59,529 |
| Minidoka Irrig. Dist. ² | 99,544 | 289,022 | 388,566 |
| North Side Canal Co. ³ | 305,424 | 750,604 | 1,056,028 |
| Twin Falls Canal Co. | 798,995 | 254,644 | 1,053,639 |

4. Natural flow supplies delivered to Burley Irrigation District ("BID"), Milner Irrigation District ("Milner"), and Twin Falls Canal Company ("TFCC") include water delivered for use by the Southwest Irrigation District. The total volume delivered to the Southwest Irrigation District through the three systems was 6,700 acre-feet, and, based on the Department's water rights accounting program, is apportioned this year as follows:

¹ Assume 40.0 percent of Minidoka project deliveries. Actual percent will be determined when final water right accounting is completed by Water District 01 in March 2008.

² Assume 60.0 percent of Minidoka project deliveries. Actual percent will be determined when final water right accounting is completed by Water District 01 in March 2008.

³ North Side Canal Company ran recharge water after October 18, 2007, amounting to 26,846 acre-feet. This is not included in the system deliveries or the storage supply.

| | |
|--------|------------------------|
| BID | 2,700 acre-feet |
| Milner | 2,200 acre-feet |
| TFCC | <u>1,800 acre-feet</u> |
| Total: | 6,700 acre-feet |

5. The adjusted natural flow surface water deliveries for members of the Coalition, in acre-feet, taking into account the wheeled water for Southwest Irrigation District, are as follows:

| | Preliminary 2007 Natural Flow - Unadjusted | Natural Flow Adjustments for Wheeled Water to Southwest Irrigation District | Preliminary Total 2007 Natural Flow |
|------------------------------------|--|---|-------------------------------------|
| A&B Irrig. Dist. | 2,805 | | 2,805 |
| Am. Falls Res. Dist. #2 | 44,208 | | 44,208 |
| Burley Irrig. Dist. ¹ | 66,362 | -2,700 | 63,662 |
| Milner Irrig. Dist. | 7,563 | -2,200 | 5,363 |
| Minidoka Irrig. Dist. ² | 99,544 | | 99,544 |
| North Side Canal Co. | 305,424 | | 305,424 |
| Twin Falls Canal Co. | 798,995 | -1,800 | 797,195 |

6. Storage use was determined by Water District 01 using the Department's water rights accounting program as shown above in Finding 3. The values in Finding 3 include the amount of water leased by private individuals for delivery through Coalition canals. Including these amounts of leased water by private individuals overstates the amount of stored water used by some members of the Coalition. According to Water District 01 records, BID, Milner, and TFCC had transfers of storage water assigned to their canals for delivery to private individuals or entities. Shown below are the adjustments to storage which show the use for members of the Coalition, along with the adjusted Natural Flow and Preliminary 2007 Adjusted Diversions for each member of the Coalition in acre-feet:

| | Preliminary 2007 Storage - Unadjusted | Storage Use Adjustments | Preliminary 2007 Storage Used | Preliminary 2007 Natural Flow | Preliminary Total 2007 Diversions - Adjusted | Minimum Full Supply 1995 |
|------------------------------------|---------------------------------------|-------------------------|-------------------------------|-------------------------------|--|--------------------------|
| A&B Irrig. Dist. | 57,728 | | 57,728 | 2,805 | 60,533 | 50,000 |
| Am. Falls Res. Dist. #2 | 389,206 | | 389,206 | 44,208 | 433,414 | 405,600 |
| Burley Irrig. Dist. ¹ | 192,681 | -6,899 | 185,782 | 63,662 | 249,444 | 220,200 |
| Milner Irrig. Dist. | 51,966 | -9,258 | 42,708 | 5,363 | 48,071 | 50,800 |
| Minidoka Irrig. Dist. ² | 289,022 | | 289,022 | 99,544 | 388,565 | 314,300 |
| North Side Canal Co. ³ | 750,604 | | 750,604 | 305,424 | 1,056,028 | 988,200 |
| Twin Falls Canal Co. | 254,644 | -6,333 | 248,311 | 797,195 | 1,045,506 | 1,075,900 |

7. With the exception of Milner and TFCC, the other five members of the Coalition diverted more than their minimum full supply. This can be attributed to a variety of factors, including: abnormally low precipitation falling in the central Snake River plain region; temperatures that remained above normal for July and August, which increased the need for irrigation water; and earlier than normal warm temperatures that moved the beginning of the main growing season earlier into the year by at least two weeks. It is possible that Milner and TFCC diverted less than their minimum full supply based on water conservation measures that may have been implemented due to forecasts by the National Weather Service Climate Prediction Center of below normal precipitation and above normal temperatures for the summer. Less water intensive crops may have also been planted by shareholders in Milner and TFCC, based on those forecasts. Additionally, TFCC has less storage water to rely upon than the other Coalition members, which requires more efficient use of natural flow.

8. Initial storage allocations for individual members of the Coalition were set forth in Finding 7 of the Sixth Supplemental Order as “Draft Final Storage Allocations.” These initial storage allocations were subsequently adjusted on July 24, 2007 to add Palisades powerhead water, distributed as determined by Water District 01. The Palisades powerhead adjustments were necessary because the Palisades power storage account water was used by the USBR for flow augmentation in lieu of water normally available in less dry years through the rental pool. Use of this storage account could not be included in the initial storage allocation by Water District 01 without modifications to the water rights accounting program and storage program. Modifications to these programs will be complete for the final accounting. For the preliminary storage allocations, manual adjustments were necessary to credit other storage accounts for the evaporation losses and charges for flood control releases against the powerhead account that were not done in the original preliminary allocation. These manual adjustments are shown below as the preliminary Palisades powerhead adjustment. These adjustments will be calculated automatically in the final accounting.

Rental pool adjustments were also applied, which includes 25,500 acre-feet supplied to the North Side Canal Company (“NSCC”) by IGWA for ground water-to-surface water conversion acres. Adjustments for Minidoka return flow credit were also applied, reflecting the new procedure to charge NSCC and TFCC for use of the return flow credit. Preliminary accounting had already deducted the return flow amount from TFCC and NSCC using the old procedure. The adjustments below shown for TFCC and NSCC reflect the difference in amounts that should be charged between the old and new methods.

The Water Mitigation Coalition (“WMC”) leased 10,000 acre-feet from the Minidoka Irrigation District for purposes of mitigation for ground water diversions. Eighty-five hundred (8,500) acre-feet were allocated to the storage supply of the American Falls Reservoir District No. 2 (“AFRD#2”), with the remaining 1,500 acre-feet allocated to the NSCC, as directed by WMC in a letter to Water District 01, dated August 15, 2007. The initial storage allocations and adjustments are set forth below for members of the Coalition in acre-feet:

| | Initial Preliminary 2007 Storage Allocation | Preliminary Palisades Powerhead Adjustment | Adjustments for IGWA Lease Water Assigned | Minidoka Credit Adjustment | Adjustment for WMC | Rental Pool Leases | Total Preliminary Storage Supply |
|------------------------------------|---|--|---|----------------------------|--------------------|--------------------|----------------------------------|
| A&B Irrig. Dist. | 117,177 | +1,842 | | | | | 119,019 |
| Am. Falls Res. Dist. #2 | 383,201 | | | +1,000 | +8,500 | | 392,701 |
| Burley Irrig. Dist. ¹ | 213,265 | +795 | | +5,130 | | | 219,190 |
| Milner Irrig. Dist. | 79,008 | +907 | | | | | 79,915 |
| Minidoka Irrig. Dist. ² | 334,143 | +710 | | +8,370 | -10,000 | | 333,223 |
| North Side Canal Co. | 788,362 | +2,366 | +35,000 ⁴ | -6,120 | +1,500 | | 816,108 |
| Twin Falls Canal Co. | 230,956 | | | +10 | | +40,000 | 270,966 |

Predicted Material Injury

9. According to the Sixth Supplemental Order, “The predicted material injury to TFCC during the 2007 irrigation season is 46,929 acre-feet. Predicted carryover shortfall to members of the Coalition is 67,791.” *Sixth Supplemental Order* at 6, ¶ 16.

10. Based on the preliminary storage allocations, as adjusted for rental pool leases and other adjustments set forth in Finding 8 and the preliminary amounts of storage water diverted in 2007 as set forth in Finding 6, the following are the preliminary amounts of carryover storage at the end of the 2007 irrigation season, in acre-feet:

| | Preliminary 2007 Storage Supply | Preliminary 2007 Storage Used | Preliminary 2007 Carryover |
|-------------------------|---------------------------------|-------------------------------|----------------------------|
| A&B Irrig. Dist. | 119,019 | 57,728 | 61,291 |
| Am. Falls Res. Dist. #2 | 392,701 | 389,206 | 3,495 |
| Burley Irrig. Dist. | 219,190 | 185,782 | 33,408 |
| Milner Irrig. Dist. | 79,915 | 42,708 | 37,207 |
| Minidoka Irrig. Dist. | 333,223 | 289,022 | 44,201 |
| North Side Canal Co. | 816,108 | 750,604 | 65,504 |
| Twin Falls Canal Co. | 270,966 | 248,311 | 22,655 |

11. The 2007 preliminary presumed material injury, if any, for members of the Coalition, except TFCC, is determined by subtracting the sum of the total 2007 diversion (set forth in Finding 6 above) and the preliminary carryover storage (set forth in Finding 10 above) from the sum of the minimum full supply and the reasonable carryover storage (set forth in Findings 116 and 119 of the May, 2005 Order). The final 2007 presumed material injury, if any, for all members of the Coalition except TFCC is as set forth below, in acre-feet:

⁴ IGWA assigned 55,000 acre-feet of leased storage water to NSCC for servicing ground water to surface water conversion acres and late season recharge. The amount shown here is for the conversion acres. The late season recharge volume of 20,000 acre-feet is not included since it is used after the irrigation season.

| | Minimum Full Supply 1995 | Reasonable Carryover | Preliminary Total 2007 Diversions | Preliminary 2007 Carryover |
|-------------------------|--------------------------|----------------------|-----------------------------------|----------------------------|
| A&B Irrig. Dist. | 50,000 | 8,500 | 60,533 | 61,291 |
| Am. Falls Res. Dist. #2 | 405,600 | 51,200 | 433,414 | 3,495 |
| Burley Irrig. Dist. | 220,200 | 0 | 249,444 | 33,408 |
| Milner Irrig. Dist. | 50,800 | 7,200 | 48,071 | 37,207 |
| Minidoka Irrig. Dist. | 314,300 | 0 | 388,565 | 44,201 |
| North Side Canal Co. | 988,200 | 83,300 | 1,056,028 | 61,004 |

| | Minimum Full Supply + Reasonable Carryover | Preliminary 2007 Total Diversions + Carryover | 2007 Material Injury and Shortfall of Reasonable Carryover (not less than zero) |
|-------------------------|--|---|---|
| A&B Irrig. Dist. | 58,500 | 121,824 | 0 |
| Am. Falls Res. Dist. #2 | 456,800 | 436,909 | 19,891 |
| Burley Irrig. Dist. | 220,200 | 282,852 | 0 |
| Milner Irrig. Dist. | 58,000 | 85,278 | 0 |
| Minidoka Irrig. Dist. | 314,300 | 432,766 | 0 |
| North Side Canal Co. | 1,071,500 | 1,117,032 | 0 |

12. TFCC's predicted material injury in Finding 16 of the Sixth Supplemental Order for 2007 was 46,929 acre-feet, all of which was to be supplied by IGWA, if needed, including underwriting of 40,000 acre-feet of leased water by TFCC as set forth in Conclusion of Law 3 of the Sixth Supplemental Order. TFCC's total preliminary diversion volume for 2007 comprised of both natural flow and storage use as set forth in Finding 6 above was 1,045,506 acre-feet. As this 2007 total diversion volume was less than the minimum full supply of 1,075,900 acre-feet, as set forth in Finding 116 of the May 2005 Order, TFCC can presumably only require the 1,045,506 acre-feet of water diverted in 2007 to furnish a full irrigation supply for the crop water requirement, given that it had been guaranteed the full minimum supply via the Sixth Supplemental Order. Thus, the remaining total material injury to TFCC is the difference between the preliminary 2007 carryover as set forth in Finding 10 and the 40,000 acre-feet of rental water, as shown below in acre-feet:

| | |
|---------------------------------|---------|
| Rental by TFCC: | 40,000 |
| Remaining at End of Season: | -22,655 |
| 2007 Predicted Material Injury: | 17,345 |

13. The total carryover shortfall for AFRD#2 and TFCC for the 2008 irrigation season is set forth below, in acre-feet:

| | |
|---------|---------------------|
| AFRD#2: | 19,891 |
| TFCC: | 38,400 ⁵ |
| Total: | 58,291 |

⁵ As stated in the May 2005 Order, reasonable carryover storage for TFCC is 38,400 acre-feet. *May 2005 Order* at 26, ¶ 119. Because TFCC is predicted to have used less than its minimum full supply for 2007, TFCC should receive reasonable carryover storage in 2008 if its reservoir space does not fill. *See Third Supplemental Order* at 15-16, ¶¶ 31, 37.

14. When water rights for the diversion of water from the Snake River to storage in Jackson Lake, American Falls Reservoir, and Palisades Reservoir fill, carryover storage in those reservoirs from the prior year is cancelled because reservoir space holders, including members of the Coalition, cannot have more water in their storage space, held under their space-holder contracts with the USBR, than a full allocation of storage water. *Third Supplemental Order Amending Replacement Water Requirements Final 2005 & Estimated 2006* at 16 (June 29, 2006).

15. Predicted carryover shortfall to members of the Coalition is 19,891 acre-feet for AFRD#2, and 38,400 acre-feet for TFCC. The predicted carryover shortfall for TFCC is unchanged from the Sixth Supplemental Order; the predicted carryover shortfall for AFRD#2 has decreased by 9,410 acre-feet.

16. The USBR and USACE jointly issue forecasts each year for unregulated inflow at the Heise Gage after April 1, for the period April 1 through July 31, which is generally as accurate a forecast as is possible using current data gathering and forecasting techniques. IGWA should not be required to provide any shortfalls in reasonable carryover storage to members of the Coalition until after the joint operating forecast has been issued, which the Director will then use to predict shortfalls in reasonable carryover storage. IGWA should be required to provide reasonable carryover storage water to members of the Coalition when it is needed.

17. On July 10, 2006, the Director received a letter from IGWA which identified, among other things, the continuing lease and non-use of ground water rights held by FMC Idaho (currently held by and hereinafter referred to as SE Idaho Energy LLC), resulting in increased reach gains or natural flow, as a source for providing replacement water to TFCC. *Fourth Supplemental Order on Replacement Water Requirements for 2005* at 3 (July 17, 2006) (“Fourth Supplemental Order”). During the June 22, 2007 hearing on IGWA’s replacement water plan, it was established through IGWA’s Exhibit 2 that the amount of water leased through SE Idaho Energy LLC was 6,153.8 acre-feet. *Sixth Supplemental Order* at 7. Since the amount of credit for this lease of natural flow in 2007 cannot be precisely determined until the final 2007 water rights accounting is completed in early 2008, a preliminary credit of 1,827 acre-feet, equal to the final 2005 credit, *Fourth Supplemental Order* at 5, is reasonable for the 2007 lease and non-use of the ground water rights held by SE Idaho Energy LLC.

CONCLUSIONS OF LAW

1. Conclusions of Law set forth in the May 2005 Order, supplemental orders to the May 2005 Order, as well as all orders related thereto, as applicable, are incorporated into this order by reference. All findings of fact in this order later deemed to be conclusions of law are hereby made as conclusions of law.

2. Based on the Director’s updated material injury analysis, TFCC, at this time, is predicted to have experienced 17,345 acre-feet in material injury during the 2007 irrigation season. Predicted carryover shortfall to members of the Coalition is 19,891 acre-feet for AFRD#2, and 38,400 acre-feet for TFCC.

3. As stated in IGWA's Exhibit 2 from the June 22, 2007 hearing, IGWA has secured 65,145.8 acre-feet of replacement water by lease, which includes 6,153.8 acre-feet of water available for lease from the non-use of ground water rights held by SE Idaho Energy LLC. *Sixth Supplemental Order* at 7. Because only a portion of this 6,153.8 acre-feet of water has been determined to be available for use by the Coalition in previous years, a credit of 1,827 acre-feet is reasonable for a preliminary credit in 2007 for lease and non-use of the SE Idaho Energy LLC water right, prior to completion of the final 2007 water rights accounting. Thus, the actual amount of water secured by IGWA should be reduced by the difference of 6,153.8 acre-feet and 1,827 acre-feet, or 4,326.8 acre-feet.

4. In addition, the water secured by IGWA has also been reduced by the volume used to supply ground water-to-surface water conversion acres in the vicinity of the Thousand Springs in the amount of 35,000 acre-feet delivered through the NSCC system. Water for late season recharge delivered, or remaining to be delivered prior to the 2008 irrigation season in the amount of 20,000 acre-feet, also reduces the amount of secured water IGWA has remaining to fulfill the remaining obligation to TFCC.

5. The remaining water available to IGWA from the amount identified in Exhibit 2 from the June 22, 2007 hearing is shown below, in acre-feet, with the itemized adjustments:

| | |
|---|------------------|
| Water secured by leases in the July 11, 2007 Order: | 65,145.8 |
| Reduction for actual credit from SE Idaho Energy lease: | -4,326.8 |
| Reduction for conversion acre water delivered through NSCC: | -35,000.0 |
| Reduction for late season recharge delivered through NSCC: | <u>-20,000.0</u> |
| Remaining Balance: | 5,819.0 |

6. As stated above in Finding 12, the predicted 2007 material injury to TFCC is 17,345 acre-feet. No later than January 7, 2008, IGWA must provide proof to the Director that it has secured a minimum of 14,345 acre-feet of water that will be transferred to the account of TFCC. The Director will not require the remaining 3,000 acre-feet until final accounting for the 2007 irrigation season is completed in early 2008, in anticipation that the final accounting could result in adjustment of this magnitude. After final accounting, the Director will order IGWA to provide any balance remaining to the account of TFCC.

7. IGWA will not be required to provide reasonable carryover water to members of the Coalition until after the USBR and USACE joint operating forecast is issued and at such time as it is needed by members of the Coalition.

8. Credit for IGWA's continuing lease and non-use of ground water rights held by SE Idaho Energy LLC will be determined after final accounting for the 2007 irrigation season is completed in early 2008.

ORDER

Based upon and consistent with the reasons stated in the foregoing Findings of Fact and Conclusions of Law, the Director ORDERS as follows:

IT IS HEREBY ORDERED that, based on the current water right accounting, which will not be final until early 2008, the material injury predicted to have occurred to the Twin Falls Canal Company during the 2007 irrigation season is 17,345 acre-feet.

IT IS FURTHER ORDERED that on or before January 7, 2008, the Idaho Ground Water Appropriators, Inc. shall be required to provide the Director with a signed lease or leases demonstrating that it has secured 14,345 acre-feet of water to compensate the Twin Falls Canal Company for the 17,345 acre-feet of material injury predicted to have occurred in 2007. The Idaho Ground Water Appropriators, Inc. will not be required to provide the remaining 3,000 acre-feet until final accounting for the 2007 irrigation season is completed in early 2008, in anticipation that the final accounting could result in adjustment of this magnitude. After final accounting, the Director will order Idaho Ground Water Appropriators, Inc. to provide any balance remaining to the account of Twin Falls Canal Company.

IT IS FURTHER ORDERED that the Director will make a final determination of the amounts of mitigation required and actually provided after the final accounting for surface water diversions from the Snake River for 2007 is complete. To the extent less mitigation is provided than was actually required, a mitigation obligation will carry forward to 2008 and be added to any new mitigation determined to be required for 2008. To the extent more mitigation is provided than was actually required, a mitigation credit will carry forward to 2008 and be subtracted from any new mitigation determined to be required for 2008.

IT IS FURTHER ORDERED that the predicted carryover shortfalls for 2008 to members of the Surface Water Coalition, at this time, is 19,891 acre-feet for American Falls Reservoir District No. 2, and 38,400 acre-feet for the Twin Falls Canal Company. The Idaho Ground Water Appropriators shall not be required to provide water for reasonable carryover storage until after the United States Bureau of Reclamation and the United States Army Corp of Engineers have issued their joint forecast for unregulated inflow at the Heise Gage after April 1, for the period April 1 through July 31. After the joint operating forecast is issued, the Idaho Ground Water Appropriators, Inc. shall be required to provide water for reasonable carryover to members of the Coalition at such time as it is needed. Mitigation debits and credits resulting from year-to-year mitigation will continue to accrue and carry forward until such time as the storage space held by the members of the Coalition under contract with the United States Bureau of Reclamation fills. At that time, any remaining debits and credits will cancel.

IT IS FURTHER ORDERED that credit for the Idaho Ground Water Appropriator, Inc.'s continuing lease and non-use of ground water rights held by SE Idaho Energy LLC will be determined after final accounting for the 2007 irrigation season is completed in early 2008.

IT IS FURTHER ORDERED that pursuant to Idaho Code § 67-5247 this Order is made effective upon issuance due to the immediate danger to the public welfare posed by the lack of certainty existing among holders of water rights for the diversion and use of ground water for

irrigation from the Eastern Snake Plain Aquifer as to whether water will be available under the priorities of their respective rights during the 2008 irrigation season.

IT IS FURTHER ORDERED that this is a final order of the agency and all aspects of the order shall be subject to review at the hearing that will take place on January 16, 2008.

DATED this 20th day of December, 2007.



DAVID R. TUTHILL, JR.
Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 20th day of December, 2007, the above and foregoing, was served by the method indicated below, and addressed to the following:

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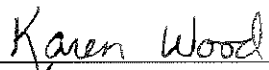
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